

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Part 982**

[Docket No. FR-4427-P-01]

RIN 2577-AB90

**Section 8 Homeownership Program**

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule amends the regulations for the Section 8 tenant-based rental voucher program at 24 CFR part 982. These amendments implement Section 8(y) of the United States Housing Act of 1937, as amended by Section 555 of the Quality Housing and Work Responsibility Act of 1998. Section 8(y) authorizes a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family.

**DATES:** Comments due date: Comments on the proposed rule and the proposed information collection requirements are due on or before: June 29, 1999.

**ADDRESSES:** Interested persons are invited to submit written comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-0477 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:****I. General Description of Homeownership Option**

This rule implements the "homeownership option" under Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) (the "1937 Act"). Section 8(y) authorizes Section 8 tenant-based assistance for an eligible

family that occupies a home purchased and owned by members of the family. Although Section 8(y) was originally enacted by section 185 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992; 106 Stat. 3672), Section 8 homeownership was never implemented because the program was unworkable without statutory change. Section 8(y) was amended by section 555 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, approved October 21, 1998; 112 Stat. 2461).

This rule implements the section 8(y) homeownership option by adding a new "special housing type" under 24 CFR part 982, subpart M, of the unified rule for the Section 8 tenant-based voucher and certificate programs. Subpart M describes program requirements for variants from the basic Section 8 tenant-based rental assistance programs.

Homeownership assistance offers a new option for families that receive Section 8 tenant-based assistance. As for other special housing types, HUD does not provide any additional or separate funding for homeownership assistance under Section 8(y). If a Public Housing Agency (PHA) chooses to offer Section 8 tenant-based assistance under the new homeownership option, a qualified family may freely choose whether to request rental assistance or to instead request homeownership assistance.

An applicant admitted to the tenant-based programs may receive Section 8 voucher assistance to purchase, rather than rent, a home. A participant receiving Section 8 tenant-based rental assistance may purchase a home with continued assistance under the homeownership option.

In general, a PHA that administers Section 8 tenant-based assistance has the choice whether to offer homeownership assistance as an option for qualified applicants and participants in its agency's Section 8 tenant-based program. The PHA may choose to make homeownership assistance freely available for any qualified applicant or participant, or to restrict homeownership assistance to families or purposes defined by the agency. (The PHA is only required to offer homeownership assistance if needed as a reasonable accommodation for a family member who is a person with disabilities.)

As required by law, the homeownership option is not available for units receiving Section 8 project-based assistance. By law, homeownership assistance under Section 8(y) may only be provided for

families receiving "tenant-based assistance" (42 U.S.C. 1437f(y)(1)).

In implementing the homeownership option, HUD wishes to strike a balance that expands homeownership opportunities, while minimizing defaults that negatively impact assisted homeowners and their neighborhoods. HUD hopes to improve on past homeownership programs by learning from prior errors and building upon the successful features of similar programs. HUD believes the regulatory proposals contained in this rule achieve these goals, and welcomes public comment on ways to improve the implementation of the Section 8 homeownership option.

**II. Overview of How the Section 8 Homeownership Program Works**

An overview of how the Section 8 homeownership program works follows. Additional detail will be provided elsewhere in the preamble and regulation text.

PHA administration of the Section 8 homeownership program differs from the tenant-based rental program in many ways. A PHA may use the certificate and voucher program funding already under Annual Contributions Contract (ACC) or new tenant-based Section 8 funding for rental or homeownership purposes. The PHA may opt to limit the number of Section 8 homeownership vouchers or not implement the homeownership option. There is no separate or additional funding for the homeownership program.

At the briefing of families selected to participate in the tenant-based Section 8 program, the PHA must discuss any homeownership option. Family participation in the homeownership program is voluntary. Although the homeownership program is open to both Section 8 applicants and participants, not every Section 8 tenant-based family may receive homeownership assistance. The PHA may limit the number of homeownership families and there are statutory family eligibility requirements such as a minimum level of non-welfare income and a history of full-time employment. (The employment history requirement is not applicable to elderly and disabled families, and there is a modified income requirement for elderly and disabled families.) The program is generally limited to first-time homeowners. The PHA may add other local eligibility requirements such as participation in the FSS program.

Once a family has been determined by the PHA to be eligible for Section 8 homeownership assistance, the family must attend homeownership counseling sessions. The counseling may be done by PHA staff or another entity such as

a HUD-approved housing counseling agency.

The PHA must advise the family of any deadlines on locating a home, securing financing, and purchasing the home. The PHA does not issue a certificate or voucher to the family. If the family is unable to locate a home to purchase within the PHA established deadlines, the PHA may issue the family a rental certificate or voucher.

The family is free to select an existing (not under construction) home of their choice located within the PHA jurisdiction. If the family qualifies for portability, the family may also select a home in the jurisdiction of another PHA, if the receiving PHA is approving units under the Section 8 homeownership option. The receiving PHA may absorb the family into their Section 8 program or bill the initial PHA for the housing assistance payments. The receiving PHA will arrange for any necessary counseling. The receiving PHA homeownership policies will apply to the portable family.

The home chosen by the family must pass an initial PHA Housing Quality Standards (HQS) inspection. (The HQS used for the Section 8 rental program is applicable to the homeownership program.) In addition, the family must hire an independent, professional home inspector to inspect the home selected by the family to identify physical defects and the condition of the major building systems and components. A copy of the independent inspection report must be given to the PHA. The family and the PHA must determine if any prepurchase repairs are necessary.

The family will enter into a contract of sale with the seller. The family must secure their own financing for the home purchase. There is no prohibition against using local or State Community Development Block Grant (CDBG) or other subsidized financing in conjunction with the Section 8 homeownership program. The PHA may prohibit certain forms of financing, require a minimum cash downpayment, or determine that the family cannot afford the proposed financing. (There are no Section 8 funds for home purchase financing. Instead, the Section 8 housing assistance will be provided monthly to help the family meet homeownership expenses.)

It is anticipated that mortgage lenders will consider the Section 8 assistance as a source of family income when underwriting the loan. If purchase of the home is financed with Federal Housing Administration (FHA)-insured mortgage financing, such financing is subject to FHA mortgage insurance credit underwriting requirements. If purchase

of the home is financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans. The FHA single family underwriting standards are described in HUD Handbook 4155.1 (titled "Mortgage Credit Analysis for Mortgage Insurance on One-to-Four Family Properties.") HUD specifically invites public comment on whether the final rule should require the use of the FHA underwriting standards, or whether this requirement would unduly restrict the homeownership option.

Homeownership housing assistance payments may be made directly to the family or to lender on behalf of the family. (Two-party checks to the family and lender are not authorized because such a practice is incompatible with typical lending documents and practices.) Before the housing assistance begins, the family and the PHA must execute a "statement of homeowner obligations." The Section 8 tenant-based housing assistance payments (HAP) contract, request for lease approval and lease addendum are not applicable to the Section 8 homeownership program.

The amount of the housing assistance payment will be calculated using a modified voucher program payment standard approach. The homeownership housing assistance payment will equal the lower of (1) the payment standard minus the total tenant payment or (2) the monthly homeownership expenses minus the total tenant payment. The family is responsible for the monthly homeownership expenses not reimbursed by the housing assistance payment. (Total tenant payment is higher of the minimum rent, 10 percent of monthly income, 30 percent of monthly adjusted income, or the welfare rent.) There is no shopping incentive in the homeownership option.

The PHA must use the utility allowance schedule and payment standard schedules applicable to the Section 8 voucher rental program.

After the homeownership housing assistance payments begin, the PHA will annually reexamine family income and composition and make appropriate adjustments to the amount of the monthly housing assistance payment. There is no requirement for the PHA to conduct an annual HQS inspection.

Except for elderly and disabled families, Section 8 homeownership assistance may only be paid for a maximum period of up to ten years. The PHA may establish a shorter maximum assistance term. Elderly and disabled

families are exempt from subsidy time limits. HUD invites public comment on the reasonableness of the ten year limit on Section 8 homeownership assistance. Specifically, commenters are invited to submit their thoughts on whether HUD should lengthen or shorten the ten year limit proposed in this rule.

The head of household, and any spouse of the head of household, that has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future Section 8 homeownership assistance.

HUD specifically invites comments on whether, or under what conditions, a family that has defaulted on a mortgage securing debt to purchase a home under the homeownership option should be permitted to receive Section 8 rental assistance after the mortgage default. Such conditions may include requiring that the family be returned to the waiting list.

The PHA will earn the same administrative fees as in the tenant-based rental program. The administrative fee is earned for each month that homeownership assistance is paid.

A PHA opting to administer the Section 8 homeownership program must establish local homeownership policies. The following policies must be described in the PHA administrative plan: Any local eligibility criteria (§§ 982.626(b) and 982.627(a)(5)); any minimum income requirements (§ 982.627(b)); any minimum cash downpayment or equity requirements; any requirements for financing purchase of a home, including requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), terms of financing (for example, a prohibition of balloon payment mortgages and establishment of a minimum homeowner equity requirement), and financing affordability (§ 982.631); the maximum homeownership assistance term (§ 982.633); PHA policy for payment of the HAP to the family or lender (§ 982.634(d)); PHA policy about issuing the family a rental voucher if the family does not find a suitable house to buy, or defaults on the home mortgage loan (§§ 982.628(c) and 982.636); PHA maximum times to locate and purchase a home (§ 982.628); and any PHA requirements for continuation of homeownership assistance (§ 982.632(b)(7)).

### III. Who Is Assisted

#### A. General

The homeownership option is used to assist families in two types of housing:

1. A unit owned by the family—One or more family members hold title to the home.

2. A cooperative unit—One or more family members hold membership shares in the cooperative.

#### B. Assistance for Homeowner

Before enactment of Section 8(y), Section 8 assistance could be paid on behalf of a renter or cooperative member, but not for a family that owns fee title to its home. Section 8 rental assistance terminates when the family takes title to the home. By contrast, Section 8(y) is specifically designed to authorize assistance for a "homeowner"—a family that owns title to the home.

The law provides that the public housing agency may provide assistance for:

1. A "first-time homeowner";
2. A family that owns or is acquiring shares in a cooperative; and
3. "Any other family, as the Secretary may prescribe." (In the law, this third, open-ended category is formally included in the definition of "first-time homeowner.")

By law and this rule, the homeownership option is designed to promote and support homeownership by a "first-time" homeowner—a family that moves for the first time from rental housing to a family-owned home. Section 8 payments supplement the family's own income to facilitate the transition from rental to homeownership. The initial availability of these assistance payments helps the family pay the costs of homeownership, and may provide additional assurance for a lender, so that the family can finance purchase of the home.

Section 8 homeownership assistance for cooperative homeowners is specifically authorized for both a family that is a first time cooperative homeowner and a family that owned their cooperative unit prior to receiving Section 8 assistance. Cooperative homeowners were eligible for tenant-based assistance prior to passage of the Quality Housing and Work Responsibility Act of 1998. Congress intends that cooperative homeowners continue to be eligible for tenant-based assistance regardless of their status as a first time homeowner.

To qualify as a "first-time homeowner," the assisted family may not include any person who owned a "present ownership interest" in the

residence of any family member in the last three years (regulatory definition at § 982.4; statutory definition at 42 U.S.C. 1437f(y)(7)(A)). Such interest includes ownership of title or of cooperative membership shares. The restriction to "first-time" homeowners is intended to direct homeownership assistance to "new" homeowners who may be unable to purchase a home without this assistance, but to discourage use of Section 8 subsidy on behalf of families who have achieved homeownership independently, without benefit of the Federal Section 8 subsidy. In addition, the head of household, and any spouse of the head of household, that has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future Section 8 homeownership assistance.

Under the law, HUD is authorized to permit Section 8 homeownership assistance for "any other family" as the Secretary may prescribe "that is, for a family other than a first-time homebuyer. HUD requests comments concerning whether HUD should exercise the statutory authority to exempt any categories of families from the first-time homeowner requirement. For example, a possible exemption from the first-time homeowner eligibility requirement is a divorced spouse who does not currently own a home but had joint ownership of a home with their ex-spouse in the last three years.

#### C. Assistance for Cooperative Member

Section 8(y) authorizes homeownership assistance for a family that "owns or is acquiring shares in a cooperative." Thus, the law allows assistance for a family that already owns cooperative shares before commencement of Section 8 homeownership assistance, not just for a family that acquires cooperative shares for the first time with the support of such assistance. In this respect, the law treats ownership of cooperative membership different from ownership of title to the home. In the latter case, the law authorizes assistance for a first time homeowner only (and for additional families only in circumstances prescribed by the Secretary). The rule specifies that cooperative membership shares may be purchased at or before commencement of homeownership assistance (see the definition of "membership shares" at § 982.4).

Before this rule, HUD has provided essentially the same Section 8 rental assistance for a cooperative member as for a family that chooses to rent a unit in conventional rental housing. Since the origin of the Section 8 program, the

law has provided that with respect to members of a cooperative, "rent" means the charges under the occupancy agreements between the members and the cooperative (42 U.S.C. 1437f(f)(5)). Thus Section 8 assistance is paid to cover the difference between the cooperative occupancy charges and the income-based tenant rent.

Under the existing rules for the Section 8 tenant-based program, assistance for a family that chooses to reside in a cooperative is largely subject to the same rules and contractual requirements as for a family that chooses a rental housing unit. Under these existing rules, the cooperative occupancy agreement (between the family and the cooperative) is treated like the lease between the family and the owner in standard rental housing. The cooperative occupancy agreement must include the requirements of the standard program "lease addendum," including requirements concerning lease term, grounds for eviction, and owner responsibility of unit maintenance. Cooperative carrying charges are treated like rent to owner (contract rent), and requirements including annual rent adjustments for units assisted in the certificate program are applicable.

In short, assistance for cooperative residents under the old rule is not designed from the ground up as a form of homeownership assistance. The old Section 8 requirements do not fit the normal structure of occupancy and responsibility in cooperative housing. In particular, while a cooperative member is normally responsible for maintenance of the individual unit, the Section 8 regulations and contracts provide that the "owner" "including a cooperative—is largely responsible for unit maintenance.

The mismatch between Section 8 rental program requirements and normal cooperative procedures reduces availability of cooperative units for occupancy by Section 8 families. Cooperatives may be unable or unwilling to grant separate and special treatment for Section 8 families that does not apply to other cooperative members, for example, differences concerning the amount of cooperative carrying charges, procedures or grounds for termination of cooperative membership, or enforcement of member maintenance obligations. Cooperatives are accustomed to use standard forms of occupancy agreement and other legal documentation governing the rights of members and of the cooperative entity. The cooperatives may decline to accommodate modifications to meet requirements of the Section 8 program,

or to enter into a contract with the PHA (the HAP contract), as required for the normal Section 8 rental program.

In the future, the PHA may provide assistance for a cooperative member either under the new homeownership option or under the special procedures for cooperative housing within the Section 8 tenant-based rental program (§ 982.619). Each form of assistance is designated as a separate special housing type under the Section 8 voucher program. The PHA may elect to offer either or both of these forms of cooperative assistance in its voucher program, and to define the appropriate role of each available form of cooperative assistance in the local Section 8 program.

In the new homeownership option, Section 8 assistance is paid on behalf of a cooperative member, but there is no requirement that the cooperative enter into any agreement or any direct relationship with the PHA that provides Section 8 assistance for the cooperative member. The cooperative is not asked to modify any ordinary requirement for cooperative membership or occupancy, nor asked to modify any requirement concerning assessment or collection of the cooperative carrying charge, maintenance of the unit or sanctions for violation of cooperative requirements.

For clarity, in describing requirements for homeownership assistance to a cooperative member, the new rule supplements existing definitions. As in the past, the term "cooperative" refers to housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing (§ 982.4). The rule also adds the following two new definitions:

1. *Cooperative member.* A family of which one or more members owns membership shares in a cooperative.

2. *Membership shares.* Shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular apartment in the cooperative, and the right to participate in management of the housing.

The existing HUD rules for cooperative housing in the tenant-based rental program were codified in April 1998. These rules provide that a family may only receive assistance in a cooperative that has adopted requirements to maintain continued affordability for lower income families after transfer of a member's interest. This affordability requirement was based on a provision of the prior voucher law that was removed in the

October 1998 statutory amendments. There is now no such statutory affordability requirement for Section 8 tenant-based assistance to cooperative residents—whether such assistance is provided under the rental assistance program or under the new Section 8(y) homeownership option—and there is no such requirement under this rule.

HUD believes that such a continuing affordability requirement would restrict housing choice of Section 8 families among available cooperative units. Such a requirement would also diminish a major advantage of homeownership—the incentive for an assisted family to maintain and improve the housing and to receive full value upon a future sale of the home. This rule removes the federal mandate for existing continuing affordability requirements for rental assistance in cooperative housing.

In addition, this rule modifies the allocation of maintenance responsibility between the cooperative and the family. In the regular rental assistance program, the owner is responsible for most maintenance of a unit. Under the old rule, this principle also applies to rental assistance for Section 8 cooperative housing. However, in a conventional cooperative, the member is generally responsible for maintenance of the individual apartment, and the cooperative entity is only responsible for maintenance of common areas and systems. The cooperative agreement defines the division of maintenance obligations between the member and the cooperative.

The existing regulation is amended by this rule to reflect the normal division of maintenance responsibility in cooperative housing for which rental (not homeownership) assistance is being provided (§ 982.619(d)(3)). The revised rule provides that the family is responsible for a breach of the HQS caused by failure to perform maintenance in accordance with the cooperative occupancy agreement between the family and the cooperative. The PHA must take prompt and vigorous action to enforce the family maintenance obligation, and may terminate assistance for failure to perform maintenance in accordance with the cooperative occupancy agreement (§ 982.619(d)(4)).

During the term of the HAP contract between the PHA and the cooperative, the unit and premises must be maintained in accordance with the Section 8 HQS. If the contract unit and premises are not properly maintained, the PHA may exercise all available remedies, regardless of whether the family or the owner is responsible for such breach of the HQS. PHA remedies

for breach of the HQS include recovery of overpayments, suspension of housing assistance payments, abatement or other reduction of housing assistance payments, termination of housing assistance payments and termination of the HAP contract (§ 982.619(d)(1)).

In the new homeownership cooperative option under Section 8(y), there is no HAP contract (between the PHA and the cooperative as unit "owner") and no lease (between the cooperative and the family). The unit is only inspected before the commencement of assistance. There is no requirement that the family or cooperative assure that the unit continues to satisfy HQS during the continuation of assisted occupancy. Consequently, there is no need to specify any allocation of maintenance responsibility between the cooperative and the family.

#### *D. Lease-Purchase Agreement*

The law and rule explicitly permit Section 8 homeownership assistance for a family that purchases a home that the family previously occupied under a "lease-purchase agreement"—generally a lease with option to purchase. Section 8(y) provides that the PHA may provide Section 8 homeownership assistance for an eligible family that purchases "a unit under a lease-purchase agreement" (42 U.S.C. 1437f(y)(1)).

Prior to enactment of the Quality Housing and Work Responsibility Act of 1998, a family that received Section 8 rental subsidy could exercise an option to purchase the unit under a lease-purchase agreement. However, there were problems in applying the rent reasonableness requirements and, as noted above, Section 8 rental subsidy terminated when the family took title to the home. Thus the prospective loss of subsidy discouraged the family from taking title, and moving from rental to homeownership. However, Section 8(y) now provides a vehicle for continuation of Section 8 assistance after the family takes title to the home.

To qualify as a first-time homeowner (as noted above) the family may not have owned title to a principal residence in the last three years. The rule specifies, however, that the right to purchase title under a lease-purchase agreement does not constitute a prohibited "present ownership interest." A family that holds an option to purchase may exercise the option and receive assistance under the new homeownership option.

A new § 982.317 is added to describe the requirements for lease-purchase agreements. The housing assistance payment for a lease-purchase unit may

not exceed the amount that would be paid on behalf of the family if the rental unit was not subject to a lease-purchase agreement. Any "homeownership premium" included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by the PHA must be absorbed by the family. "Homeownership premium" is defined as an increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a downpayment or reduce the purchase price. Families are permitted to pay an extra amount out-of-pocket to the owner for purchase related expenses.

Section 982.317 also provides that in determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount, any "homeownership premium" paid by the family to the owner must be excluded when the PHA determines rent reasonableness.

Lease-purchase agreements are considered rental, and all the normal tenant-based Section 8 rental rules are applicable. The family will be subject to the homeownership regulatory requirements at the time the family is ready to exercise the homeownership option under the lease-purchase agreement. At that point in time, the PHA will determine whether the family is eligible for Section 8 homeownership assistance (e.g., whether the family meets the income and employment thresholds and any other criteria established by the PHA). If determined eligible for a homeownership voucher, the family will then arrange for an independent home inspection, attend counseling sessions, and obtain financing. Homeownership assistance will begin when the family purchases the home and after all of the requirements of the homeownership option are met.

HUD requests comments on whether the family should be subject to any of the homeownership requirements prior to entering into a lease-purchase arrangement, instead of delaying the requirements until the family is ready to purchase the home.

#### **IV. How To Qualify for Homeownership Assistance**

##### **A. General**

To qualify for assistance under the homeownership option, a family must meet the general requirements for admission to the PHA's Section 8 tenant-based voucher program, and additional special requirements for homeownership assistance (§ 982.627).

At commencement of homeownership assistance, the family must meet homeownership assistance requirements concerning:

1. Any PHA minimum income requirements;
2. Family employment;
3. Prior default on a mortgage securing debt to purchase a home under the homeownership option; and
4. Other initial requirements established by the PHA.

##### **B. Minimum Income Requirement**

To enter the Section 8 voucher program, a family must be income-eligible (i.e., below the maximum income cutoff). However, to qualify for the homeownership option in the voucher program, a PHA may require the family to demonstrate sufficient income to meet a minimum income standard, which is intended to assure that a family will have sufficient income to pay homeownership and other family expenses not covered by the Section 8 subsidy.

Section 8(y) provides that a family may not receive homeownership assistance unless the family demonstrates that gross monthly income is at least two times the voucher "payment standard" or an "other amount" established by the Secretary (Section 8(y)(1)(B), 42 U.S.C. 1437f(y)(1)(B)). The rule provides that the family must demonstrate that the head of household and spouse have qualified monthly income of not less than any amount established in the PHA administrative plan. (§ 982.627(b)(1)).

The law does not specify whether the minimum income requirement is only applied at initial qualification for commencement of homeownership assistance, or is also a continuing requirement that must be maintained so long as the family is receiving assistance under the homeownership option. (By contrast, the law explicitly provides that the statutory employment requirement only applies at the time the family initially receives homeownership assistance.) HUD has decided that any minimum income requirement will only be applied to determine initial qualification to purchase a particular home, not as a continuing requirement. This policy gives assurance to the family, and possibly to a potential mortgage lender, that the stream of homeownership assistance payments will not be disrupted because of a drop in family income. Any minimum income requirement will only apply again if the family purchases a subsequent home with Section 8 homeownership assistance.

The law provides that the income counted in meeting any minimum income requirement under the homeownership option must come from sources other than "public assistance." Thus, PHAs may limit homeownership assistance to families with substantial non-welfare income available to pay housing and non-housing costs. However, the law provides that HUD may count public assistance in determining availability of voucher homeownership assistance for an elderly or disabled family (in which the household head or spouse is an elderly or disabled person). The rule defines the meaning of "public assistance" (§ 982.4), thereby identifying the types of income that may not be included in determining whether a family meets the homeownership minimum income standard.

The rule also clarifies that the requirement to disregard public assistance income (as defined in this proposed rule) only applies in determining whether a family has the minimum income to qualify for homeownership assistance. However, public assistance income is counted for other program purposes: in determining income-eligibility for admission to the voucher program, and in calculating the amount of the monthly homeownership assistance payment for a family assisted under the homeownership option (§ 982.627(b)(2)(ii)).

Under the law, HUD may permit PHAs to count public assistance income of an "elderly family" or a "disabled family"—a family whose head or spouse is elderly or disabled (definitions of these terms are found in section 3(b)(3)(B) of the 1937 Act; 42 U.S.C. 1437a(b)(3)(B))—in determining whether a family has the minimum income to qualify for homeownership assistance. On consideration of this issue, and recognizing the special needs of such families, the rule requires that the PHA count public assistance of an elderly or disabled family in determining whether the family meets the minimum income requirement for homeownership assistance (§ 982.627(b)(2)). This requirement to count public assistance incomes in determining whether a family has the minimum income to qualify for homeownership assistance only applies, however, to families which satisfy the statutory definition of an elderly or disabled family. In particular, as required by the law, the requirement to count public assistance income does not apply in the case of a family that includes a disabled person other than the household head or spouse (and

where the household head or spouse are not elderly or disabled).

### C. Family Employment

Section 8(y) provides that, except as provided by HUD, the family must be able to demonstrate, at the time that the family initially receives homeownership assistance, that one or more adult members of the family have achieved employment for the time period established by HUD (42 U.S.C. 1437f(y)(1)(B)).

The rule provides at § 982.627(c) that a family seeking homeownership assistance must demonstrate that the head of household or spouse is currently employed on a full-time basis, and have been continuously so employed during the year before commencement of homeownership assistance. The one-year employment requirement, coupled with any minimum income requirement as discussed above indicate that the family is a good candidate for homeownership (i.e., that the family has the economic resources to handle the responsibilities of homeownership). HUD is requiring consideration of the employment history of the head of household or spouse, rather than any adult family member, to ensure that this important requirement is applicable to the family members who will be executing the contract of sale and mortgage or loan documents.

Under the law, HUD has broad authority to allow exceptions to the statutory employment requirement. As in the case of any minimum income requirement, the rule provides that the employment requirement does not apply to an elderly or disabled family (§ 982.627(c)(2)). In addition, the rule provides that if a family other than an elderly or disabled family includes a person with disabilities, the PHA must grant exemption from the employment requirement if required as a reasonable accommodation for a disabled person under HUD rules.

### D. Discussion of Other Requirements

#### 1. Homeownership Counseling

Section 8(y) provides that a family that receives assistance under the homeownership option must participate in a homeownership and housing counseling program provided by the PHA (42 U.S.C. 1437f(y)(1)(D)). The rule provides that before commencement of homeownership assistance the family must attend and satisfactorily complete the pre-assistance counseling program required by the PHA (§ 982.629(a)).

The PHA pre-assistance counseling program must cover: Home

maintenance, budgeting and money management, credit counseling, how to negotiate the purchase price of a home, how to get homeownership financing (including pros and cons of different types of financing), how to find a home (including information about homeownership opportunities, schools, and transportation) and advantages of purchasing and how to locate a home in an area that does not have a high concentration of low-income families (§ 982.629(b)).

The extent of counseling may be tailored to each family's needs. For example, neither a cooperative member or a family exercising a lease-purchase option need counseling on how to find a home.

The counseling may be provided by the PHA, another entity such as a HUD-approved housing counseling agency, or by both the PHA and another entity. HUD-approved housing counseling agencies provide free counseling. The HUD field office will provide the PHA with a list of the HUD-approved counseling agencies.

Experience with low-income homeownership programs has demonstrated that quality counseling is imperative for successful homeownership and prevention of mortgage defaults. In addition, counseling will assist families in making informed decisions when selecting the home they wish to purchase.

#### 2. Financing Purchase of Home

Families selected to participate in the Section 8 homeownership program must secure their own financing. If the family applies for a mortgage or loan (including an FHA mortgage), all regular lender underwriting and property inspection requirements apply.

The rule provides that a PHA may establish requirements for financing purchase of a home to be assisted under the homeownership option (§ 982.631). If purchase of the home is financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans (HUD Handbook 4155.1).

All PHA financing or affordability requirements must be described in the PHA administrative plan.

The PHA may set requirements concerning qualifications of lenders and terms of financing. For example, a PHA may determine that mortgages with balloon payments and certain kinds of variable interest rate loans are not in the

best interest of the family because it is unlikely the family could afford the payments in a couple of years. In addition, the PHA could opt to prohibit seller financing, or to only allow seller financing in cases when the seller is a nonprofit or the purchase price can be clearly supported by an independent appraisal. Another purpose of the PHA financing review would be to determine whether the monthly mortgage or loan payment is affordable after considering other family expenses. PHAs may wish to establish minimum initial equity requirements to ensure that the family has a personal financial stake in the home, thus helping to minimize mortgage loan defaults (for example, the PHA may require that the family use its own resources to make the entire initial downpayment, or a percentage of the initial downpayment).

Although PHAs have local discretion in approving the home purchase financing arrangement, PHAs are cautioned not to use this discretion in a way that restricts the use of viable financing resources and unfairly penalizes the homebuyer. It is noted that variable interest rate loans are now commonplace and homeowners often refinance to later secure a fixed rate or a lower monthly payment.

#### 3. Home Inspections

Two kinds of physical inspections are required in the homeownership option (in addition to, and separate from, any lender required inspections): (a) an HQS inspection by the PHA and (b) an "independent professional home inspection" by an inspector that is used in the private market by homebuyers. (§ 982.630).

The PHA inspection is the normal initial HQS inspection conducted by the PHA for the tenant-based rental assistance program. This inspection will indicate the current physical condition of the unit and any repairs necessary to ensure that the unit is safe and otherwise habitable. The PHA HQS inspection does not include an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components.

The only difference between the HQS inspection requirements for the tenant-based rental and homeownership programs is that the PHA will not conduct annual inspections. The exemption from annual HQS homeownership inspections is authorized by the statute. The initial (prior to the commencement of housing assistance) HQS inspection is the only PHA inspection required for homeownership units during the entire

time the family is receiving Section 8 homeownership assistance.

The other inspection required by this proposed rule is a statutory requirement that is consistent with private real estate practice. The "independent professional home inspection" is conducted by a private market home inspector (not PHA staff) that is experienced and qualified to conduct prepurchase inspections for homebuyers. The purpose of the home inspection is the identification of home defects and an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components. The requirement for an inspection arranged by the buyer and satisfactory to the buyer is a typical contingency clause in contracts of sale. The section 8 family selects the home inspector and pays the home inspector's fees. (The source of funds for family payment of the home inspection may be a gift, family savings or an inheritance, or sources other than family savings.) A copy of the inspection report is provided to the family and the PHA.

Although the PHA may not require the family to use a particular inspector, the PHA may establish standards for qualification of the home inspector selected by the family. For example, the PHA may require the use of a home inspector certified by the American Society of Home Inspectors, or a similar national organization.

The PHA must review the home inspector's report to determine whether repairs are necessary prior to purchase, and to generally assess whether the purchase transaction makes sense in light of the overall condition of the home and the likely costs of repairs and capital expenditures. For example, the home inspector's report might reveal foundation instability, and a defective roof and heating system that needs immediate replacement at great cost. Confronted with these facts the PHA would discuss the inspection results with the family and decide whether to disapprove the unit for assistance under the homeownership option because of the major physical problems and substantial correction costs, or whether it is feasible to have the necessary repairs accomplished prior to sale.

HUD specifically requests comments on whether a separate HQS and home inspector inspection should be required for the Section 8 homeownership program.

#### 4. Switching From Section 8 Homeownership Voucher Assistance to Rental Voucher Assistance, and Vice-Versa, After a Mortgage Default and at Other Times

There are a number of circumstances under which a family may switch between rental and homeownership assistance under the voucher program. Various scenarios are described below.

a. A Section 8 participant receiving certificate or voucher assistance may request a PHA operating a homeownership program to determine whether the family is eligible for Section 8 homeownership assistance. If the family is determined eligible for homeownership assistance, the PHA may authorize the family to search for a home to purchase. The family would continue to receive rental assistance until the family vacates the rental unit (consistent with the lease).

b. A Section 8 applicant selected from the PHA waiting list goes to the briefing and learns of the homeownership option. The PHA determines the family is eligible for homeownership and the family is given two months to find a home to purchase. At the end of the two months the PHA extends the search period for an additional month because the family has found a unit. However, the purchase never occurs due to problems qualifying for a loan. The family opts to rent an apartment and try homeownership at a later time after they have increased their savings. The PHA issues the family a rental voucher.

c. The family purchases a home under the Section 8 homeownership option. After several years the family decides that they prefer to live in a rental apartment. If there is no mortgage loan default and the family has met all obligations under the Section 8 program, the PHA may issue the family a rental voucher. If there is a default on an FHA mortgage (and assuming the family has met all the family obligations under the Section 8 program other than not causing a mortgage default), the PHA may exercise the PHA option to issue the family a rental voucher only if the family vacates the home and conveys the title in accordance with § 982.636(b)(3). If there is a non-FHA mortgage loan default, the PHA has discretion to issue the family a rental voucher or terminate assistance.

As noted above, HUD is considering establishing conditions on the ability of a family to receive Section 8 rental assistance after a mortgage default. HUD invites public comment on what types of restrictions and conditions may be appropriate. Any such conditions will be described in the final rule. HUD also

requests comments on whether the incentives provided for rapid possession and title conveyance for homes with FHA mortgage defaults should be extended to all lenders including secondary market agencies.

#### 5. Portability

Families that are determined eligible for homeownership assistance may exercise the homeownership option outside of the initial PHA's jurisdiction if the receiving PHA is administering a Section 8 homeownership program, and is accepting new families into the receiving PHA's homeownership program. See § 982.635.

The receiving PHA may absorb the homeownership family or bill the initial PHA for the homeownership housing assistance using the normal portability billing process. Communications between the initial and receiving PHA are necessary. As is the case for Section 8 rental portable families, all of the receiving PHA's administrative policies are applicable to the homeownership family. The family will be required to attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA, not the initial PHA, will determine whether the financing for and the physical condition of the unit are acceptable.

#### 6. Buying Another Home With Section 8 Assistance

A homeownership family may purchase another home with Section 8 assistance provided there is no mortgage loan default.

There are no Section 8 sale recapture provisions; the family may keep any profits or proceeds from the sale of the home (assuming there are no recapture provisions associated with the family's home financing). However, most of the homeownership requirements applicable to the first home purchase remain applicable to a subsequent purchase. For example, the family must once again meet the employment threshold. The necessity of any counseling will be determined by the PHA. An independent home inspection will be conducted and the PHA will determine the acceptability of the financing. The PHA established time limit for homeownership (10 years or less) applies to the cumulative time the family receives homeownership assistance. The only exception to eligibility requirements applicable to initial receipt of homeownership assistance is that the family need not meet the first-time homebuyer requirement. (See § 982.636(c).)



#### 7. Applicability of the Section 8 Tenant-Based Certificate and Voucher Requirements to the Homeownership Option

Section 982.638 details the portions of the certificate and voucher regulations that apply to the homeownership special housing type. PHAs should carefully review this section of the regulations.

It is noted that all civil rights laws applicable to the Section 8 certificate and voucher programs are applicable to the homeownership program (see § 982.53 for a listing of the equal opportunity requirements applicable to the Section 8 tenant-based programs). PHAs must comply with all equal opportunity and nondiscrimination requirements imposed by contract or Federal law. In addition, PHAs are reminded that “finders-keepers” applies to homeownership assistance; PHAs may not steer families to particular units or neighborhoods. Further, as in the tenant-based rental voucher program, PHAs must provide assistance to expand housing opportunities. The PHA briefing for both rental and homeownership families must explain:

- a. Where the family may lease or purchase a unit;
- b. How portability works (if the family qualifies to lease or purchase a unit outside the PHA jurisdiction under portability procedures); and
- c. The advantages of moving to an area that does not have a high concentration of poor families (if the family is currently living in a high poverty census tract within the jurisdiction of the PHA).

Further, if the family includes any person with disabilities, the PHA must take appropriate steps to ensure effective communication during the briefing in accordance with 24 CFR 8.6.

#### 8. Link Between Section 8 Homeownership and the Family Self-Sufficiency (FSS) Program

PHAs may wish to link Section 8 homeownership with the FSS program. For example, participation in the FSS program could be a PHA eligibility requirement (see §§ 982.626(b) and 982.627(a)(5)). The PHA may also opt to incorporate the homeownership goal into the family's FSS contract of participation so any FSS escrow could be advanced for purchase of a home or home maintenance/improvement purposes. It is noted that FSS families must meet the homeownership income and employment thresholds.

#### 9. PHA Determination of “Homeownership Expense”

Section 982.634(c) details the expenses that the PHA will include when determining the family's homeownership expenses. The principal and interest amount is the debt service amount for the initial (original) mortgage debt, any mortgage insurance premium, and any refinancing of such debt. HUD requests comments on whether homeownership expense should exclude any “owner cashout” associated with refinancing of the original mortgage debt.

The utility allowance is the same utility allowance schedule as used in the rental certificate and voucher programs.

The PHA allowance for maintenance expenses is the amount the PHA thinks is appropriate for routine maintenance for a home. The PHA allowance for major repairs and replacements is the amount the PHA thinks is appropriate for a replacement “reserve” for a home. These two maintenance allowances should not be based on the condition of the home, similar to how utility allowances work. It is recommended that a PHA contact counseling agencies, local realtors and relevant national organizations for advice on the appropriate level for these local allowances. (Families are not required to put the amount set aside for these two maintenance allowances in the bank or in escrow. Further, it is not expected that the monthly amounts for these allowances will cover all maintenance and capital expenditures.) Comments are requested on suggested ways to determine the allowance for maintenance expenses and the allowance for major repairs and replacements.

#### V. Findings and Certifications

##### *Paperwork Reduction Act*

The homeownership option is a special housing type under 24 CFR part 982, subpart M, of the unified rule for the Section 8 tenant-based voucher and certificate program. The information collection requirements of the Section 8 rental certificate and voucher programs approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) are not increased by the implementation of this new special housing type. While the rule substitutes several variations to existing requirements under the normal Section 8 tenant-based program, the homeownership option does not increase the total reporting and recordkeeping burden resulting from the

collection of information for the Section 8 certificate and voucher programs.

As noted earlier in this preamble, the PHA does not issue the family a rental voucher or certificate or execute a housing assistance payment contract with an owner of rental property on behalf of the family participating in the homeownership option. Instead, the family and PHA execute a statement of homeowner obligations. Under the homeownership option the family provides the PHA with a copy of the contract of sale rather than submitting a Request for Lease Approval and a copy of the proposed lease. The homeownership option does require an independent pre-purchase inspection in addition to the initial HQS inspection; however, this burden is off-set by the removal of the requirement that the unit be subsequently inspected no less than annually.

The OMB approval number for the Section 8 tenant-based assistance program is 2577–0169, which expires on April 30, 2001. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

##### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

##### *Executive Order 12866*

The Office of Management and Budget (OMB) reviewed this proposed rule under executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a “significant regulatory action,” as



defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

#### *Impact on Small Entities*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

##### (1) A Substantial Number of Small Entities Will Not Be Affected

The proposed rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under section 8 of the United States Housing Act of 1937. Specifically, the proposed rule will permit a public housing agency to provide Section 8 tenant-based assistance to an eligible family that purchases a dwelling unit that will be occupied by the family. Under the definition of "Small governmental jurisdiction" in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few public housing agencies that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial.

##### (1) No Significant Economic Impact

The proposed regulatory amendments will not change the amount of funding available under the Section 8 voucher program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

#### *Executive Order 12612, Federalism*

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that this

rule will not have federalism implications concerning the division of local, State, and Federal responsibilities. This proposed rule is exclusively concerned with the establishment of an alternative use of Section 8 rental voucher assistance. Specifically, the rule will authorize a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family. No programmatic or policy change will result from this rule that will affect the relationship between the Federal government and State and local governments.

#### *Catalog of Domestic Assistance Numbers*

The Catalog of Domestic Assistance numbers for the programs affected by this proposed rule are 14.146, 14.147, 14.850, 14.851, 14.852, and 15.141.

#### **List of Subjects in 24 CFR Part 982**

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD proposes to amend 24 CFR parts 982 as follows:

#### **PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 VOUCHER PROGRAM**

1. The authority citation for 24 CFR part 982 continues to read as follows:

**Authority:** 42 U.S.C. 1437f and 3535(d).

2. Amend § 982.4(b) as follows:

- a. Revise the definitions of *Cooperative*, and *Special housing types*;
- b. Remove the definition of *Mutual housing*; and
- c. Add the definitions of *Cooperative member*, *Family*, *First-time homeowner*, *Home*, *Homeowner*, *Homeownership assistance*, *Homeownership expenses*, *Homeownership option*, *Interest in the home*, *Membership shares*, *Public assistance*, and *Statement of homeowner obligations* in alphabetical order.

#### **§ 982.4 Definitions.**

\* \* \* \* \*

(b) \* \* \*

*Cooperative.* Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing.

*Cooperative member.* A family of which one or more members owns membership shares in a cooperative.

\* \* \* \* \*

*Family.* A person or group of persons, as determined by the PHA, approved to reside in a unit with assistance under the program. See discussion of family composition at § 982.201(c).

\* \* \* \* \*

*First-time homeowner.* In the homeownership option: A family of which no member owned any present ownership interest in a principal residence of any family member during the three years before commencement of homeownership assistance for the family. "Present ownership interest" in a residence includes 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.

\* \* \* \* \*

*Home.* In the homeownership option: A dwelling unit for which the PHA pays homeownership assistance.

*Homeowner.* In the homeownership option: A family of which one or more members owns title to the home.

*Homeownership assistance.* In the homeownership option: Monthly homeownership assistance payments by the PHA. Homeownership assistance payment may be paid to the family, or to a mortgage lender on behalf of the family.

*Homeownership expenses.* In the homeownership option: A family's allowable monthly expenses for the home, as determined by the PHA in accordance with HUD requirements (see § 982.634).

*Homeownership option.* Assistance for a homeowner or cooperative member under § 982.625 to § 982.638. A special housing type.

\* \* \* \* \*

*Interest in the home.* In the homeownership option (see § 982.632(b)(3)):

(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 any other present interest in the home.

\* \* \* \* \*

*Membership shares.* In the homeownership option: shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular apartment in the cooperative, and the right to participate in management of the housing.

\* \* \* \* \*

*Public assistance.* In the homeownership option (see § 982.627(b)): Income assistance from Federal, state or local welfare programs. Public assistance includes: Federal housing assistance or the housing component of a welfare grant; assistance under Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI) that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a Federal, state or local program that provides assistance available to meet Family living or housing expenses.

\* \* \* \* \*

*Special housing types.* See subpart M of this part 982. Subpart M of this part states the special regulatory requirements for: SRO housing, congregate housing, group home, shared housing, manufactured home (including manufactured home space rental), cooperative housing (rental assistance for cooperative member) and homeownership option (homeownership assistance for cooperative member or first-time homeowner).

*Statement of homeowner obligations.* In the homeownership option: The family's agreement to comply with program obligations.

\* \* \* \* \*

3. Add § 982.305(b)(4) to read as follows:

**§ 982.305 PHA approval to lease a unit.**

\* \* \* \* \*

(b) \* \* \*

(4) In the case of a unit subject to a lease-purchase agreement, the PHA must provide written notice to the family of the environmental requirements that must be met before commencing homeownership assistance for the family (see § 982.626(c)).

\* \* \* \* \*

4. Add § 982.317 to read as follows:

**§ 982.317 Lease-purchase agreements.**

(a) A family leasing a unit with assistance under the program may enter into an agreement with an owner to purchase the unit. So long as the family is receiving such rental assistance, all requirements applicable to families otherwise leasing units under the

tenant-based program apply. Any homeownership premium (e.g., increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a downpayment or reduce the purchase price) included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by the PHA must be absorbed by the family.

(b) In determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount in accordance with § 982.503, any homeownership premium paid by the family to the owner must be excluded when the PHA determines rent reasonableness.

5. Revise 982.352(a)(6) to read as follows:

**§ 982.352 Eligible housing.**

(a) \* \* \*

(6) A unit occupied by its owner or by a person with any interest in the unit.

\* \* \* \* \*

**Subpart M—Special Housing Types**

6. Amend § 982.601 as follows:

- a. Revise paragraphs (a), (b)(1), and (b)(2);
- b. Redesignate paragraphs (c) and (d) as paragraphs (d) and (e) respectively; and
- c. Add new paragraph (c).

**§ 982.601 Overview.**

(a) *Special housing types.* This subpart describes program requirements for special housing types. The following are the special housing types:

- (1) Single room occupancy (SRO) housing;
- (2) Congregate housing;
- (3) Group home;
- (4) Shared housing;
- (5) Manufactured home;
- (6) Cooperative housing (excluding families that are not cooperative members); and
- (7) Homeownership option.

(b) *PHA choice to offer special housing type.* (1) The PHA may permit a family to use any of the following special housing types in accordance with requirements of the program: single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home when the family owns the home and leases the manufactured home space, cooperative housing or homeownership option.

(2) In general, the PHA is not required to permit families (including families that move into the PHA program under portability procedures) to use any of these special housing types, and may

limit the number of families using special housing types.

\* \* \* \* \*

(c) *Program funding for special housing types.* HUD does not provide any additional or designated funding for special housing types, or for a specific special housing type (e.g., the homeownership option). Assistance for special housing types is paid from program funding available for the PHA's tenant-based program under the consolidated annual contributions contract.

\* \* \* \* \*

7. Amend § 982.619 as follows:
  - a. Revise paragraph (a);
  - b. Redesignate paragraph (d) as paragraph (e); and
  - c. Add new paragraph (d).

**§ 982.619 Cooperative housing.**

(a) *Assistance in cooperative housing.* This section applies to rental assistance for a cooperative member residing in cooperative housing. However, this section does not apply to:

- (1) Assistance for a cooperative member under the homeownership option pursuant to § 982.625 through § 982.638; or
- (2) Rental assistance for a family that leases a cooperative housing unit from a cooperative member (such rental assistance is not a special housing type, and is subject to requirements in other subparts of this part 982).

\* \* \* \* \*

(d) *Maintenance.* (1) During the term of the HAP contract between the PHA and the cooperative, the dwelling unit and premises must be maintained in accordance with the HQS. If the dwelling unit and premises are not maintained in accordance with the HQS, the PHA may exercise all available remedies, regardless of whether the family or the cooperative is responsible for such breach of the HQS. PHA remedies for breach of the HQS include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments and termination of the HAP contract.

(2) The PHA may not make any housing assistance payments if the contract unit does not meet the HQS, unless any defect is corrected within the period specified by the PHA and the PHA verifies the correction. If a defect is life-threatening, the defect must be corrected within no more than 24 hours. For other defects, the defect must be corrected within the period specified by the PHA.

(3) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement between the cooperative member and the cooperative;

(ii) The family fails to pay for any utilities that the cooperative is not required to pay for, but which are to be paid by the cooperative member;

(iii) The family fails to provide and maintain any appliances that the cooperative is not required to provide, but which are to be provided by the cooperative member; or

(iv) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(4) If the family has caused a breach of the HQS for which the family is responsible, the PHA must take prompt and vigorous action to enforce such family obligations. The PHA may terminate assistance for violation of family obligations in accordance with § 982.552.

(5) Section 982.404 does not apply to assistance for cooperative housing under this section.

\* \* \* \* \*

8. Add §§ 982.625 through 982.638 under a new undesignated heading "Homeownership Option" to read as follows:

#### **Homeownership Option**

982.625 Homeownership option: General.

982.626 Homeownership option: Initial requirements.

982.627 Homeownership option: Homeownership option: How to qualify for homeownership assistance.

982.628 Homeownership option: Additional PHA requirements for family search and purchase.

982.629 Homeownership option: Homeownership counseling.

982.630 Homeownership option: Home inspections and contract of sale.

982.631 Homeownership option: Financing purchase of home; affordability of purchase.

982.632 Homeownership option: Continued assistance requirements; Family obligations.

982.633 Homeownership option: Maximum term of homeownership assistance.

982.634 Homeownership option: Amount and distribution of monthly homeownership assistance payment.

982.635 Homeownership option: Portability.

982.636 Homeownership option: Move with continued tenant-based assistance.

982.637 Homeownership option: Administrative fees.

982.638 Homeownership option: Applicability of other requirements.

#### **Homeownership Option**

##### **§ 982.625 Homeownership option: General.**

(a) The homeownership option is used to assist a family residing in an existing home purchased and owned by one or more members of the family. The assisted family must be:

- (1) A first-time homeowner; or
- (2) A cooperative member.

(b) A family assisted under the homeownership option may be a newly admitted or existing participant in the program.

(c) The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and useable by persons with disabilities in accordance with 24 CFR part 8. (See § 982.316 concerning occupancy by a live-in aide.)

##### **§ 982.626 Homeownership option: Initial requirements.**

(a) *List of Federal requirements.* Before commencing homeownership assistance for a family, the PHA must determine that all of the following initial requirements have been satisfied:

(1) The family is qualified to receive homeownership assistance (see § 982.627).

(2) The family has satisfactorily completed the PHA program of required pre-assistance homeownership counseling (see § 982.629).

(3) The unit is eligible. (See § 982.352. Paragraphs (a)(6), (a)(7) and (b) of § 982.352 do not apply.)

(4) The unit has been inspected by a PHA inspector and by an independent inspector designated by the family (see § 982.630).

(5) The unit satisfies the HQS (see § 982.401 and § 982.630).

(6) The family is a first-time homeowner or cooperative member (see definitions of these terms at § 982.4) and neither the head of household or spouse has defaulted on a mortgage obtained through the homeownership option.

(7) Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, the family has entered a contract of sale in accordance with § 982.630(c).

(8) In the case of assistance for a cooperative member, the cooperative membership shares may be acquired at or before commencement of homeownership assistance.

(b) *Additional PHA requirements.* The PHA may prescribe additional initial requirements for commencement of homeownership assistance for a family. Any such additional requirements must

be described in the PHA administrative plan.

(c) *Environmental requirements.* The PHA is responsible for complying with the authorities listed in 24 CFR 58.6 requiring the purchaser to obtain and maintain flood insurance for units in special flood hazard areas, prohibiting assistance for acquiring units in the coastal barriers resource system, and requiring notification to purchaser of units in airport runway clear zones and airfield clear zones.

(d) *PHA disapproval of seller.* The PHA may not commence homeownership assistance for occupancy of a home if the PHA 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 24 CFR part 24.

##### **§ 982.627 Homeownership option: How to qualify for homeownership assistance.**

(a) *Determination whether family is qualified.* The PHA may not provide homeownership assistance for a family unless the PHA determines that the family satisfies all of the following initial requirements at commencement of homeownership assistance for the family:

(1) At admission to the voucher program, the family is eligible for assistance (determined in accordance with § 982.201).

(2) The family satisfies any minimum income requirement (described in paragraph (b) of this section).

(3) The family satisfies the employment requirements (described in paragraph (c) of this section).

(4) The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option (see paragraph (d) of this section).

(5) The family also satisfies any other initial requirements established by the PHA. Any such additional requirements must be described in the PHA administrative plan.

(b) *Minimum income requirements.*

(1) At commencement of homeownership assistance for the family, the family must demonstrate that the head of household and spouse have qualified monthly income (gross income), as determined in accordance with § 5.609, that is not less than any minimum amount established by the PHA in accordance with the administrative plan.

(2)(i) Except in the case of an elderly family or a disabled family (see the definitions of these terms at 24 CFR 5.403(b)), the PHA shall not count any public assistance received by the family in determining qualified monthly income under this section.

(ii) The disregard of public assistance income under paragraph (b)(2)(i) of this section only affects the determination of minimum monthly income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

(A) The determination of income-eligibility for admission to the voucher program;

(B) Calculation of the amount of the family's total tenant payment (gross family contribution); or

(C) Calculation of the amount of homeownership assistance payments on behalf of the family.

(iii) In the case of an elderly family or a disabled family, the PHA shall count public assistance in determining qualified monthly income.

(c) *Employment requirements.* (1) Except as provided in paragraph (c)(2) of this section, the family must demonstrate that the head of household or spouse is currently employed on a full-time basis, and has been continuously so employed during the year before commencement of homeownership assistance for the family.

(2) The employment requirement in paragraph (c)(1) of this section does not apply to an elderly family or a disabled family (see the definitions of these terms at 24 CFR 5.403(b)). Furthermore, if a family, other than an elderly family or a disabled family, includes a person with disabilities, the PHA shall grant an exemption from the employment requirement if the PHA determines that an exemption is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

(d) *Prohibition against mortgage defaults.* The PHA shall not commence homeownership assistance for a family if the head of household or spouse has previously received assistance under the homeownership option, and has defaulted on a mortgage securing debt incurred to purchase the home.

**§ 982.628 Homeownership option: Additional PHA requirements for family search and purchase.**

(a) The PHA may establish the maximum time for a family to locate a home to purchase, and to purchase the home.

(b) The PHA may require periodic family reports on the family's progress made to purchase in finding and purchasing a home.

(c) If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may

issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

**§ 982.629 Homeownership option: Homeownership counseling.**

(a) Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA (pre-assistance counseling).

(b) The PHA pre-assistance counseling program must cover these subjects:

(1) Home maintenance (including care of the grounds);

(2) Budgeting and money management;

(3) Credit counseling;

(4) How to negotiate the purchase price of a home;

(5) How to obtain homeownership financing and loan preapprovals, including a description of types of financing that may be available, and the pros and cons of different types of financing;

(6) How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction.

(7) Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.

(c) The PHA may adapt pre-assistance counseling for a family to the family's needs.

(d) The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

**§ 982.630 Homeownership option: Home inspections and contract of sale.**

(a) *HQS inspection by PHA.* The PHA may not commence homeownership assistance for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

(b) *Independent inspection.* (1) The unit must also be inspected by an independent professional inspector selected by and paid by the family.

(2) The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

(3) The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

(4) The independent inspector must provide a copy of the inspection report both to the family and to the PHA. The PHA may not commence homeownership assistance for the family until the PHA has reviewed the inspection report of the independent inspector. Even if the unit otherwise complies with the HQS (and may qualify for assistance under the PHA's tenant-based rental voucher program), the PHA shall have discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report.

(c) *Contract of sale.* (1) Before commencement of homeownership assistance, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale (see also § 982.626(a)(7)).

(2) The contract of sale must specify:

(i) The price and other terms of sale by the seller to the purchaser.

(ii) That the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.

(iii) That the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.

(iv) That the purchaser is not obligated to pay for any necessary repairs.

**§ 982.631 Homeownership option: Financing purchase of home; affordability of purchase.**

(a) The PHA may establish requirements for financing purchase of a home to be assisted under the homeownership option. Such PHA requirements may include requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), or concerning terms of financing (for example, a prohibition of balloon payment mortgages, or establishment of a minimum homeowner equity requirement from personal resources).

(b) If purchase of the home is financed with FHA-insured mortgage financing, such financing is subject to FHA mortgage insurance credit underwriting requirements. If purchase of the home is

financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans.

(c) The PHA may disapprove proposed financing if the PHA determines that the debt for purchase of the home is unaffordable. In making this determination, the PHA may take into account other family expenses, such as child care, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by the PHA.

(d) All PHA financing or affordability requirements must be described in the PHA administrative plan.

**§ 982.632 Homeownership option: Continued assistance requirements; Family obligations.**

(a) *Occupancy of home.*

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

(b) *Family obligations.* To continue to receive homeownership assistance, a family must comply with the following family obligations:

(1) *Ongoing counseling.* To the extent required by the PHA, the family must attend and complete ongoing homeownership and housing counseling.

(2) *Compliance with mortgage.* The family must comply with the terms of any mortgage securing debt incurred to purchase the home, and any refinancing of such debt.

(3) *Prohibition against conveyance or transfer of home.* (i) So long as the family is receiving homeownership assistance, use and occupancy of the home is subject to § 982.551(h) and (i). The family may not sell, convey or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home.

(ii) In the case of assistance for a homeowner, the family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.

(iii) Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the

decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with § 982.551(h).

(4) *Supplying required information.* (i) The family must supply required information to the PHA in accordance with § 982.551(b).

(ii) In addition to other required information, the family must supply any information as required by the PHA or HUD concerning:

(A) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt;

(B) Any sale or other transfer of any interest in the home; or

(C) The family's homeownership expenses.

(5) *Notice of move-out.* The family must notify the PHA before the family moves out of the home.

(6) *Notice of mortgage default.* The family must notify the PHA if the family defaults on a mortgage securing any debt incurred to purchase the home.

(7) *Additional PHA requirements.* The PHA may establish additional requirements for continuation of homeownership assistance for the family. The family must comply with any such requirements.

(8) *Other family obligations.* The family must comply with the obligations of a participant family described in § 982.551. However, the following provisions do not apply to assistance under the homeownership option: § 982.551(c), (d), (e), (f), (g) and (j).

(c) *Statement of homeowner obligations.* Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.

**§ 982.633 Homeownership option: Maximum term of homeownership assistance.**

(a) Except in the case of an elderly family or a disabled family, the family shall not receive assistance under the homeownership option for more than ten years in total. If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the ten year maximum.

(b) At any time, the PHA may establish a shorter maximum term.

**§ 982.634 Homeownership option: Amount and distribution of monthly homeownership assistance payment.**

(a) *Amount of monthly homeownership assistance payment.*

While the family is residing in the home, the PHA shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the lower of:

(1) The payment standard minus the total tenant payment; or

(2) The family's monthly homeownership expenses minus the total tenant payment.

(b) *Payment standard for family.* (1) The payment standard for a family is the lower of:

(i) The payment standard for the family unit size; or

(ii) The payment standard for the size of the home.

(2) If the home is located in an exception rent area, the PHA must use the appropriate payment standard for the exception rent area.

(3) The payment standard for a family is the greater of:

(i) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the commencement of homeownership assistance for occupancy of the home; or

(ii) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

(4) The PHA may not establish a separate payment standard for assistance under the homeownership option. The PHA must use the payment standards on the PHA payment standard schedule established pursuant to § 982.505.

(c) *Determination of homeownership expenses.* (1) The PHA shall adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

(2) Homeownership expenses for a homeowner may only include amounts allowed by the PHA to cover:

(i) Principal and interest on initial mortgage debt and any mortgage insurance premium incurred to finance purchase of the home and any refinancing of such debt;

(ii) Real estate taxes and public assessments on the home;

(iii) Home insurance;

(iv) The PHA allowance for maintenance expenses;

(v) The PHA allowance for costs of major repairs and replacements;

(vi) The PHA utility allowance for the home; and

(vii) Principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home.

(3) Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

(i) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;

(ii) Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt or other mortgage debt;

(iii) Home insurance;

(iv) The PHA allowance for maintenance expenses;

(v) The PHA allowance for costs of major repairs and replacements;

(vi) The PHA utility allowance for the home; and

(vii) Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home.

(d) *Payment to lender or family.* The PHA must pay homeownership assistance payments either directly to the family or, at the discretion of the PHA, to a lender on behalf of the family.

(e) *Automatic termination of homeownership assistance.*

Homeownership assistance terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

#### **§ 982.635 Homeownership option: Portability.**

A family may qualify to move outside the initial PHA jurisdiction with continued assistance under the voucher program in accordance with portability procedures in § 982.353 and § 982.355. However, § 982.354 is not applicable. Such continued assistance under portability procedures is subject to § 982.636.

#### **§ 982.636 Homeownership option: Move with continued tenant-based assistance.**

(a) *Move to new unit.* A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance in accordance with this section. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

(b) *When PHA may deny permission to move with continued assistance—*(1) *Lack of sufficient funding.* The PHA may deny permission to move with continued voucher assistance if the PHA does not have sufficient funding to provide continued assistance.

(2) *Termination of assistance.* At any time, the PHA may deny permission to move with continued voucher assistance in accordance with § 982.552 (grounds for denial or termination of assistance), including termination of assistance for violation of any family obligations described in § 982.632.

(3) *Default on FHA-insured mortgage.* If the family defaults on an FHA-insured mortgage, the PHA may deny the family permission to receive rental assistance, in accordance with the policies contained in the PHA administrative plan. Further, in the event of a default on an FHA-insured mortgage, the PHA must deny the family permission to move with continued voucher assistance unless the family demonstrates that:

(i) The family has conveyed title to the home, as required by HUD, to HUD or HUD's designee, and

(ii) The family has moved from the home within the period established or approved by HUD.

(c) *Continued homeownership assistance.* For each move to a new unit with continued voucher assistance under the homeownership option, the PHA must determine that all initial requirements listed in § 982.626 have been satisfied. However, the following requirements do not apply:

(1) The requirement for pre-assistance counseling (§ 982.626(a)(2) and § 982.629) is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued assistance under the homeownership option).

(2) In the case of assistance for a homeowner, the requirement that a family must be a first-time homeowner (§ 982.625 and § 982.626) is not applicable.

#### **§ 982.637 Homeownership option: Administrative fees.**

The ongoing administrative fee described in § 982.152(b) is paid to the PHA for each month that homeownership assistance is paid by the PHA on behalf of the family.

#### **§ 982.638 Homeownership option: Applicability of other requirements.**

(a) *General.* The following types of provisions (located in other subparts of this part 982) do not apply to assistance under the homeownership option:

(1) Any provisions concerning the Section 8 owner or the HAP contract between the PHA and owner;

(2) Any provisions concerning the assisted tenancy or the lease between the family and the owner;

(3) Any provisions concerning PHA approval to lease a unit;

(4) Any provisions concerning rent to owner or reasonable rent; and

(5) Any provisions concerning the issuance or term of a certificate or voucher.

(b) *Subpart G requirements.* The following provisions of this part 982, subpart G do not apply to assistance under the homeownership option:

(1) Section 982.302 (Issuance of certificate or voucher);

(2) Section 982.303 (Term of certificate or voucher);

(3) Section 982.305 (PHA approval to lease);

(4) Section 982.306 (PHA disapproval of owner);

(5) Section 982.307 (Owner screening of tenants);

(6) Section 982.308 (Leases);

(7) Section 982.309 (Term of tenancy);

(8) Section 982.310 (Owner termination of tenancy);

(9) Section 982.311 (When assistance is paid) (except that § 982.311(c)(3) is applicable to assistance under the homeownership option);

(10) Section 982.313 (Security deposit); and

(11) Section 982.314 (Move with continued tenant-based assistance) (except that § 982.314(c) and (d)(2) are applicable).

(c) *Subpart H requirements.* The following provisions of this part 982, subpart H do not apply to assistance under the homeownership option:

(1) Section 982.352(a)(6) (Prohibition of owner-occupied assisted unit);

(2) Section 982.352(b) (PHA owned housing);

(3) Sections 982.353(b)(1), (2), and (3) (Where family can lease a unit); and

(4) Section 982.354 (Administration by initial PHA under portability).

(d) *Subpart I requirements.* The following provisions of this part 982, subpart I do not apply to assistance under the homeownership option:

(1) Section 982.403 (Unit too big or small);

(2) Section 982.404 (Responsibility for maintenance during assisted occupancy); and

(3) Section 982.405 (PHA periodic unit inspection).

(e) *Subpart J requirements.* The requirements of this part 982, subpart J (Housing Assistance Payments Contract and Owner Responsibility) (§§ 982.451–457) do not apply to assistance under the homeownership option.

(f) *Subpart K requirements.* Except for those sections listed below, the requirements of this part 982, subpart K (Rent and Housing Assistance Payment) (§§ 982.501–517) do not apply to assistance under the homeownership option:

(1) Section 982.504 (Maximum subsidy; FMR/exception rent limit);

(2) Section 982.516 (Examination of family income and composition); and

(3) Section 982.517 (Utility allowance).

(g) *Subpart L requirements.* The following provisions of this part 982, subpart L, do not apply to assistance under the homeownership option:

(1) Section 982.551(c) (HQS breach caused by family);

(2) Section 982.551(d) (Allowing HQS inspection); and

(3) Section 982.551(j) (Interest in unit).

Dated: April 7, 1999.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing.*

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