

**U.S. Department Of Housing And Urban Development  
Office of Public and Indian Housing**

**PROJECT-BASED ASSISTANCE  
HOUSING CHOICE VOUCHER PROGRAM  
HOUSING ASSISTANCE PAYMENTS CONTRACT  
NEW CONSTRUCTION OR REHABILITATION**

**PREPARATION OF HAP CONTRACT**

Instructions on preparation of the HAP contract are attached at the end of the HAP contract text. Reference numbers in the text of section 1 of the contract refer to notes at the end of the contract text.

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PROJECT-BASED ASSISTANCE  
HOUSING CHOICE VOUCHER PROGRAM

HOUSING ASSISTANCE PAYMENTS CONTRACT  
NEW CONSTRUCTION OR REHABILITATION  
PART 1 OF HAP CONTRACT

**1. CONTRACT INFORMATION<sup>1</sup>**

**a. Contents of contract**

This is a housing assistance payments contract (HAP Contract) between the PHA and the owner. The HAP Contract consists of Part 1, Part 2 and the Contract exhibits listed in paragraph b.

**b. Contract exhibits**

The HAP contract includes the following exhibits:

**EXHIBIT A      DESCRIPTION OF CONTRACT UNITS**

NUMBER OF UNITS BY UNIT SIZE (NUMBER OF BEDROOMS),

ADDRESS, AND APPLICABLE INITIAL RENT TO OWNER<sup>2</sup>

**EXHIBIT B SERVICES, MAINTENANCE AND UTILITIES TO BE PROVIDED BY THE OWNER**

**ADDITIONAL EXHIBITS:**<sup>3</sup>

**c. Effective date of HAP Contract<sup>4</sup>**

*PARAGRAPH i BELOW ONLY APPLIES FOR A SINGLE-STAGE PROJECT.*

*PARAGRAPH ii BELOW ONLY APPLIES FOR A MULTI-STAGE PROJECT.*

*IF NO BOX IS CHECKED, THIS IS A SINGLE-STAGE PROJECT.*

**i. ☐ Single-Stage Project<sup>5</sup>**

Applicability of Single-Stage provisions

This is a single-stage project.

Effective date of HAP Contract for Single-Stage project

For all contract units, the effective date of the HAP Contract is \_\_\_\_\_

The PHA enters the effective date, and executes the HAP Contract, after completion and PHA acceptance of all units in the single-stage project.



## II. ☐ Multi-Stage Project<sup>6</sup>

### Applicability of Multi-Stage provisions

---

#### (1) Designation of Units

This is a multi-stage project. The units in each completed stage are designated in Exhibit A.

#### (2) Effective date of HAP Contract for Multi-Stage Project

The PHA enters the effective date for each stage after completion and PHA acceptance of all units in that stage. The PHA enters the effective date for each stage in the "execution of HAP contract for contract units completed in stages."

#### (3) Anniversary date of HAP Contract for Multi-Stage Project

The anniversary date of the HAP contract for all contract units in this multi-stage project is the anniversary of the effective date of the HAP contract for the contract units included in the first stage.

### **D. Term of HAP Contract**

#### **i. Beginning of Term**

The term of the HAP contract for any unit begins on the effective date of the HAP contract for that unit.

#### **ii. Length of Term**

- 1) Subject to paragraph d.ii.(2), the length of the term of the HAP contract for any unit is:

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- 2) Notwithstanding paragraph d.ii.(1), the length of the term of the HAP contract for any unit may not be less than one year, nor more than ten years.
- 3) The length of the term shall be subject to availability, as determined by HUD, or by the PHA in accordance with HUD requirements, of sufficient appropriated funds (budget authority), as provided in appropriations acts and in the PHA's annual contributions contract (ACC) with HUD, to make housing assistance payments in accordance with the HAP contract.

- 4) If sufficient appropriated funds are not available, the PHA may terminate the HAP contract upon notice to the owner.

## **e. Occupancy and payment**

### **i. Payment for occupied unit**

- 1) The PHA makes housing assistance payments to the owner for the months during which a contract unit is leased and occupied by an eligible family during the term of the HAP contract.
- 2) [Except for vacancy payments as provided in paragraph e.ii] If an assisted family moves out of the contract unit occupied by the family, the PHA will not make any housing assistance payments to the owner for any month after the month when the family moves out.

### **ii. Vacancy payment<sup>8</sup>**

*THE PHA HAS DISCRETION WHETHER TO INCLUDE THE VACANCY PAYMENT PROVISION (PARAGRAPH e.ii) , OR TO STRIKE THIS PROVISION FROM THE HAP CONTRACT FORM.*

If an assisted family vacates the contract unit leased and occupied by the family, the PHA agrees to continue housing assistance payments to the owner for a vacancy period of up to sixty days from commencement of the vacancy, if:

- 1) The owner gives the PHA prompt notice of the vacancy;
- 2) The vacancy is not the fault of the owner, and
- 3) The owner has taken every reasonable action to minimize the likelihood and length of vacancy.

### **iii. PHA is not responsible for family damage or debt to owner**

Except as provided in this paragraph e (Occupancy and Payment), the PHA will not make any other payment to the owner under the HAP contract. The PHA will not make any payment to owner for any damages to the unit, or for any other amounts owed by a family under the family's lease.

### **iv. Income-mixing requirement**

- 1) Except as provided in paragraph iv.2, the PHA will not make housing assistance payments under the HAP contract for more than 25 percent of the total number of

dwelling units (assisted or unassisted) in any building.

2) In referring families to the owner for admission to the number of contract units in any building exceeding the 25 percent limitation under paragraph iv.1, the PHA shall give preference to elderly or disabled families, or to families receiving supportive services, for the number of contract units designated for occupancy by such families. The owner shall rent the designated contract units to such families referred by the PHA.

3) The following specifies the number of contract units (if any)

- Designated for occupancy by elderly or disabled families, or
- Designated for occupancy by families receiving supportive services.

☐ Check this box if any contract units are designated for elderly or disabled families.

The following number of contract units shall be rented to elderly or disabled families:

\_\_\_\_\_

☐ Check this box if any contract units are designated for families receiving supportive services.

The following number of contract units shall be rented to families receiving supportive services:

\_\_\_\_\_

**EXECUTION OF HAP CONTRACT  
FOR SINGLE-STAGE PROJECT**

**PUBLIC HOUSING AGENCY (PHA)**

**Name of PHA (Print)**

El Dorado County Public Housing Authority

By: \_\_\_\_\_

Signature of authorized representative

Name and official title (Print)

Date \_\_\_\_\_

**OWNER**

**Name of Owner (Print)**

By \_\_\_\_\_

Signature of authorized representative

Name and title (Print)

Date \_\_\_\_\_

**EXECUTION OF HAP CONTRACT FOR CONTRACT UNITS COMPLETED  
AND ACCEPTED IN STAGES**

Contract units in each stage are described in Exhibit A.

**STAGE NO. 1** The Contract is hereby executed for the contract units in this stage.

**STAGE EFFECTIVE DATE** The effective date of the Contract for this stage is:

\_\_\_\_\_

**PUBLIC HOUSING AGENCY (PHA)**

Name of PHA (Print)

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Signature of authorized representative

\_\_\_\_\_

Name and official title (Print)

Date \_\_\_\_\_

**OWNER**

Name of Owner (Print)

\_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_

Signature of authorized representative

\_\_\_\_\_

Name and title (Print)

Date \_\_\_\_\_

**STAGE NO. 2** The Contract is hereby executed for the contract units in this stage.

**STAGE EFFECTIVE DATE** The effective date of the Contract for this stage is:

**PUBLIC HOUSING AGENCY (PHA)**

Name of PHA (Print)

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and official title (Print)

Date \_\_\_\_\_

**OWNER**

Name of Owner (Print)

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and title (Print)

Date \_\_\_\_\_

**STAGE NO. 3** The Contract is hereby executed for the contract units in this stage.

**STAGE EFFECTIVE DATE** The effective date of the Contract for this stage is:

**PUBLIC HOUSING AGENCY (PHA)**

Name of PHA (Print)

By: \_\_\_\_\_  
Signature of authorized representative

Name and official title (Print)

Date \_\_\_\_\_

**OWNER**

Name of Owner (Print)

By \_\_\_\_\_  
Signature of authorized representative

Name and title (Print)

Date \_\_\_\_\_

**STAGE NO. \_\_\_\_** The Contract is hereby executed for the contract units in this stage.

**STAGE EFFECTIVE DATE** The effective date of the Contract for this stage is:

**PUBLIC HOUSING AGENCY (PHA)**

Name of PHA (Print)

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and official title (Print)

Date \_\_\_\_\_

**OWNER**

Name of Owner (Print)

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and title (Print)

Date \_\_\_\_\_



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PROJECT-BASED ASSISTANCE  
HOUSING CHOICE VOUCHER PROGRAM

HOUSING ASSISTANCE PAYMENTS CONTRACT  
NEW CONSTRUCTION OR REHABILITATION  
PART 2 OF HAP CONTRACT

## 2. DEFINITIONS

**Agreement.** Agreement to enter into Housing Assistance Payments Contract (AHAP). between the owner and the PHA. This HAP contract was entered following new construction or rehabilitation of the contract units by the owner pursuant to an AHAP.

**Contract units.** The housing units covered by this HAP contract. The contract units are described in Exhibit A.

**Family.** The persons approved by the PHA to reside in a contract unit with assistance under the program.

**PHA.** Public Housing Agency. The agency that has entered into the HAP contract with the owner. The agency is a public housing agency as defined in the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

**HAP contract.** This housing assistance payments contract between the PHA and the owner. The contract consists of Part A, Part B, and the contract exhibits (listed in paragraph 1.b of the HAP contract).

**Housing quality standards (HQS).** The HUD minimum quality standards for dwelling units occupied by families receiving project-based assistance under the Housing Choice Voucher Program assisted under the PBA program.

**HUD.** U.S. Department of Housing and Urban Development.

**HUD requirements.** HUD requirements which apply to the housing choice voucher program (42 U.S.C. 1437f(o)). HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

**Premises.** The building or complex in which a contract unit is located, including common areas or grounds.

**Principal or interested party.** This term includes a management agent and other persons or entities participating in project management, and the officers and principal members, shareholders, investors, and other parties having a substantial interest in the Agreement or the HAP contract, or in any proceeds or benefits arising from the Agreement or HAP contract.

**Program.** Project-based assistance under the Housing Choice Voucher Program (see authorization for project-based assistance at 42 U.S.C. 1437f(o)(13))

**Rent to owner.** The total monthly rent payable to the owner under the lease for a contract unit. Rent to owner includes payment for any housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

**Tenant rent.** The portion of the rent to owner payable by the family, as determined by the PHA in accordance with HUD requirements. The PHA is not responsible for paying any part of the tenant rent.

### **3. PURPOSE**

- 1) This is a HAP contract between the PHA and the owner.
- 2) The purpose of the HAP contract is to provide housing assistance payments for eligible families who lease contract units that comply with the HUD housing quality standards (HQS) from the owner.
- 3) The PHA must make housing assistance payments to the owner in accordance with the HAP contract for contract units leased and occupied by eligible families during the HAP contract term. HUD provides funds to the PHA to make housing assistance payments to owners for eligible families.

#### **4. COMPLETION AND ACCEPTANCE OF CONTRACT UNITS**

The owner certifies that the contract units have been completed in accordance with the Agreement to Enter into Housing Assistance Payments Contract ("Agreement"). Completion and acceptance of the units is subject to the provisions of the Agreement.

#### **5. RENT TO OWNER; HOUSING ASSISTANCE PAYMENTS**

##### **a. Amount of initial rent to owner**

The initial rent to owner for each contract unit is stated in Exhibit A, which is attached to and made a part of the HAP contract. At the beginning of the HAP contract term, and until rent to owner is adjusted in accordance with section 6 of the HAP contract, the rent to owner for each bedroom size (number of bedrooms) shall be the initial rent to owner amount listed in Exhibit A.

##### **b. HUD rent requirements**

- 1) Notwithstanding any other provision of the HAP contract, the rent to owner may in no event exceed the amount authorized in accordance with HUD requirements.
- 2) The PHA has the right to reduce the rent to owner, at any time, to correct any errors in establishing or adjusting the rent to owner in accordance with HUD requirements. The PHA may recover any overpayment from the owner.

##### **c. PHA payment to owner**

- 1) Each month the PHA must make a housing assistance payment to the owner for a unit under lease to and occupied by an eligible family in accordance with the HAP contract.
- 2) The monthly housing assistance payment to the owner for a contract unit is equal to the amount by which the rent to owner exceeds the tenant rent.
- 3) Payment of the tenant rent is the responsibility of the family. The PHA is not responsible for paying any part of the tenant rent, or for paying any other claim by the owner against a family. The PHA is only responsible for making housing assistance payments to the owner on behalf of a family in accordance with the HAP contract.
- 4) The owner will be paid the housing assistance payment under the HAP contract on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

- 5) To receive housing assistance payments in accordance with the HAP contract, the owner must comply with all the provisions of the HAP contract. Unless the owner complies with all the provision of the HAP contract, the owner does not have a right to receive housing assistance payments.
- 6) If the PHA determines that the owner is not entitled to the payment or any part of it, the PHA, in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner, including amounts due under any other housing assistance payments contract.
- 7) The owner will notify the PHA promptly of any change of circumstances that would affect the amount of the monthly housing assistance payment, and will return any payment that does not conform to the changed circumstances.

#### **d. Termination of assistance for family**

The PHA may terminate housing assistance payments for a family under the HAP contract in accordance with HUD requirements. The PHA must notify the owner in writing of its decision to terminate housing assistance payments in such case, and that housing assistance payments for the family under the HAP contract will terminate at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.

### **6. ADJUSTMENT OF RENT TO OWNER**

#### **a. PHA determination of adjusted rent**

During the term of the HAP contract, the PHA shall adjust the amount of rent to owner, upon request to the PHA by the owner, in accordance with law and HUD requirements. The amount of the rent to owner may be adjusted up or down, in the amount determined by the PHA.

#### **b. Maximum rent**

Rent to owner for each contract unit, as adjusted from time to time by the PHA in accordance with this section, may at no time exceed reasonable rent, as determined by the PHA, charged for comparable units in the private unassisted market.

### **c. No special adjustments**

The PHA will not make any special adjustments of the rent to owner.

### **d. Owner compliance with HAP contract**

The PHA shall not approve, and the owner shall not receive, any increase of rent to owner unless all contract units are in accordance with the housing quality standards, and the owner has complied with the terms of the assisted leases and the HAP contract.

### **e. Notice of rent adjustment**

Rent to owner shall be adjusted by written notice by the PHA to the owner in accordance with this section. Such notice constitutes an amendment of the rents specified in Exhibit A.

## **7. OWNER RESPONSIBILITY**

The owner is responsible for:

- 1) Performing all management and rental functions for the contract units.
- 2) Enforcing tenant obligations under the lease.
- 3) Paying for utilities and housing services (unless paid by the family under the lease).
- 4) Collecting from the tenant:
  - a) Any security deposit.
  - b) The tenant rent.
  - c) Any charge for unit damage by the family.

## **8. OWNER CERTIFICATIONS**

The owner certifies that at all times during the term of the HAP contract:

- 1) All contract units are in good and tenantable condition. The owner is maintaining the premises and all contract units in accordance with the HQS.
- 2) The owner is providing all the services, maintenance and utilities as agreed to under the HAP contract and the leases with assisted families.

- 3) Each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements.
- 4) To the best of the owner's knowledge, the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.
- 5) The owner (including a principal or other interested party) is not the parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit.
- 6) The amount of the housing assistance payment is the correct amount due under the HAP contract.
- 7) The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.
- 8) Except for the housing assistance payment and the tenant rent as provided under the HAP contract, the owner has not received and will not receive any payments or other consideration (from the family, the PHA, HUD, or any other public or private source) for rental of the contract unit.
- 9) The family does not own, or have any interest in the contract unit. If the owner is a cooperative, the family may be a member of the cooperative.
- 10) The contract units and premises have an automatic sprinkler system or smoke detectors in proper condition in compliance with the Fire Administration Authorization Act of 1992.
- 11) The contract units and premises are in compliance with the Lead-Based Paint regulations at 24 CFR Part 35

## **9. CONDITION OF UNITS**

### **a. Owner maintenance and operation**

- 1) The owner must maintain and operate the contract units and premises to provide decent, safe and sanitary housing in accordance with the housing quality standards, including performance of ordinary and extraordinary maintenance.
- 2) The owner must provide all the services, maintenance and utilities set forth in Exhibit B, and the lease with each assisted family.

### **b. PHA inspection**

The PHA may inspect the contract units and the premises any time the PHA deems necessary to assure that the contract units and premises are in accordance with the housing quality standards and that the owner is providing the maintenance, utilities, and other services in accordance with the leases and the HAP contract.

### **c. Units not decent, safe and sanitary**

If the PHA determines a contract unit is not in accordance with the housing quality standards, the PHA may exercise any of its remedies under the HAP contract for all or any contract units. Such remedies include termination, abatement, or reduction of housing assistance payments, or termination of the HAP contract. The PHA may exercise any such contractual remedy respecting a contract unit even if the family continues to occupy the unit.

### **d. Maintenance and replacement -- owner's standard practice**

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

## **10. LEASING CONTRACT UNITS**

### **a. Selection of tenants**

- 1) During the term of the HAP contract, the owner must lease all contract units to eligible families referred by the PHA from its waiting list. The PHA must determine family eligibility in accordance with HUD requirements.
- 2) The contract unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards.
- 3) If a contract unit was occupied by an eligible family at the time the unit was selected by the PHA, or is so occupied on the effective date of the HAP contract, the owner must offer the family the opportunity to lease the same or another appropriately-sized contract unit with assistance under the HAP contract.
- 4) The owner is responsible for screening and selecting tenants from the families referred by the PHA from its waiting list.

## **b. Vacancies**

- 1) The owner must promptly notify the PHA of any vacancy in a contract unit. After receiving the owner notice, the PHA shall make every reasonable effort to refer a sufficient number of families for owner to fill the vacancy.
- 2) The owner must rent vacant contract units to eligible families on the PHA waiting list referred by the PHA.
- 3) The PHA and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy.
- 4) If vacancies occur, the PHA may give notice to the owner amending Exhibit A of the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for a period of 120 or more days since owner notice of vacancy.

## **11. TENANCY**

### **a. Lease**

The lease between the owner and each assisted family must be in accordance with HUD requirements. The lease must include word-for-word all provisions required by HUD.

### **b. Termination of tenancy**

- 1) The owner may only terminate a tenancy in accordance with the lease and HUD requirements.
- 2) The owner must give the PHA a copy of any owner eviction notice to the tenant at the same time that the owner gives notice to the tenant. Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used to commence an eviction action under State or local law.

### **c. Family payment**

- 1) The portion of the monthly rent to owner payable by the family ("tenant rent") will be determined by the PHA in accordance with HUD requirements. The amount of the tenant rent is subject to change during the term of the HAP contract. Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family and the owner.



- 2) The amount of the tenant rent as determined by the PHA is the maximum amount the owner may charge the family for rent of a contract unit, including all housing services, maintenance and utilities to be provided by the owner in accordance with the HAP contract and the lease.
- 3) The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess rent payment to the tenant.
- 4) The family is not responsible for payment of the portion of the contract rent covered by the housing assistance payment under the HAP contract. The owner may not terminate the tenancy of an assisted family for nonpayment of the PHA housing assistance payment.

#### **d. Other owner charges**

- 1) The lease may not require the tenant or family members to pay charges for meals or supportive services. Nonpayment of such charges is not ground for termination of tenancy.
- 2) The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to the unsubsidized tenant in the premises.

#### **e. Security deposit**

- 1) The owner may collect a security deposit from the family.
- 2) The owner must comply with HUD and PHA requirements, which may change from time to time, regarding security deposits from a tenant.
- 3) When the family moves out of the contract unit, the owner, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts which the family owes under the lease. The owner must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used as reimbursement to the owner, the owner must promptly refund the full amount of the balance to the family.
- 4) If the security deposit is not sufficient to cover amounts the family owes under the lease, the owner may seek to collect the balance from the tenant.

## **12. OVERCROWDED AND UNDEROCCUPIED UNITS**

If the PHA determines that a contract unit is not decent, safe and sanitary because of an increase in the family size which causes the unit to be overcrowded, or that a contract unit is larger than appropriate, under the PHA's subsidy standards, for the size of the family in occupancy, the owner must offer the family a suitable unit as soon as one becomes vacant and ready for occupancy, and the owner must require the family to move.

## **13. PROHIBITION OF DISCRIMINATION**

- 1) The owner may not refuse to lease contract units to, or otherwise discriminate against any person or family in leasing of a contract unit, because of race, color, creed, religion, sex, national origin, disability or familial status (i.e., because the family includes children).
- 2) The owner may not refuse to lease contract units to, or otherwise discriminate against any person or family in leasing a contract unit, because members of the family are unwed parents, pregnant women, children born out of wedlock, or recipients of public assistance.
- 3) The owner must comply with the following requirements: The Fair Housing Act (42 U.S.C. 3610 - 3619) and implementing regulations at 24 CFR parts 100, et seq.; Executive Orders 11063, 12259, and 12892 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d - 2000d-4) (prohibition of discrimination in Federally-assisted programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101 - 6107) and implementing regulations at 24 CFR part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (prohibition of discrimination because of disability) and implementing regulations at 24 CFR part 8; Executive Orders 11625, 12138, and 12432 (promoting minority and womens' business enterprise); title II of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.) (prohibition of employment discrimination because of disability) and the fair housing advertising poster guidelines at 24 CFR part 110.
- 4) The PHA and the owner must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

## **14. PHA DEFAULT AND HUD REMEDIES**

If HUD determines that the PHA has failed to comply with the HAP contract, or has failed to take appropriate action to HUD's satisfaction or as directed by HUD, for enforcement of the PHA's rights under the HAP contract, HUD may assume the PHA's rights and obligations under the HAP contract, and may perform the obligations and enforce the rights of the PHA under the HAP contract.

## **15. OWNER DEFAULT AND PHA REMEDIES**

### **a. Owner default**

Any of the following is a default by the owner under the HAP contract:

- 1) The owner has failed to comply with any obligation under the HAP contract, including the owner's obligations to maintain all contract units in accordance with the housing quality standards.
- 2) The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).
- 3) The owner has committed any fraud or made any false statement to the PHA or HUD in connection with the Agreement or the HAP contract.
- 4) The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing assistance program.
- 5) If the property where the contract units are located is subject to a lien or security interest securing a HUD loan or a mortgage insured by HUD:
  - a) The owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement, or
  - b) The owner has committed fraud, bribery or any other corrupt or criminal act in connection with the HUD loan or HUD-insured mortgage.
- 6) If the owner has engaged in any drug-related criminal activity or any violent criminal activity.

## **b. PHA remedies**

- 1) If the PHA determines that a breach has occurred, the PHA may exercise any of its rights or remedies under the HAP contract.
- 2) The PHA must notify the owner in writing of such determination. The notice by the PHA to the owner may require the owner to take corrective action (as verified by the PHA) by a time prescribed in the notice.
- 3) The PHA's rights and remedies under the HAP contract include recovery of overpayments, termination or reduction of housing assistance payments, and termination of the HAP contract.

## **c. PHA remedy is not waived**

The PHA's exercise or non-exercise of any remedy for owner breach of the Agreement or the HAP contract is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

## **16. TERMINATION OF HAP CONTRACT FOR WRONGFUL SELECTION OF CONTRACT UNITS**

The HAP contract may be terminated upon at least 30 days written notice to the owner by the PHA or HUD if the PHA or HUD determines that the contract units were not eligible for selection in conformity with HUD requirements.

## **17. OWNER DUTY TO PROVIDE INFORMATION AND ACCESS REQUIRED BY HUD OR PHA**

### **a. Required information**

The owner must prepare and furnish any information pertinent to the HAP contract as may reasonably be required from time to time by the PHA or HUD. The owner shall furnish such information in the form and manner required by the PHA or HUD.

## **b. PHA and HUD access to premises**

The owner must permit the PHA or HUD or any of their authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the owner to the extent necessary to determine compliance with the HAP contract, including the verification of information pertinent to the housing assistance payments or the HAP contract.

## **18. PHA AND OWNER RELATION TO THIRD PARTIES**

### **a. Injury because of owner action or failure to act**

The PHA has no responsibility for or liability to any person injured as a result of the owner's action or failure to act in connection with the implementation of the HAP contract, or as a result of any other action or failure to act by the owner.

### **b. Legal relationship**

The owner is not the agent of the PHA. The HAP contract does not create or affect any relationship between the PHA and any lender to the owner or any suppliers, employees, contractors or subcontractors used by the owner in connection with the implementation of the HAP contract.

### **c. Exclusion of third party claims**

Nothing in the HAP contract shall be construed as creating any right of a family or other third party (other than HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, the PHA or the owner under the HAP contract.

### **d. Exclusion of owner claims against HUD**

Nothing in the HAP contract shall be construed as creating any right of the owner to assert any claim against HUD.

## **19. CONFLICT OF INTEREST**

### **a. Interest of members, officers, or employees of PHA , members of local governing body, or other public officials**

- 1) No present or former member or officer of the PHA (except tenant-commissioners), no employee of the PHA who formulates policy or influences decisions with respect to the Housing Choice Voucher Program, and no public official or member of a governing body or State or local legislator who exercises functions or responsibilities with respect to the Housing Choice Voucher Program, shall have any direct or indirect interest, during his or her tenure or for one year thereafter, in the HAP contract or the Agreement.
- 2) This provision may be waived by HUD for good cause.

### **b. Disclosure**

The owner has disclosed to the PHA any interest that would be a violation of the Agreement or the HAP contract. The owner must fully and promptly update such disclosures.

### **c. Interest of member of or delegate to Congress**

No member of or delegate to the Congress of the United States of America or resident - commissioner shall be admitted to any share or part of this Contract or to any benefits arising from the HAP contract.

## **20. EXCLUSION FROM FEDERAL PROGRAMS**

### **a. Federal requirements**

The owner must comply with and is subject to requirements of 24 CFR Part 24, concerning debarment, suspension, and limited denial of participation.

### **b. Disclosure**

The owner certifies that:

- 1) The owner has disclosed to the PHA the identity of the owner and any principal or interested party.

- 2) Neither the owner nor any principal or interested party is listed on the U.S. General Services Administration list of parties excluded from Federal procurement and nonprocurement programs; and none of such parties are debarred, suspended or subject to a limited denial of participation under 24 CFR part 24.

## **21. TRANSFER OF THE CONTRACT OR PROPERTY**

### **a. When consent is required**

- 1) The owner agrees that neither the HAP contract nor the property may be transferred without the advance written consent of the PHA in accordance with HUD requirements.
- 2) "Transfer" includes:
  - a) Any sale or assignment or other transfer of ownership, in any form, of the HAP contract or the property;
  - b) The transfer of any right to receive housing assistance payments that may be payable pursuant to the HAP contract;
  - c) The creation of a security interest in the HAP contract or the property;
  - d) Foreclosure or other execution on a security interest; or
  - e) A creditor's lien, or transfer in bankruptcy.
- 3) If the owner is a corporation, partnership, trust or joint venture, the owner is not required to obtain advance consent of the PHA pursuant to paragraph a for transfer of a passive and non-controlling interest in the ownership entity (such as a stock transfer or transfer of the interest of a limited partner), if any interests so transferred cumulatively represent less than half the beneficial interest in the HAP contract or the property. The owner must obtain advance consent pursuant to paragraph a for transfer of any interest of a general partner.

### **b. Transferee assumption of HAP contract**

No transferee (including the holder of a security interest, the security holder's transferee or successor in interest, or the transferee upon exercise of a security interest) shall have any right to receive any payment of housing assistance payments pursuant to the HAP contract, or to exercise any rights or remedies under the HAP contract, unless the PHA has consented in advance, in writing to such transfer, and the transferee has agreed in writing, in a form acceptable to the PHA in accordance with HUD requirements, to assume the obligations of

the owner under the HAP contract, and to comply with all the terms of the HAP contract.

### **c. Effect of consent to transfer**

- 1) The creation or transfer of any security interest in the HAP contract is limited to amounts payable under the HAP contract in accordance with the terms of the HAP contract.
- 2) The PHA's consent to transfer of the HAP contract or the property does not to change the terms of the Contract in any way, and does not change the rights or obligations of the PHA or the owner under the HAP contract.
- 3) The PHA's consent to transfer of the HAP contract or the property to any transferee does not constitute consent to any further transfers of the HAP contract or the property, including further transfers to any successors or assigns of an approved transferee.

### **d. When transfer is prohibited**

The PHA will not consent to the transfer if any transferee, or any principal or interested party is debarred, suspended or subject to a limited denial of participation under 24 CFR part 24, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

## **22. OWNER DISCLOSURE OF OTHER GOVERNMENT ASSISTANCE**

### **a. Owner disclosure**

The owner must disclose to the PHA in accordance with HUD requirements information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is made available or is expected to be made available with respect to the contract units. Such related assistance includes, but is not limited to, any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.



## **b. Limit of payments**

Housing assistance payments under the HAP contract must not be more than is necessary, as determined in accordance with HUD requirements, to provide affordable housing after taking account of such related assistance. The PHA will adjust in accordance with HUD requirements the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

## **23. OWNER LOBBYING CERTIFICATIONS**

- 1) The owner certifies, to the best of owner's knowledge and belief, that:
  - a) No Federally appropriated funds have been paid or will be paid, by or on behalf of the owner, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the owner must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 2) This certification by the owner is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

## **24. NOTICES AND OWNER CERTIFICATIONS**

- 1) Where the owner is required to give any notice to the PHA pursuant to the HAP contract, such notice must be in writing, and must be given in the form and manner required by the PHA.
- 2) Any certification or warranty by the owner pursuant to the Contract shall be deemed a material representation of fact upon which reliance was placed when this transaction was made or entered into.

## **25. HUD REQUIREMENTS**

The Agreement and the HAP contract must be interpreted and implemented in accordance with all statutory requirements, and with all HUD requirements, including amendments or changes in HUD requirements during the term of the HAP contract. The owner agrees to comply with all such laws and HUD requirements.

## **26. ENTIRE AGREEMENT**

The Agreement to Enter Into Housing Assistance Payments Contract and the HAP contract, including the exhibits, is the entire agreement between the PHA and the owner. No changes in the HAP contract may be made except in writing signed by both the owner and the PHA

## INSTRUCTIONS

### **PHA PREPARATION OF HAP CONTRACT.**

The HAP contract consists of Part 1, Part 2, and the contract exhibits. The exhibits are listed in paragraph 1.b of Part 1.

Part 1 contains section 1 of the HAP contract.

Part 2 contains sections 2 to 26 of the HAP Contract.

Part 1 includes fill-in items, and a list of the contract exhibits. Fill out part 1 to prepare the HAP contract for execution.

Reference notes in section 1 of the HAP contract refer to the endnotes below. The instructions and endnotes are not part of the HAP contract.

The endnotes are instruction for preparation of the HAP contract. The instructions are not part of the HAP contract.

The form of HAP contract must be used word-for-word, and may not be modified.

### **CONTRACT EXECUTION**

Part 1 is signed by the PHA and by the owner of the housing.

For a single-stage project (all contract units accepted on the same date), the PHA and the owner sign the "execution of HAP Contract for a single-stage project" (at page 6 of Part 1).

For a multi-stage project, at acceptance of each stage, the PHA and the owner sign the HAP contract execution for the completed stage ("execution of HAP contract for contract units completed and accepted in stages" starting at page 7 of Part 1). Contract exhibit A must specify the contract units in each stage.

## ENDNOTES

<sup>1</sup> Enter all contract information.

<sup>2</sup> If required by the PHA, the HAP contract may include additional information describing the physical condition, location and plans of the contract units.

If this is a multi-stage project, Exhibit A must include a description of the units in each completed phase.

<sup>3</sup> List any additional exhibits.

<sup>4</sup> Check box in paragraph 1.c.i OR paragraph 1.c.ii to indicate whether this is a single-stage project or a multi-stage project. DO NOT CHECK BOTH BOXES.)

<sup>5</sup> Check box in paragraph i if all contract units will be completed and accepted by the PHA on the same date.

<sup>6</sup> Check box in paragraph ii if the contract units will be completed and accepted by the PHA in stages.

<sup>7</sup> Insert length of term. THE TERM FOR ANY UNIT MAY NOT EXCEED TEN YEARS.

<sup>8</sup> At its discretion, the PHA may elect to delete the vacancy payment provisions (paragraph 1.e.ii, and the bracketed reference to paragraph 1.e.ii in paragraph 1.e.i) from the HAP contract form.