

**United States Housing Act of 1937 as Amended by the Quality Housing and Work
Responsibility Act of 1998 as of 3/2/1999¹**

Key

Text in this style...	represents:	Example
Regular	Original text of the United States Housing Act of 1937 as amended, prior to passage of the Quality Housing and Work Responsibility Act of 1998.	(F) DISPLACED PERSON.—The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
Strikethrough	Text that has been deleted by the Quality Housing and Work Responsibility Act of 1998.	(5) The term "adjusted income" means the income which remains after excluding—(A) \$550 for each member of the family residing in the household (other than the head of the household or his spouse) who is under 18 years of age or who is 18 years of age or older and is disabled or handicapped or a full-time student;
Italic	Text that has been added by the Quality Housing and Work Responsibility Act of 1998.	<i>(a) DECLARATION OF POLICY.—It is the policy of the United States—(1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this Act—</i>

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¹ This document presents the United States Housing Act of 1937, Pub. L. 93-383, 88 Stat. 653 (codified as amended at 42 U.S.C. 1437 et. seq.)(hereinafter the 1937 Act) as it was amended by the Quality Housing and Work Responsibility Act of 1998, Pub. L. 105-276, 112 Stat. 2518 (enacted October 21, 1998)(hereinafter QHWRA). This document also reflects amendments made to the 1937 Act by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub. L. 105-276, 112 Stat. 2461 (enacted October 21, 1998)(hereinafter Appropriations Act, 1999) and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105-277 (enacted October 21, 1998)(hereinafter Omnibus Act, 1999).

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²UNITED STATES HOUSING ACT OF 1937

[Public Law 93-383; 88 Stat. 653; 42 U.S.C. 1437 et seq.]

TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING

SHORT TITLE

Section 1. [42 U.S.C. 1437 note] This Act may be cited as the "United States Housing Act of 1937".

³ DECLARATION OF POLICY

~~Sec. 2. [42 U.S.C. 1437] It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this Act, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this Act, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs. No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-income housing project.~~

SEC. 2. DECLARATION OF POLICY AND PUBLIC HOUSING AGENCY

ORGANIZATION.

(a) *DECLARATION OF POLICY.—It is the policy of the United States—*

(1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this Act—

(A) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

(B) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

(C) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

(2) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

(3) that the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly; and

² Section 226 of the Appropriations Act, 1999 states, "Notwithstanding any other provision of law, no funds in this Act or any other Act may hereafter be used by the Secretary of Housing and Urban Development to determine allocations or provide assistance for operating subsidies or modernization for certain State and city funded and locally developed public housing units, as defined for purposes of a statutory paragraph, notwithstanding the deeming by statute of any units to be public housing units developed under the United States Housing Act of 1937, unless such unit was so assisted before October 1, 1998."

³ Section 505 of the QHWRA amended section 2 to read as shown.

(4) that our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by the independent and collective actions of private citizens, organizations, and the private sector.

(b) PUBLIC HOUSING AGENCY ORGANIZATION.—

(1) REQUIRED MEMBERSHIP.—Except as provided in paragraph (2), the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—

(A) who is directly assisted by the public housing agency; and

(B) who may, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

(2) EXCEPTION.—Paragraph (1) shall not apply to any public housing agency—

(A) that is located in a State that requires the members of the board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis; or

(B) with less than 300 public housing units, if—

(i) the agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in paragraph (1) to serve on the board of directors or similar governing body of the public housing agency pursuant to such paragraph; and

(ii) within a reasonable time after receipt by the resident advisory board established by the agency pursuant to section 5A(e) of notice under clause (i), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

(3) NONDISCRIMINATION.—No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a public housing project or status as assisted under section 8.

RENTAL PAYMENTS; DEFINITIONS

SEC. 3. [42 U.S.C. 1437a] (a)(1) Dwelling units assisted under this Act shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually. Except as provided in paragraph (2) ⁴and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this Act (other than a family assisted under section 8(o) or (y) or paying rent under section 8(c)(3)(B)) the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the family's monthly adjusted income;

(B) 10 per centum of the family's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

~~⁵—(2)⁶ Notwithstanding paragraph (1), a public housing agency may—~~

⁴ Section 507(c) of the QHWRA amended section 3(a)(1). Section 507(d) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

⁵ Section 523 of the QHWRA amended section 3(a)(2) to read as shown.

~~(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the monthly costs—~~

~~(i) to operate the housing of the agency; and~~

~~(ii) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and~~

~~(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).~~

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.—Except as otherwise provided under this clause, each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which shall—

(I) be based on the rental value of the unit, as determined by the public housing agency; and

(II) be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not exceed the actual monthly

⁶ Indentation so in law.

Section 402(b)(1) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this paragraph to read as shown. Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause.

(ii) *INCOME-BASED RENTS.*—

(I) *IN GENERAL.*—The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) *DISCRETION.*—Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in section 3(b)(5)(B)), or may establish another reasonable rent structure or amount.

(C) *SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.*—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) *ENCOURAGEMENT OF SELF-SUFFICIENCY.*—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) *INCOME REVIEWS.*—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

⁷(3) *MINIMUM RENTAL AMOUNT.*—

(A) *REQUIREMENT.*—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family

⁷ Section 507(a) of the QHWRA amended section 3(a) by adding paragraph (3). Section 507(d) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

residing in public housing, section 8(o)(2) of this Act, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than \$50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 8; and

(III) each family who is assisted under the voucher program under section 8, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 8 to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

⁸(4) *OCCUPANCY BY POLICE OFFICERS.*—

(A) *IN GENERAL.*—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) *INCREASED SECURITY.*—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) *DEFINITION.*—In this paragraph, the term "police officer" means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) *OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.*—

(A) *AUTHORITY.*—Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) *TERMS AND CONDITIONS.*—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) *DEFINITION.*—For purposes of this paragraph, the term "over-income family" means an individual or family that is not a low-income family at the time of initial occupancy.

(b) When used in this Act:

(1) The term "low-income housing" means decent, safe, and sanitary dwellings assisted under this Act. The term "public housing" means low-income housing, and all necessary

⁸ Section 524(a) of the QHWRA amended section (3)(a) by adding paragraphs (4) and (5). Section 524(b) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

appurtenances thereto, assisted under this Act other than under section 8. ⁹The term "public housing" includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance. When used in reference to public housing, the term "low-income housing project" or "project" means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

(2) The term "low-income families" means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. The term "very low-income families" means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester ¹⁰County and Rockland Counties, in the State of New York, as if ¹¹each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester ¹²County or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester ¹³County and Rockland Counties. ¹⁴In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.

(3) PERSONS AND FAMILIES.—

(A) SINGLE PERSONS.—The term "families" includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms. ~~¹⁵In determining priority for admission to~~

⁹ Section 506(1) of the QHWRA amended section 3(b)(1).

¹⁰ Section 508(c)(1)(A)(i) of the QHWRA amended section 3(b)(2). Section 508(c)(2) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹¹ Section 508(c)(1)(A)(ii) of the QHWRA amended section 3(b)(2). Section 508(c)(2) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹² Section 508(c)(1)(B)(i) of the QHWRA amended section 3(b)(2). Section 508(c)(2) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹³ Section 508(c)(1)(B)(ii) of the QHWRA amended section 3(b)(2). Section 508(c)(2) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹⁴ Section 508(c)(1)(C) of the QHWRA amended section 3(b)(2). Section 508(c)(2) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹⁵ Section 506(2)(A) of the QHWRA amended section 3(b)(3)(A).

~~housing under this Act, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.~~

(B) FAMILIES.—The term "families" includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the ¹⁶regulations of the Secretary *public housing agency plan* to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

(D) ELDERLY PERSON.—The term "elderly person" means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term "person with disabilities" means a person who—

(i) has a disability as defined in section 223 of the Social Security Act,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 102 of the

Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. ¹⁷*Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.*

(F) DISPLACED PERSON.—The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.—The term "near-elderly person" means a person who is at least 50 years of age but below the age of 62.

(4) The term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family¹⁸ and any

¹⁶ Section 506(2)(B) of the QHWRA amended section 3(b)(3)(B).

¹⁷ Section 506(3) of the QHWRA amended section 3(b)(3)(E).

¹⁸ Section 573(b) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, amended this paragraph to exclude from consideration as income amounts not received by a family. Section 573(e) of such Act provides as follows:

amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7))¹⁹ may not be considered as income under this paragraph.²⁰

~~²¹(5) The term "adjusted income" means the income which remains after excluding—
——(A) \$550²² for each member of the family residing in the household (other than the head of the household or his spouse) who is under 18 years of age or who is 18 years of age or older and is disabled or handicapped or a full-time student;
——(B) \$400 for any elderly or disabled family;
——(C) the amount by which the aggregate of the following expenses of the family exceeds 3 percent of annual family income: (i) medical expenses for any family;²³ and (ii) reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed;
——(D) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education;²⁴—
(E) 10 percent of the earned income of the family;²⁵
——(F) any payment made by a member of the family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household, except that the amount excluded under this subparagraph shall not exceed the lesser of (i) the amount that such family member has a legal obligation to pay; or (ii) \$550 for each individual for whom such payment is made; and²⁶
——(G)²⁶ for public housing, any other adjustments to earned income established by the public housing agency. If a public housing agency adopts other adjustments to income pursuant to subparagraph (H), the Secretary shall not take into account any reduction of or increase in the public housing agency's per unit dwelling rental income resulting from those adjustments when calculating the contributions under section 9 for the public housing agency for the operation of the public housing.~~

(5) ADJUSTED INCOME.—The term "adjusted income" means, with respect to a family, the amount (as determined by the public housing agency) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any income exclusions as follows:

"(e) Budget Compliance.—The amendments made by subsections (b) and (c) shall apply only to the extent approved in appropriations Acts."

¹⁹ Section 103(a)(1) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this paragraph to exclude from consideration as income the amounts eligible for exclusion under the Social Security Act.

Paragraph (3) of such section 103(a) provides as follows:

"(3) Budget compliance.—To the extent that the amendments made by paragraphs (1) and (2) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts."

²⁰ Other Federal laws exclude various amounts from consideration as income for purposes of housing assistance. See, for example, the exclusion provided by section 509 of the Older Americans Act of 1965 (42 U.S.C. 3056g).

²¹ Section 508(a) of the QHWRRA amended section 3(b)(5) to read as shown. Note that section 508(b)(2) of the QHWRRA states that section 3(b)(5)(G) shall continue to apply until October 1, 1999.

²² Section 573(e)(1) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, increased the exclusion from income under this subparagraph from \$480 to \$550. Subsection (e) of such section 573 provides as shown in footnote 1, on this page. Section 103(b) of the Housing and Community Development Act of 1992, Public Law 102-550, provides as shown in footnote 1, on this page.

²³ Section 573(e)(2) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, amended this subparagraph by expanding the exclusion from income for medical expenses to nonelderly families, as well as elderly families. Subsection (e) of such section 573 provides as shown in footnote 1, on this page.

²⁴ Section 103(a)(2) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subparagraph to read as shown. Paragraph (3) of such section 103(a) provides as shown in footnote 2, on this page.

²⁵ Section 573(e)(3) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, added this subparagraph. Subsection (e) of such section 573 provides as shown in footnote 1, on the preceding page. Section 103(b) of the Housing and Community Development Act of 1992, Pub. L. 102-550, provides as shown in footnote 1, on the preceding page.

²⁶ Section 402(e) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, added this subparagraph. Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

(A) *MANDATORY EXCLUSIONS.*—*In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:*

(i) *ELDERLY AND DISABLED FAMILIES.*—*\$400 for any elderly or disabled family.*

(ii) *MEDICAL EXPENSES.*—*The amount by which 3 percent of the annual family income is exceeded by the sum of—*

(I) *unreimbursed medical expenses of any elderly family or disabled family;*

(II) *unreimbursed medical expenses of any family that is not covered under subclause (I), except that this subclause shall apply only to the extent approved in appropriation Acts; and*

(III) *unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.*

(iii) *CHILD CARE EXPENSES.*—*Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.*

(iv) *MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.*—*\$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.*

(v) *CHILD SUPPORT PAYMENTS.*—*Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not exceed \$480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.*

(vi) *SPOUSAL SUPPORT EXPENSES.*—*Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount that such family member has a legal obligation to pay, or (II) \$550 for each individual for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.*

(vii) *EARNED INCOME OF MINORS.*—*The amount of any earned income of a member of the family who is not—*

(I) *18 years of age or older; and*

(II) *the head of the household (or the spouse of the head of the household).*

(B) *PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.*—*In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:*

(i) *EXCESSIVE TRAVEL EXPENSES.*—*Excessive travel expenses in an amount not to exceed \$25 per family per week, for employment- or education-related travel.*

(ii) *EARNED INCOME.*—*An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—*

(I) all earned income of the family,

(II) the amount earned by particular members of the family;

(III) the amount earned by families having certain characteristics;

or

(IV) the amount earned by families or members during certain periods or from certain sources.

(iii) *OTHERS.*—*Such other amounts for other purposes, as the public housing agency may establish.*

²⁷~~(6) The term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.~~

~~(6) PUBLIC HOUSING AGENCY.—~~

~~(A) IN GENERAL.—Except as provided in subparagraph (B), the term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing.~~

~~(B) SECTION 8 PROGRAM.—For purposes of the program for tenant-based assistance under section 8, such term includes—~~

~~(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;~~

~~(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 8 of this Act (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and~~

~~(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance section 8, or is not performing effectively—~~

~~(I) the Secretary or another public or private nonprofit entity that by contract agrees to receive assistance amounts under section 8 and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 8; or~~

~~(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 8, without regard to any otherwise applicable limitations on its area of operation.~~

²⁷ Section 546 of the QHWRA amended section 3(b)(6) to read as shown.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

²⁸(9) *DRUG-RELATED CRIMINAL ACTIVITY.*—*The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).*

(10) *MIXED-FINANCE PROJECT.*—*The term "mixed-finance project" means a public housing project that meets the requirements of section 35.*

(11) *PUBLIC HOUSING AGENCY PLAN.*—*The term "public housing agency plan" means the plan of a public housing agency prepared in accordance with section 5A.*

(12) *CAPITAL FUND.*—*The term "Capital Fund" means the fund established under section 9(d).*

(13) *OPERATING FUND.*—*The term "Operating Fund" means the fund established under section 9(e).*

(c) When used in reference to public housing:

(1) The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term "development cost" comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, ²⁹*but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary.* Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term "operation" means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

²⁸ Section 506(4) of the QHWRA amended section 3(b) by adding paragraphs (9)-(13).

²⁹ Section 520(a) of the QHWRA amended section 3(c)(1).

(3) The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project.³⁰

~~³¹³²The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of this Act, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—~~

- ~~—— (1) the period that the resident participates in such program; and~~
- ~~—— (2) the period that —~~
 - ~~—— (A) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this Act; and~~
 - ~~—— (B) ends on the earlier of —~~
 - ~~—— (i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or~~
 - ~~—— (ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A).~~

³³(d) *DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS.*—

(1) IN GENERAL.—Notwithstanding any other provision of law, the rent payable under subsection (a) by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

(2) PHASE-IN OF RENT INCREASES.—Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

(3) ELIGIBLE FAMILIES.—A family described in this paragraph is a family—

(A) that—

- (i) occupies a dwelling unit in a public housing project; or*
- (ii) receives assistance under section 8; and*

(B)(i) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years;

³⁰ Section 622(c) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by inserting after "project." the following new paragraphs:

"(4) The term 'congregate housing' means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

"(5) The terms 'group home' and 'independent living facility' have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act."

Because the amendatory instructions did not specify which occurrence of "project" the new paragraphs were to be placed after, the amendment could not be executed. The new paragraphs were probably intended to be inserted after this paragraph.

³¹ Section 508(b)(1)(A) of the QHWRRA amended section 3(c) by removing this undesignated paragraph. Note that section 508(b)(2) of the QHWRRA states that the undesignated paragraph shall continue to apply until October 1, 1999.

³² So in law. Section 515(a) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, approved November 28, 1990, added section 22 of this Act (regarding public housing family investment centers). Section 515(b) of such Act added this undesignated paragraph.

³³ Section 508(b)(1)(B) of the QHWRRA amended section 3 by adding paragraphs (d) and (e) as shown.

(ii) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or

(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act and whose earned income increases.

(4) *APPLICABILITY.*—This subsection and subsection (e) shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) shall apply with respect to any family described in paragraph 3(A)(ii) only to the extent provided in advance in appropriations Acts.

(e) *INDIVIDUAL SAVINGS ACCOUNTS.*—

(1) *IN GENERAL.*—In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

(2) *DEPOSITS TO ACCOUNT.*—The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family's rent payment under subsection (a) as a result of employment.

(3) *WITHDRAWAL FROM ACCOUNT.*—Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

(A) purchasing a home;

(B) paying education costs of family members;

(C) moving out of public or assisted housing; or

(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.

³⁴(f) *AVAILABILITY OF INCOME MATCHING INFORMATION.*—

(1) *DISCLOSURE TO PHA.*—A public housing agency shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this Act on behalf of such family, as applicable.

(2) *FAMILIES COVERED.*—A family described in this paragraph is a family that resides in a dwelling unit—

(A) that is a public housing dwelling unit; or

(B) for which tenant-based assistance is provided under section 8.

LOANS FOR LOWER INCOME HOUSING PROJECTS

³⁴ Section 508(d)(1) of the QHWRA amended section 3 by adding paragraph (f) as shown.

SEC. 4. [42 U.S.C. 1437b] (a) The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed \$1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this Act against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985,³⁵ each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the

³⁵ April 7, 1986.

principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS

SEC. 5. [42 U.S.C. 1437c] (a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for low-income housing use and obtained in the local market.

(b) The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

(c)(1) The Secretary may enter into contracts for annual contributions aggregating not more than \$7,875,049,000 per annum, which amount shall be increased by \$1,494,400,000 on October 1, 1980, and by \$906,985,000 on October 1, 1981. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts. In addition, the aggregate amount which may be

obligated over the duration of the contracts may not exceed \$31,200,000 with respect to the additional authority provided on October 1, 1980, and \$18,087,370,000 with respect to the additional authority provided on October 1, 1981.

(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of public housing development authority ³⁶for use under ~~section 14 or for use under section 9~~ or for use for the acquisition and rehabilitation of property to be used in public housing, if the public housing agency, after consultation with the unit of local government,³⁷ certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

(6) The aggregate amount of budget authority which may be obligated for contracts for annual contributions and for grants under section 17 is increased by \$9,912,928,000 on October 1, 1983, and by such sums as may be approved in appropriation Acts on October 1, 1984. The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 8, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by \$7,167,000,000 on October 1, 1987, and by \$7,300,945,000 on October 1, 1988. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by \$16,194,000,000 on October 1, 1990, and by \$14,709,400,000 on October 1, 1991. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by \$14,710,990,520 on October 1, 1992, and by \$15,328,852,122 on October 1993.

(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than \$830,900,800, of which amount not more than \$257,320,000 shall be available for Indian housing;

³⁶ Section 522(b)(1) of the QHWRA amended section 5(c)(5).

³⁷ So in law.

(ii) for assistance under section 8, not more than \$1,977,662,720, of which \$20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

(iii) for comprehensive improvement assistance grants under section 14(k), not more than \$3,100,000,000;

(iv) for assistance under section 8 for property disposition, not more than \$93,032,000;

(v) for assistance under section 8 for loan management, not more than \$202,000,000;

(vi) for extensions of contracts expiring under section 8, not more than \$6,746,135,000, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

(vii) for amendments to contracts under section 8, not more than \$1,350,000,000;

(viii) for public housing lease adjustments and amendments, not more than \$83,055,000;

(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than \$12,767,000; and

(x) for grants under section 24 for revitalization of severely distressed public housing, not more than \$300,000,000.

(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than \$865,798,634, of which amount not more than \$268,127,440 shall be available for Indian housing;

(ii) for assistance under section 8, not more than \$2,060,724,554, of which \$20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

(iii) for comprehensive improvement assistance grants under section 14(k), not more than \$3,230,200,000;

(iv) for assistance under section 8 for property disposition, not more than \$96,939,344;

(v) for assistance under section 8 for loan management, not more than \$210,484,000;

(vi) for extensions of contracts expiring under section 8, not more than \$7,029,472,670, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

(vii) for amendments to contracts under section 8, not more than \$1,406,700,000;
(viii) for public housing lease adjustments and amendments, not more than \$86,543,310;

(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than \$13,303,214; and

(x) for grants under section 24 for revitalization of severely distressed public housing, not more than \$312,600,000.

(C)(i) Any amount available for the conversion of a project to assistance under section 8(b)(1), if not required for such purpose, shall be used for assistance under section 8(b)(1).

(ii) Any amount available for assistance under section 8 for property disposition, if not required for such purpose, shall be used for assistance under section 8(b)(1).

(8) Any amount available for Indian housing under subsection (a) that is recaptured shall be used only for such housing.

(d) Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this Act and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(e) In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this Act unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this Act; ³⁸*the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this title available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local*

³⁸ Section 518(b) of the QHWRA amended section 5(e)(2).

government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law).

(f) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(g) In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

³⁹(h) *AUDITS.—*

(1) *BY SECRETARY AND COMPTROLLER GENERAL.—Each contract for contributions for any assistance under this Act to a public housing agency shall provide that the Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency that are pertinent to this Act and to its operations with respect to financial assistance under the this Act.*

(2) *WITHHOLDING OF AMOUNTS FOR AUDITS UNDER SINGLE AUDIT ACT.—The Secretary may, in the sole discretion of the Secretary, arrange for and pay the costs of an audit required under chapter 75 of title 31, United States Code. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this Act, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition. As agreed to by the Secretary and the Inspector General, the Inspector General may arrange for an audit under this paragraph.*

~~⁴⁰(h) Notwithstanding any other provision of law, a public housing agency may sell a low-income housing project to its lower income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary's commitment to pay annual contributions with~~

³⁹ Section 566 of the QHwRA amended section 5 by adding a revised paragraph (h) as shown.

⁴⁰ Section 518(a)(1)(A) of the QHwRA amended section 5 by deleting paragraphs (h)-(k).

respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.⁴¹

~~(i) In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section (other than for projects assisted pursuant to section 8), the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.~~

~~(j)(1) After September 30, 1987, in providing assistance under this Act to a public housing agency for public housing, the Secretary shall reserve funds for the development of public housing only if—~~

~~——(A) the Secretary determines that additional amounts are required to complete the development of dwelling units for which amounts are obligated on or before such date;~~

~~——(B) the public housing agency certifies to the Secretary that 85 percent of the public housing dwelling units of the public housing agency—~~

~~——(i) are maintained in substantial compliance with the housing quality standards established by the Secretary under section 8(o)(6);~~

~~——(ii) will be so maintained upon completion of modernization for which funding has been awarded; or~~

~~——(iii) will be so maintained upon completion of modernization for which applications are pending that have been submitted in good faith under section 14 (or a comparable State or local government program) and that there is a reasonable expectation, as determined by the Secretary in writing, that the applications would be approved;~~

~~——(C) the public housing agency certifies that such development—~~

~~——(i) will replace dwelling units that are disposed of or demolished by the public housing agency, including dwelling units disposed of or lost through sale to tenants or through units redesign; or~~

~~——(ii) is required to comply with court orders or directions of the Secretary;~~

~~——(D) the public housing agency certifies that it has demands for family housing not satisfied by the rental assistance programs established in subsection (b) or (c) of section 8 for which it plans to construct or acquire projects of not more than 100 units; or⁴²~~

~~——(F)⁴⁰ the Secretary makes such reservation under paragraph (2).~~

~~——(E)⁴⁰ in the case of an application for development of projects (or portions of projects) designated under section 7(a)(1) for occupancy for elderly families, only if the agency certifies to the Secretary that the use of such assistance will assist in expanding the housing available for eligible persons with disabilities identified in the allocation plan for the agency submitted under section 7(f); and⁴⁰~~

~~(2)(A) Notwithstanding any other provision of law, the Secretary may reserve not more than 20 percent of any amounts appropriated for development of public housing in each fiscal year for the substantial redesign, reconstruction, or redevelopment of existing obsolete public housing~~

⁴¹ Section 1002(e) of Public Law 104-19, approved July 27, 1995, amended this subsection by striking the last sentence, which read as follows: "Any such sale shall be subject to the restrictions contained in section 304(g)". Subsection (d) of such section 1002 provides as follows:

"(d) Subsections (a), (b), and (c) shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and on or before September 30, 1998."

⁴² So in law.

projects or buildings and for the costs of improving the management and operation of projects undergoing redesign, reconstruction, or redevelopment under this paragraph (to the extent that such improvement is necessary to maintain the physical improvements resulting from such redesign, reconstruction, or redevelopment):

(B) For purposes of this paragraph, the term "obsolete public housing project or building" means a public housing project or building (i) having design or marketability problems resulting in vacancy in more than 25 percent of the units, or (ii)(I) for which the costs for redesign, reconstruction, or redevelopment (including any costs for lead-based paint abatement activities) exceed 70 percent of the total development cost limits for new construction of similar units in the area, and (II) which has an occupancy density or a building height that is significantly in excess of that which prevails in the neighborhood in which the project is located, a bedroom configuration that could be altered to better serve the needs of families seeking occupancy to dwellings of the public housing agency, significant security problems in and around the project, or significant physical deterioration or inefficient energy and utility systems.

(C) The Secretary shall allocate amounts reserved under this section⁴³ to public housing agencies on the basis of a competition among public housing agencies applying for such amounts. The competition shall be based on—

- (i) the management capability of the public housing agency to carry out the redesign, reconstruction, or redevelopment;
- (ii) the expected term of the useful life of the project or building after redesign, reconstruction or redevelopment; and
- (iii) the likelihood of achieving full occupancy within the projects or buildings of the agency that are to be assisted under this paragraph.

(D) The Secretary shall establish limitations on the total costs of any project or building receiving amounts under this paragraph for redesign, reconstruction, and redevelopment. The cost limitations shall not be related to the total development cost system for new development or to the cost limits for modernization and shall recognize the higher direct costs of such work.

(E) Assistance may not be provided under this paragraph for any project or building assisted under section 14.

(F)(i) For each fiscal year for which amounts are reserved or appropriated for the purposes of this paragraph, the Secretary shall establish performance goals to evaluate the effectiveness of the use of such amounts. The goals shall—

- (I) be designed to maximize the effectiveness of the expenditures in a quantifiable manner; and
- (II) describe the number of units to be redesigned, redeveloped, and reconstructed with such amounts and improvements in the management of projects so assisted to be accomplished with such amounts.

(ii) Not later than 60 days after the end of each such fiscal year, the Secretary shall submit a report to the Congress, which shall describe the performance goals established for the fiscal year, the activities carried out with such amounts, and a statement of whether the performance goals were met. If the performance goals were not met, the report shall contain—

- (I) an explanation of why the goals were not met and a description of any managerial deficiencies or legal problems that contributed to not meeting such goals;

⁴³ So in law. Probably intended to refer to this paragraph.

~~(H) plans and a schedule for achieving the level of performance under such performance goals;~~

~~——(III) recommendations for legislative or regulatory changes necessary to achieve the performance goals or improve performance; and~~

~~——(IV) a statement of whether the performance goals established for the fiscal year were impractical or infeasible, and, if so, the factors that contributed and resulted in establishing such impractical or infeasible goals and recommendations of actions to meet such goals, which may include changing the goals or altering or eliminating the program under this paragraph for major reconstruction of projects.~~

~~(G)(i) In fiscal years 1993 and 1994, the Secretary shall commit for use under clause (ii) not less than 5 percent of any amounts reserved under subparagraph (A) for each such fiscal year.~~

~~(ii) The amounts referred to in clause (i) shall be available to public housing agencies only for use for projects (or portions of projects) designated for occupancy under section 7(a)(1) and (e) by disabled families.~~

~~(iii) In allocating amounts reserved under this subparagraph among public housing agencies, the Secretary shall consider the need for any such amounts as identified in the allocation plans submitted by agencies under section 7(f).~~

~~(3)(A) In fiscal years 1993 and 1994, the Secretary shall reserve for use under subparagraph (B) not less than 5 percent of any amounts approved in appropriation Acts for each such fiscal year for public housing grants under subsection (a)(2) that are not designated under such Acts for use under paragraph (2) of this subsection for the substantial redesign, reconstruction, or redevelopment of existing public housing projects, buildings, or units.~~

~~(B) Any amount reserved under subparagraph (A) shall be available only to public housing agencies that have designated projects (or portions of projects) for occupancy under section 7(a)(1) for use only for the costs of development or acquisition of public housing projects or buildings designated for occupancy under section 7(a)(1) and (e) by disabled families. A building so assisted may not contain more than 25 dwelling units, except that the Secretary may (in the discretion of the Secretary) waive such limitation for a building.~~

~~(C) The Secretary shall carry out a competition for budget authority reserved under subparagraph (A) among eligible public housing agencies and shall allocate such budget authority to public housing agencies pursuant to the competition, based on (i) the need of the agency for such assistance (taking into consideration the allocation plans submitted under section 7(f) by agencies), and (ii) the extent to which the public housing projects and buildings to be developed or assisted meet the requirements of section 7(e).~~

~~(k) After the reservation of public housing development funds to a public housing agency, the Secretary may not recapture any of the amounts included in such reservation due to the failure of a public housing agency to begin construction or rehabilitation, or to complete acquisition, during the 30-month period following the date of such reservation. During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired. There shall be excluded from the computation of such 30-month period any delay in the beginning of construction or rehabilitation of such project caused by (1) the failure of the Secretary to process such project within a reasonable period of time; (2) any environmental review requirement; (3) any legal action affecting such project; or (4) any other factor beyond the control of the public housing agency.~~

⁴⁴(i) *PROHIBITION ON USE OF FUNDS.*—None of the funds made available to the Department of Housing and Urban Development to carry out this Act, which are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

⁴⁵**SEC. 5A. PUBLIC HOUSING AGENCY PLANS.**

(a) *5-YEAR PLAN.*—

(1) *IN GENERAL.*—Subject to paragraph (2), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and

(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

(2) *INITIAL PLAN.*—The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this Act.

(b) *ANNUAL PLAN.*—

(1) *IN GENERAL.*—Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 8(o) or 9.

(2) *UPDATES.*—For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

(c) *PROCEDURES.*—

(1) *IN GENERAL.*—The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans.

(2) *CONTENTS.*—The procedures established under paragraph (1) shall provide that a public housing agency shall—

(A) in developing the plan consult with the resident advisory board established under subsection (e); and

(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan

⁴⁴ Section 510 of the QHWRA amended section 5 by adding this paragraph as (l). Section 518(a)(1)(B) of the QHWRA changed the designation from (l) to (i).

⁴⁵ Section 511(a) of the QHWRA added section 5A. Section 511(e) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

incorporating such strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act, and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

(d) CONTENTS.—An annual public housing agency plan under subsection (b) for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) NEEDS.—A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

(2) FINANCIAL RESOURCES.—A statement of financial resources available to the agency and the planned uses of those resources.

(3) ELIGIBILITY, SELECTION, AND ADMISSIONS POLICIES.—A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 8(o), including—

(A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 6(r); and

(B) the admissions policy under section 16(a)(3)(B) for deconcentration of lower-income families.

(4) RENT DETERMINATION.—A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 8(o).

(5) OPERATION AND MANAGEMENT.—A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency.

(6) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the public housing agency.

(7) CAPITAL IMPROVEMENTS.—With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects.

(8) DEMOLITION AND DISPOSITION.—With respect to public housing projects owned by the public housing agency—

(A) a description of any housing for which the PHA will apply for demolition or disposition under section 18; and

(B) a timetable for the demolition or disposition.

(9) *DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.*—With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 7.

(10) *CONVERSION OF PUBLIC HOUSING.*—With respect to public housing owned by a public housing agency—

(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 33 or that the public housing agency plans to voluntarily convert under section 22;

(B) an analysis of the projects or buildings required to be converted under section 33; and

(C) a statement of the amount of assistance received under this Act to be used for rental assistance or other housing assistance in connection with such conversion.

(11) *HOMEOWNERSHIP.*—A description of any homeownership programs of the agency under section 8(y) or for which the public housing agency has applied or will apply for approval under section 32.

(12) *COMMUNITY SERVICE AND SELF-SUFFICIENCY.*—A description of—

(A) any programs relating to services and amenities provided or offered to assisted families;

(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families;

(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 12 (relating to community service and treatment of income changes resulting from welfare program requirements).

(13) *SAFETY AND CRIME PREVENTION.*—A plan established by the public housing agency, which shall be subject to the following requirements:

(A) *SAFETY MEASURES.*—The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents.

(B) *ESTABLISHMENT.*—The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department.

(C) *CONTENT.*—The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities.

(D) *SECRETARIAL ACTION.*—If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict.

(14) *PETS.*—The requirements of the agency, pursuant to section 31, relating to pet ownership in public housing.

(15) *CIVIL RIGHTS CERTIFICATION.*—A certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing.

(16) *ANNUAL AUDIT.*—The results of the most recent fiscal year audit of the public housing agency under section 5(h)(2).

(17) *ASSET MANAGEMENT.*—A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(18) *OTHER.*—Any other information required by law to be included in a public housing agency plan.

(e) *RESIDENT ADVISORY BOARD.*—

(1) *IN GENERAL.*—Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency.

(2) *FUNCTIONS.*—Each resident advisory board established under this subsection by a public housing agency shall assist and make recommendations regarding the development of the public housing agency plan for the agency. The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed.

(3) *WAIVER.*—The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that—

(A) adequately represent the interests of the residents of the public housing agency; and

(B) have the ability to perform the functions described in paragraph (2).

(1) *IN GENERAL.*—In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents.

(2) *AVAILABILITY OF INFORMATION AND NOTICE.*—Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall—

(A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(B) publish a notice informing the public that—

(i) that the information is available as required under subparagraph (A); and

(ii) that a public hearing under paragraph (1) will be conducted.

(3) *ADOPTION OF PLAN.*—A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after—

(A) conducting a public hearing under paragraph (1);

(B) considering all public comments received; and

(C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board.

(4) *ADVISORY BOARD CONSULTATION ENFORCEMENT.*—Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4), the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section.

(g) *AMENDMENTS AND MODIFICATIONS TO PLANS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that a significant amendment or modification may not—

(A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and

(B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i).

(2) *CONSISTENCY AND NOTICE.*—Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

(A) meet the requirements under subsection (c)(2) (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and

(B) be subject to the notice and public hearing requirements of subsection (f).

(h) *SUBMISSION OF PLANS.*—

(1) *INITIAL SUBMISSION.*—Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

(2) *ANNUAL SUBMISSION.*—Not later than 75 days before the start of the fiscal year of the public housing agency, after submission of the initial plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

(i) REVIEW AND DETERMINATION OF COMPLIANCE.—

(1) REVIEW.—Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan—

(A) set forth the information required by this section and this Act to be contained in a public housing agency plan;

(B) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction in which the public housing agency is located; and

(C) are not prohibited by or inconsistent with any provision of this title or other applicable law.

(2) ELEMENTS EXEMPTED FROM REVIEW.—The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d).

(3) DISAPPROVAL.—The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph (A) through (C) of paragraph (1).

(4) DETERMINATION OF COMPLIANCE.—

(A) IN GENERAL.—Except as provided in subsection (j)(2), not later than 75 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved. If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval.

(B) FAILURE TO PROVIDE NOTICE OF DISAPPROVAL.—In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A) before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this Act, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period. The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5, United States Code, or an action regarding such compliance under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

(5) PUBLIC AVAILABILITY.—A public housing agency shall make the approved plan of the agency available to the general public.

(j) TROUBLED AND AT-RISK PHAS.—

(1) IN GENERAL.—The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 6(j)(2) or is designated as troubled under section 6(j)(2), that the public housing agency plan for such agency

include such additional information as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis.

(2) *TROUBLED AGENCIES.*—The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 6(j)(2).

(k) *STREAMLINED PLAN.*—In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies;

(B) public housing agencies with less than 250 public housing units that have not been designated as troubled under section 6(j)(2); and

(C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

(l) *COMPLIANCE WITH PLAN.*—

(1) *IN GENERAL.*—In providing assistance under this title, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

(2) *Investigation and enforcement.*—In carrying out this title, the Secretary shall—

(A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

(B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.

CONTRACT PROVISIONS AND REQUIREMENTS

SEC. 6. [42 U.S.C. 1437d] (a) The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this Act, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the project involved, ⁴⁶*in a manner consistent with the public housing agency plan.* ~~⁴⁷Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children.~~ Any such contract shall require that, except in the case of housing predominantly for elderly or disabled families, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

⁴⁶ Section 511(d)(1) of the QHWRRA amended section 5(a). Section 511(e) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

⁴⁷ Section 511(d)(2) of the QHWRRA amended section 5(a). Section 511(e) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

(A) in the case of elevator type structures, 1.6; and

(B) in the case of nonelevator type structures, 1.75.

⁴⁸(3) *In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are authorized for use in connection with the development of public housing, and shall exclude all other amounts, including amounts provided under—*

(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act; or

(B) the community development block grants program under title I of the Housing and Community Development Act of 1974.

(4) The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders' overhead and profit, utilities from the street, and finish landscaping.

(c) Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this Act;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined;

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

⁴⁸ Section 520(b) of the QHWRA amended section 6(b) by adding paragraph (3) as shown.

~~(A)⁴⁹ the establishment, after public notice and an opportunity for public comment, of a written system of preferences for admission to public housing, if any, that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;~~

⁵⁰(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designated to assure the satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively;

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership;

~~(E)⁵¹ except in the case of agencies not receiving operating assistance under section 9 for each agency that receives assistance under this title, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 500 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis; and~~

(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(d) Every contract for contributions with respect to a low-income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by contributions under this Act) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make

⁴⁹ Section 402(d)(1) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this subparagraph to read as shown. Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

⁵⁰ Section 514(a)(1) of the QHWRA amended section 6(c)(4)(A) to read as shown. Section 514(g) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

⁵¹ Section 529(1) of the QHWRA amended section 6(c)(4)(E).

payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 5(e)(2) of this Act, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

~~⁵²(e) Every contract for contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes which, in the determination of the Secretary, will effect a reduction in the amount of subsequent annual contributions.~~

⁵³(f) *HOUSING QUALITY REQUIREMENTS.*—

(1) *IN GENERAL.*—*Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).*

(2) *FEDERAL STANDARDS.*—*The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 8(o)(8)(B)(i). The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.*

(3) *ANNUAL INSPECTIONS.*—*Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 5(h), shall make such results available.*

[(f) [Repealed.]]

(g) Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall

⁵² Section 529(2) of the QHWRA deleted section 6(e).

⁵³ Section 530 of the QHWRA amended section 6 by adding paragraph (f).

be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this Act, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this Act, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default.⁵⁴ Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1)⁵⁵ upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this Act) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(h) On or after October 1, 1983, the Secretary may enter into a contract involving new construction only if the public housing agency demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the public housing agency determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood, including any reserve fund under subsection (i), would be.

(i) The Secretary may, upon application by a public housing agency in connection with the acquisition of housing for use as public housing, establish and set aside a reserve fund in an amount not to exceed 30 per centum of the acquisition cost which shall be available for use for major repairs to such housing.

(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. The indicators shall be established by rule under section 553 of title 5, United States Code. Such

⁵⁴ So in law. Period probably should be semicolon.

⁵⁵ So in law. Probably intended to refer to paragraph (1).

indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations. The Secretary shall, in particular, use the following indicators:⁵⁶

(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

~~⁵⁷(B) The amount and percentage of funds obligated to the public housing agency under section 14 of this Act which remain unexpended after 3 years.~~ (B) *The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 9(d) which remain unobligated by the public housing agency after 3 years.*

(C) The percentage of rents uncollected.

(D) The ⁵⁸energy utility consumption (with appropriate adjustments to reflect different regions and unit sizes).

⁵⁹(E) The average period of time that an agency requires to repair and turn-around vacant units.

(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

⁶⁰(H) *The extent to which the public housing agency—*

(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

(I) *The extent to which the public housing agency—*

(i) implements effective screening and eviction policies and other anticrime strategies; and

(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

(J) *The extent to which the public housing agency is providing acceptable basic housing conditions.*

~~⁶¹(H)~~ (K) Any other factors as the Secretary deems appropriate.⁶²

⁵⁶ Section 113(e)(1)(C) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3691) amended this sentence by striking "indicators." and inserting "indicators for public housing agencies, to the extent practicable:". Because the matter to be struck by the amendment does not appear in this sentence, the amendment could not be executed.

⁵⁷ Section 564(1)(A) of the QHWRRA amended section 6(j)(1)(B) to read as shown.

⁵⁸ Section 564(1)(B) of the QHWRRA amended section 6(j)(1)(D).

⁵⁹ Section 564(1)(C) of the QHWRRA directs that subparagraph (E) be placed after subparagraph (D). This is already the case and, therefore, section 564(1)(C) could not be executed.

⁶⁰ Section 564(1)(E) of the QHWRRA amended section 6(j)(1) by adding subparagraphs (H) - (J).

⁶¹ Section 564(1)(D) of the QHWRRA amended section 6(j)(1) by redesignating paragraph (H) as paragraph (K).

⁶² The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 757, provides as follows:

"Section 6(j)(1) of the Housing Act of 1937, 42 U.S.C. 1437d(j)(1), section 502(a) of the National Affordable Housing Act, is amended as follows:
"(1) by adding at the end of subparagraph (H) the following language: `which shall not exceed the seven factors in the statute, plus an additional five';
and

"(2) by adding as subparagraph (I) the following:

`(I) The Secretary shall:

(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. ⁶³*Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units.* The Secretary shall also designate, by rule under section 553 of title 5, United States Code, agencies that are troubled with respect to the program ⁶⁴~~under section 14~~*for assistance from the Capital Fund under section 9(d).*

(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program ⁶⁵~~under section 14~~*for assistance from the Capital Fund under section 9(d)*), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency ⁶⁶*with more than 250 units* as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any ⁶⁷~~review conducted under section 14~~*(p) comparable and recent review*, the Secretary shall provide for an on-site, independent assessment of the management of the agency.

(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the "assessment team") with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum,

¹ administer the system of evaluating public housing agencies flexibly to ensure that such agencies are not penalized as result of circumstances beyond their control;

² reflect in the weights assigned to the various indicators the differences in the difficulty of managing individual projects that result from their physical condition and their neighborhood environment; and

³ determine a public housing agency's status as 'troubled with respect to the program under section 14' based upon factors solely related to its ability to carry out that program.'".

The amendments were probably intended to be made to section 6(j)(1) of the United States Housing Act of 1937, as amended by section 502(a) of the Cranston-Gonzalez National Affordable Housing Act.

⁶³ Section 564(2)(A)(i) of the QHWRRA amended section 6(j)(2)(A)(i).

⁶⁴ Section 564(2)(A)(ii) of the QHWRRA amended section 6(j)(2)(A)(i).

⁶⁵ Section 564(2)(B) of the QHWRRA amended section 6(j)(2)(A)(iii).

⁶⁶ Section 564(2)(C)(i) of the QHWRRA amended section 6(j)(2)(B)(i).

⁶⁷ Section 564(2)(C)(ii) of the QHWRRA amended section 6(j)(2)(B)(i).

recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies.

(C) The Secretary shall seek to enter into an agreement with each troubled public housing agency, after reviewing the report submitted pursuant to subparagraph (B) ⁶⁸(*if applicable*) and consulting with the agency's assessment team.

To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency.⁶⁹ Such agreement shall set forth—

(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

(D)⁷⁰ The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.

(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

~~⁷¹(i) solicit competitive proposals from other public housing agencies and private housing management agents (which may be selected by existing tenants through administrative procedures established by the Secretary) in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency;~~

(i) solicit competitive proposals from other public housing agencies and private housing management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;

⁶⁸ Section 564(2)(D) of the QHWRRA amended section 6(j)(2)(C).

⁶⁹ So in law. This new flush sentence probably should have been inserted after clause (iii) of this subparagraph. See section 113(a)(3)(B) of the Housing and Community Development Act of 1992, Pub. L. 102-550.

⁷⁰ Indented so in law.

⁷¹ Section 565(a)(1)(A) of the QHWRRA amended section 6(j)(3)(A)(i) to read as shown. Section 565(b) made this amendment applicable as follows: "(b) Applicability.—The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) shall apply with respect to any action taken before, on, or after the effective date of this Act and shall apply to any receiver appointed for a public housing agency before the date of the enactment of this Act.

(d) Implementation.—The Secretary may administer the amendments made by subsection (a) as necessary to ensure the efficient and effective initial implementation of this section.

(e) Applicability.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act."

(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection;

(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available ⁷²~~under section 14~~ from the Capital Fund under section 9(d) for the housing; and

⁷³~~(iv) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents for managing all, or part of, such housing.~~

~~Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.~~

~~(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and~~

~~(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.~~

~~—————⁷⁴(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.~~

~~—————(C) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.~~

~~—————(D) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.~~

~~(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.~~

⁷² Section 565(a)(1)(B) of the QHWRA amended section 6(j)(3)(A)(iii). NOTE: see footnote 69 for applicability of this amendment.

⁷³ Section 565(a)(1)(C) of the QHWRA amended section 6(j)(3)(A)(iv) to read as shown and added clause (v). NOTE: see footnote 69 for applicability of this amendment.

⁷⁴ Section 565(a)(2) of the QHWRA amended sections 6(j)(3)(B) - (D) to read as shown and added sections 6(j)(3)(E) - (H). NOTE: see footnote 69 for applicability of this amendment.

(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency's designation as troubled.

(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), such that the agency is no longer designated as troubled.

(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

This subparagraph shall not be construed to limit the courses of action available to the Secretary under subparagraph (A).

(IV) During the period between the date on which a petition is filed under subclause (III)(aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under such subclause, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

(D)(i) If, pursuant to subparagraph (A)(iv), the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, the Secretary—

(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

(ii) If, pursuant to subparagraph (B)(ii)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

(iii) *An administrative receiver may not take an action described in subclause (III) or (IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.*

(E) *The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.*

(F) *In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.*

(G) *The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.*

(H) *If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.*

⁷⁵(4) *SANCTIONS FOR IMPROPER USE OF AMOUNTS.—*

(A) *IN GENERAL.—In addition to any other actions authorized under this Act, if the Secretary finds that a public housing agency receiving assistance amounts under section 9 for public housing has failed to comply substantially with any provision of this Act relating to the public housing program, the Secretary may—*

- (i) terminate assistance payments under this section 9 to the agency;*
- (ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 9;*
- (iii) reduce the amount of future assistance payments under section 9 to the agency by an amount equal to the amount of such payments that were not expended in accordance with this Act;*
- (iv) limit the availability of assistance amounts provided to the agency under section 9 to programs, projects, or activities not affected by such failure to comply;*

⁷⁵ Section 521(2) of the QHWRA added section 6(j)(4) to read as shown.

(v) withhold from the agency amounts allocated for the agency under section 8; or

(vi) order other corrective action with respect to the agency.

(B) *TERMINATION OF COMPLIANCE ACTION.*—If the Secretary takes action under subparagraph (A) with respect to a public housing agency, the Secretary shall—

(i) in the case of action under subparagraph (A)(i), resume payments of assistance amounts under section 9 to the agency in the full amount of the total allocations under section 9 for the agency at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to the public housing program;

(ii) in the case of action under clause (ii) or (v) of subparagraph (A), make withheld amounts available as the Secretary considers appropriate to ensure that the agency complies with the provisions of this Act relating to such program;

(iii) in the case of action under subparagraph (A)(iv), release such restrictions at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program; or

(iv) in the case of action under subparagraph (vi), cease such action at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program.

⁷⁶(4)(5) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report that—

(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

(C) describes the agreements that have been entered into with such agencies under such paragraph;

(D) describes the status of progress under such agreements;

(E) describes any action that has been taken in accordance with paragraph (3)⁷⁷;

and

(F) describes the status of any public housing agency designated as troubled with respect to the ⁷⁸program under section 14 and specifies the amount of assistance the agency received under section 14 and any credits accumulated by the agency under section 14(k)(5)(D) program for assistance from the Capital Fund under section 9(d) and specifies the amount of assistance the agency received under such program.

⁷⁶ Section 521(1) of the QHWRA redesignated section 6(j)(4) as 6(j)(5).

⁷⁷ Section 113(d) of the Housing and Community Development Act of 1992, Pub. L. 102-550, provides as follows:

"(d) Annual Reports.—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as so redesignated by subsection (d)(1), is amended by inserting before the semicolon the following: ', including an accounting of the authorized funds that have been expended to support such actions.'."

The amendment could not be executed. The subsection heading and the United States Code citation indicate that the amendment probably was intended to be made to this subparagraph.

⁷⁸ Section 564(3) of the QHWRA amended section 6(j)(5)(F).

⁷⁹(6)(A) *To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information maintained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.*

(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 9, amounts sufficient to pay for the reasonable costs of any review under this paragraph.

(7) The Secretary shall apply the provisions of this subsection to resident management corporations in the same manner as applied to public housing agencies.

(k) The Secretary shall by regulation require each public housing agency receiving assistance under this Act to establish and implement an administrative grievance procedure under which tenants will—

- (1) be advised of the specific grounds of any proposed adverse public housing agency action;
- (2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (1);
- (3) have an opportunity to examine any documents or records or regulations related to the proposed action;
- (4) be entitled to be represented by another person of their choice at any hearing;
- (5) be entitled to ask questions of witnesses and have others make statements on their behalf; and
- (6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any ⁸⁰*violent or drug-related criminal activity on or off such premises, ⁸¹or any activity resulting in a felony conviction*, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.

(l) Each public housing agency shall utilize leases which—

⁸²*(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 12(c) (relating to community service requirements); except that nothing in this title shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;*

⁷⁹ Section 564(4) of the QHWRRA added section 6(j)(6) and (7).

⁸⁰ Section 575(a)(1) of the QHWRRA amended section 6(k).

⁸¹ Section 575(a)(2) of the QHWRRA amended section 6(k).

⁸² Section 512(b)(3) of the QHWRRA added section 6(l)(1).

⁸³(1)(2) do not contain unreasonable terms and conditions;

⁸⁴(2)(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

⁸⁵(3)(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—

~~⁸⁶(A) a reasonable time, but not to exceed 30 days, when the health or safety of other tenants or public housing agency employees is threatened;~~

(A) a reasonable period of time, but not to exceed 30 days—

(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

(ii) in the event of any drug-related or violent criminal activity or any felony conviction;

(B) 14 days in the case of nonpayment of rent; and

(C) 30 days in any other case, ⁸⁷except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

⁸⁸(4)(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause;

⁸⁹(5)(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

⁹⁰(6)(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records or regulations directly related to the eviction or termination; ⁹¹and

⁹²(7) provide that any occupancy in violation of section 576(b) of the Quality Housing and Work Responsibility Act of 1998 (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 577 of such Act (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;

⁹³(7)(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime,

⁸³ Section 512(b)(1) of the QHWRA redesignated section 6(1)(1) as (2).

⁸⁴ Section 512(b)(1) of the QHWRA redesignated section 6(1)(2) as (3).

⁸⁵ Section 512(b)(1) of the QHWRA redesignated section 6(1)(3) as (4).

⁸⁶ Section 575(b)(1)(A) of the QHWRA amended section 6(1)(4)(A) to read as shown.

⁸⁷ Section 575(b)(1)(B) of the QHWRA amended section 6(1)(4)(C).

⁸⁸ Section 512(b)(1) of the QHWRA redesignated section 6(1)(4) as (5).

⁸⁹ Section 512(b)(1) of the QHWRA redesignated section 6(1)(5) as (6).

⁹⁰ Section 512(b)(1) of the QHWRA redesignated section 6(1)(6) as (7).

⁹¹ Section 575(b)(2) of the QHWRA amended section 6(1)(7).

⁹² Section 575(b)(4) of the QHWRA added this section, which should have probably been designated paragraph (8).

⁹³ Section 512(b)(2) of the QHWRA redesignated section 6(1)(7) as (9).

or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or
(2)⁹⁴ is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5), the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(m) The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants or public housing agencies assisted under this Act.

(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.

(o)⁹⁵ ~~Subject to the written system of preferences for selection established pursuant to subsection (c)(4)(A), in~~ In providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

(A) in the imminent placement of a child in foster care; or

(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.

~~⁹⁷(p) With respect to amounts available for obligation on or after October 1, 1991, the criteria established under section 213(d)(5)(B) of the Housing and Community Development Act of 1974 for any competition for assistance for new construction, acquisition, or acquisition and rehabilitation of public housing shall give preference to applications for housing to be located in a local market area that has an inadequate supply of housing available for use by very low income families. The Secretary shall establish criteria for determining that the housing supply of a local market area is inadequate, which shall require—~~

~~———(1)(A) information regarding housing market conditions showing that the supply of rental housing affordable by very low income families is inadequate, taking into account vacancy rates in such housing and other market indicators; and~~

~~———(B) evidence that significant numbers of families in the local market area holding certificates and vouchers under section 8 are experiencing significant difficulty in leasing housing meeting program and family size requirements; or~~

⁹⁴ Indented so in law. Probably should be designated as subparagraph (B).

⁹⁵ Section 402(d)(6)(A)(i) of The Balanced Budget Downpayment Act, I, Pub. L. 104 99, approved January 26, 1996, amended this subsection by striking "preference rules specified in" and inserting "written system of preferences for selection established pursuant to". Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

⁹⁶ Section 514(a)(2)(A) of the QHWRA amended section 6(o). Section 514(g) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

⁹⁷ Section 519(b) of the QHWRA deleted section 6(p).

—(2) evidence that the proposed development would provide increased housing opportunities for minorities or address special housing needs.

(q) AVAILABILITY OF RECORDS.—

(1) IN GENERAL.—

(A) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in ⁹⁸subparagraph (B)subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, ⁹⁹public housingcovered housing assistance for purposes of applicant screening, lease enforcement, and eviction.

¹⁰⁰(B) REQUESTS BY OWNERS OF PROJECT-BASED SECTION 8 HOUSING.—A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 8 only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

¹⁰¹(B)(C) EXCEPTION.—A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(2) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance under this title on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) ¹⁰²FEEFEES.—A public housing agency may be charged a reasonable fee for information provided under paragraph (1). ¹⁰³In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.

(4) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

- (A) maintained confidentially;
- (B) not misused or improperly disseminated; and

⁹⁸ Section 575(c)(1)(A)(i) of the QHWRRA amended section 6(q)(1)(A).

⁹⁹ Section 575(c)(1)(A)(ii) of the QHWRRA amended section 6(q)(1)(A).

¹⁰⁰ Section 575(c)(1)(C) of the QHWRRA added section 6(q)(1)(B).

¹⁰¹ Section 575(c)(1)(B) of the QHWRRA redesignated section 6(q)(1)(B) as (C).

¹⁰² Section 575(c)(2)(A) of the QHWRRA amended section 6(q)(3).

¹⁰³ Section 575(c)(2)(B) of the QHWRRA amended section 6(q)(3).

(C) destroyed, once the purpose for which the record was requested has been accomplished.

¹⁰⁴(5) *CONFIDENTIALITY.*—A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

(6) *PENALTY.*—Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. The term "person" as used in this paragraph include an officer, employee, or authorized representative of any public housing agency.

(7) *CIVIL ACTION.*—Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

~~¹⁰⁵(5) *DEFINITION.*—For purposes of this subsection, the term "adult" means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.~~

(8) *DEFINITIONS.*—For purposes of this subsection, the following definitions shall apply:

(A) *ADULT.*—The term "adult" means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

(B) *COVERED HOUSING ASSISTANCE.*—The term "covered housing assistance" means—

¹⁰⁴ Section 575(c)(4) of the QHWRA added sections 6(q)(5) - (7).

¹⁰⁵ Section 575(c)(3) of the QHWRA amended section 6(q)(5) to read as shown and redesignated it as section 6(q)(8).

- (i) a dwelling unit in public housing;
- (ii) a dwelling unit in housing that is provided project-based assistance under section 8, including new construction and substantial rehabilitation projects; and
- (iii) tenant-based assistance under section 8.

(C) OWNER.—The term "owner" means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

~~¹⁰⁶(f) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG RELATED ACTIVITY.—Any tenant evicted from housing assisted under this title by reason of drug related criminal activity (as that term is defined in section 8(f)) shall not be eligible for housing assistance under this title during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).~~

¹⁰⁷(r) SITE-BASED WAITING LISTS.—

(1) AUTHORITY.—A public housing agency may establish procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

(2) NOTICE.—Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.

¹⁰⁸(s) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.—A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in subsection (q)(1) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

¹⁰⁹(t) OBTAINING INFORMATION FROM DRUG ABUSE TREATMENT FACILITIES.—

(1) AUTHORITY.—Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(2) CONFIDENTIALITY OF APPLICANT'S RECORDS.—

¹⁰⁶ Section 576(d)(1)(A) of the QHWRA deleted section 6(r).

¹⁰⁷ Section 525 of the QHWRA added this subsection as section 6(s). Section 576(d)(1)(B) of the QHWRA redesignated this subsection section 6(r).

¹⁰⁸ Section 575(d) of the QHWRA added this subsection as section 6(t). Section 576(d)(1)(B) of the QHWRA redesignated this subsection section 6(s).

¹⁰⁹ Section 575(e) of the QHWRA added this subsection as section 6(u). Section 576(d)(1)(B) of the QHWRA redesignated this subsection section 6(t).

(A) *LIMITATION ON INFORMATION REQUESTED.*—In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) *RECORDS MANAGEMENT.*—Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd-2);

(ii) is not misused or improperly disseminated; and

(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant based upon that denial of admission has expired.

(C) *EXPIRATION OF WRITTEN CONSENT.*—In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(3) *Prohibition of discriminatory treatment of applicants.*—

(A) *FORMS SIGNED.*—A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) *CIRCUMSTANCES OF INQUIRY.*—A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(4) *FEE PERMITTED.*—A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(5) *DISCLOSURE PERMITTED BY TREATMENT FACILITIES.*—A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd-2).

(6) *OPTION TO NOT REQUEST INFORMATION.*—A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(7) *DEFINITIONS.*—For purposes of this subsection, the following definitions shall apply:

(A) *DRUG ABUSE TREATMENT FACILITY.*—The term "drug abuse treatment facility" means an entity that—

(i) is—

(I) an identified unit within a general medical care facility;

or

(II) an entity other than a general medical care facility;

and

(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) *CONTROLLED SUBSTANCE.*—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(C) *CURRENTLY ENGAGING IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE.*—The term "currently engaging in the illegal use of a controlled substance" means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant's illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(8) *EFFECTIVE DATE.*—This subsection shall take effect upon enactment and without the necessity of guidance from, or any regulation issued by, the Secretary.

DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

SEC. 7. [42 U.S.C. 1437e] (a) *AUTHORITY TO PROVIDE DESIGNATED HOUSING.*—

(1) *IN GENERAL.*—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) *PRIORITY FOR OCCUPANCY.*—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in

paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

(b) STANDARDS REGARDING EVICTIONS.—Except as provided in section 16(e)(1)(B), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

(c) RELOCATION ASSISTANCE.—A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) REQUIRED PLAN.—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 202(d)(8)¹¹⁰ of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

¹¹⁰ Refers to section 202(d)(8) as in effect before Oct. 1, 1991.

For purposes of this subsection, the term "supportive services" means services designed to meet the special needs of residents.

(e) REVIEW OF PLANS.—

(1) REVIEW AND NOTIFICATION.—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

(2) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

(A) the plan is incomplete in significant matters required under such subsection; or

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996¹¹¹) that have not been approved or disapproved before such date of enactment.

(f) EFFECTIVENESS.—

(1) 5-YEAR EFFECTIVENESS OF ORIGINAL PLAN.—A plan under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d).

(2) RENEWAL OF PLAN.—Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

(3) TRANSITION PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996¹) before such date of enactment shall be considered to be

¹¹¹ March 28, 1996.

a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) **INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.**—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions¹¹² Policy Act of 1970 because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

~~¹¹³(h) **INAPPLICABILITY TO INDIAN HOUSING.**—The provisions of this section shall not apply with respect to low income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.~~

LOWER INCOME HOUSING ASSISTANCE

SEC. 8. [42 U.S.C. 1437f] (a) For the purpose of aiding lower-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.¹¹⁴ ~~A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.~~¹¹⁵

(b) ~~¹¹⁶**RENTAL CERTIFICATES AND OTHER EXISTING HOUSING PROGRAMS.**—¹¹⁷⁺¹⁸The Secretary~~ (1) *IN GENERAL.*—*The Secretary* is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section.¹¹⁹ ~~The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (c)) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period.~~

In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

¹¹² So in original. Should be "Acquisition".

¹¹³ Section 595(d) of the QHWRA deleted section 7(h). Section 595(f) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹¹⁴ Section 550(a)(1) of the QHWRA amended section 8(a).

¹¹⁵ Section 548 of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, added the last two sentences of this subsection and made a related amendment to subsection (f)(1) of this section.

Section 150 of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, provides as follows:

"SEC. 150. EFFECTIVENESS OF SECTION 8 ASSISTANCE FOR PHA OWNED UNITS.

"The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development."

¹¹⁶ Section 550(a)(2)(A) of the QHWRA amended section 8(b).

¹¹⁷ Section 550(a)(2)(B)(i) of the QHWRA amended section 8(b)(1).

¹¹⁸ So in law. There is no paragraph designation.

¹¹⁹ Section 550(a)(2)(B)(ii) of the QHWRA amended section 8(b)(1).

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c)(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 105 of the Cranston-Gonzalez National Affordable Housing Act, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that

the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary.¹²⁰ The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area.¹²¹ The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the

¹²⁰ The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2315, approved September 28, 1994, amended this subsection by inserting this sentence and the sentence that follows. Such Act provides that "[such] amendment shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of [the United States Housing Act of 1937] by applying an annual adjustment factor."

¹²¹ The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2315, approved September 28, 1994, amended this subsection by inserting this sentence and the sentence that follows. Such Act provides that such amendment "shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of [the United States Housing Act of 1937] and that provide for rent adjustments using an annual adjustment factor."

discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.¹²²

(3) ¹²³~~(A)~~ The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the

¹²² Section 1004(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Pub. L. 100-628, added this sentence and the preceding sentence. Section 1004(b) of such Act provides as follows:

"(b) Budget Compliance.—During fiscal year 1989, the amendment made by subsection (a)(2) shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Pub. L. 100-119), to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change."

¹²³ Section 550(a)(3)(A)(i) of the QHWRRA redesignated section 8(c)(3)(A) as section 8(c)(3).

owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually.

¹²⁴~~(B)(i) A family receiving tenant based rental assistance under subsection (b)(1) may pay a higher percentage of income than that specified under section 3(a) of this Act if—~~

~~———(I) the family notifies the local public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and~~

~~———(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses (including child care, unreimbursed medical expenses, and other appropriate family expenses).~~

~~———(ii) A public housing agency shall not approve such excess rentals for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1). A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency's reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.~~

~~———(iii) The Secretary shall, not later than 3 months following the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under clause (ii), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports.~~

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit¹²⁵ or by a family that qualifies to receive assistance under subsection (b) pursuant to section 223 or 226 of the Low Income Housing Preservation and Resident Homeownership Act of 1990, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

¹²⁴ Section 550(a)(3)(A)(ii) of the QHWRA deleted section 8(c)(3)(B).

¹²⁵ Section 550(a)(3)(B) of the QHWRA amended section 8(c)(4).

¹²⁶(5) ~~Assistance payments may be made with respect to up to 100 per centum of the dwelling units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use primarily for nonelderly and nonhandicapped persons which are not subject to mortgages purchased under section 305 of the National Housing Act, the Secretary may give preference to applications for assistance involving not more than 20 per centum of the dwelling units in a project. In according any such preference, the Secretary shall compare applications received during distinct time periods not exceeding sixty days in duration.~~

¹²⁷(6)(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

¹²⁸(7) ~~To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units assisted under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale may be made on the terms and conditions prescribed under section 5(h) and subject to the limitation contained in such section.~~

¹²⁹(8) Each contract under this section (other than a contract for assistance under the certificate or voucher program)¹³⁰ shall provide that the owner will notify tenants at least 90 days prior to the expiration of the contract of any rent increase which may occur as a result of the expiration of such contract.

¹³¹(9)(8)(A)¹³² ~~Not less than 180 days prior to terminating any contract under which assistance payments are received under this section, other than a contract under the certificate or voucher program,¹³³ an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. Not less than one~~

¹²⁶ Section 550(a)(3)(C) of the QHWRA deleted section 8(c)(5).

¹²⁷ Section 550(a)(3)(D) of the QHWRA redesignated section 8(c)(6) to section 8(c)(5).

¹²⁸ Section 550(a)(3)(C) of the QHWRA deleted section 8(c)(7).

¹²⁹ Section 549(a)(1)(A) of the QHWRA deleted section 8(c)(8). Section 549(a)(3) of the QHWRA made this amendment effective upon the enactment of the QHWRA (October 21, 1998), notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).

¹³⁰ Section 203(b)(1) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134) amended this paragraph by adding this parenthetical phrase. Section 203(d) of such Act provides as follows:

"(d) Applicability. —The provisions of this section shall be effective for fiscal years 1996, 1997, and 1998 only."

¹³¹ Section 549(b)(1) of the QHWRA redesignated section 8(c)(8) to section 8(c)(8)(A).

¹³² Section 549(a)(1)(B) of the QHWRA amended section 8(c)(8)(A) to read as shown. Section 549(a)(3) of the QHWRA made this amendment effective upon the enactment of the QHWRA (October 21, 1998), notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).

¹³³ Section 203(b)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134) amended this sentence by striking "(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (c))" and inserting ", other than a contract under the certificate or voucher program". Section 203(d) of such Act provides as follows:

"(d) Applicability. —The provisions of this section shall be effective for fiscal years 1996, 1997, and 1998 only."

year before terminating any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.¹³⁴ ~~The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision. For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.~~

¹³⁵(B) *In the case of owner who has requested that the Secretary renew the contract, the owner's notice under subparagraph (A) to the tenants shall include statements that—*

(i) the owner currently has a contract with the Department of Housing and Urban Development that pays the Government's share of the tenant's rent and the date on which the contract will expire;

(ii) the owner intends to renew the contract for another year;

(iii) renewal of the contract may depend upon the Congress making funds available for such renewal;

(iv) the owner is required by law to notify tenants of the possibility that the contract may not be renewed if Congress does not provide funding for such renewals;

(v) in the event of nonrenewal, the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent; and

(vi) the notice itself does not indicate an intent to terminate the contract by either the owner or the Department of Housing and Urban Development, provided there is Congressional approval of funding availability.

(C) Notwithstanding the preceding provisions of this paragraph, if the owner agrees to a 5-year contract renewal offered by the Secretary, payments under which shall be subject to the availability of appropriations for any year, the owner shall provide a written notice to the Secretary and the tenants not less than 180 days before the termination of such contract. In the event the owner does not provide the 180-day notice required in the immediately preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 180-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 180 days of advance notice under such terms and conditions as the Secretary may require.

¹³⁴ Section 549(b)(2) of the QHRWA amended section 8(c)(8)(A).

¹³⁵ Section 549(b)(2) of the QHRWA added sections 8(c)(8)(B)-(E).

(D) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

(E) For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

¹³⁶(10) ~~If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1), the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) and the value of the low-income housing after rehabilitation.~~

(d)(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

¹³⁷(A) ¹³⁸~~the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;~~

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 5A by the public housing agency;

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

¹³⁹(ii) ~~during the term of the lease¹⁴⁰, the owner~~ *(ii) during the term of the lease, the owner* shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

¹³⁶ Section 549(a)(1)(A) deleted section 8(c)(10). Section 549(a)(3) of the QHWRA made this amendment effective upon the enactment of the QHWRA (October 21, 1998), notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).

¹³⁷ Section 514(b)(1) of the QHWRA amended section 8(d)(1)(A) to read as shown. Section 514(g) made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹³⁸ Indented so in law.

Section 402(d)(2) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this subparagraph to read as shown. Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

¹³⁹ Section 549(a)(2)(A) of the QHWRA amended section 8(d)(1)(B)(ii). Section 549(a)(3) of the QHWRA made this amendment effective upon the enactment of the QHWRA (October 21, 1998), notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).

¹⁴⁰ Section 203(e) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134) amended this subparagraph by adding the phrase "during the term of the lease" each place it appears. Section 203(d) of such Act provides as follows:

"(d) Applicability.—The provisions of this section shall be effective for fiscal years 1996, 1997, and 1998 only."

¹⁴¹(iii) during the term of the lease¹³⁸, any criminal activity (iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v)¹⁴² it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.¹⁴³ ~~Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (i) the Secretary and the public housing agency approve such action, and (ii) the owner agrees to rehabilitate the structure other than with assistance under this Act and otherwise complies with the requirements of this section, except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (ii) are met. Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State-assisted or subsidized mortgage on the structure,~~

¹⁴¹ Section 549(a)(2)(B) of the QHWRA amended section 8(d)(1)(B)(iii). Section 549(a)(3) of the QHWRA made this amendment effective upon the enactment of the QHWRA (October 21, 1998), notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).

¹⁴² Indented so in law.

¹⁴³ Section 550(a)(4)(A) of the QHWRA amended section 8(d)(2)(A).

except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants.¹⁴⁴

~~_____ ¹⁴⁵(B) The Secretary shall permit any public housing agency to approve the attachment of assistance under subsection (b)(1) with respect to any newly constructed structure if—~~

~~_____ (i) the owner or prospective owner agrees to construct the structure other than with assistance under this Act and otherwise complies with the requirements of this section; and~~

~~_____ (ii) the aggregate assistance provided by the public housing agency pursuant to this subparagraph and the last sentence of subparagraph (A) does not exceed 15 percent of the assistance provided by the public housing agency.~~

~~_____ (C) In the case of a contract for assistance payments that is attached to a structure under this paragraph, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying contract for assistance payments for such period or periods as the Secretary determines to be appropriate to achieve long term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying contract for assistance payments accepted by the owner and the owner's successors in interest. To the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.~~

~~_____ (D) Where a contract for assistance payments is attached to a structure, the owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low income families; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection.~~

~~_____ (E) The Secretary shall annually survey public housing agencies to determine which public housing agencies have, in providing assistance in such year, reached the 15 percent limitations contained in subparagraphs (A) and (B), and shall report to the Congress on the results of such survey.~~

~~¹⁴⁶(F)(B)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661¹⁴⁷ of the Housing and~~

¹⁴⁴ Section 402(d)(6)(A)(iii) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this subparagraph by striking the last sentence, which read as follows: "Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph." Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

¹⁴⁵ Section 550(a)(4)(C) of the QHWRRA deleted sections 8(d)(2)(B) - (E).

¹⁴⁶ Section 550(a)(4)(C) of the QHWRRA redesignated section 8(d)(2)(F) to section 8(d)(2)(B).

¹⁴⁷ So in law. Probably intended to refer to section 671 of such Act.

Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by \$15,000,000 on or after October 1, 1992, and by \$15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.

¹⁴⁸~~(G)~~¹⁴⁹(C) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

¹⁵⁰~~(H)~~¹⁵¹~~An~~¹⁵²~~owner~~(D) An owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(5)¹⁴⁹ CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

¹⁵³(6) TREATMENT OF COMMON AREAS.—*The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.*

¹⁴⁸ Section 550(a)(4)(C) of the QHWRRA redesignated section 8(d)(2)(G) to section 8(d)(2)(C).

¹⁴⁹ Indented so in law.

¹⁵⁰ Section 550(a)(4)(B) of the QHWRRA amended section 8(d)(2)(H) to read as shown. Section 550(a)(4)(C) of the QHWRRA redesignated section 8(d)(2)(H) to section 8(d)(2)(D).

¹⁵¹ Indented so in law.

¹⁵² Section 402(d)(6)(A)(iv) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this subparagraph by striking "Notwithstanding subsection (d)(1)(A)(i), an" and inserting "An". Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

¹⁵³ Section 552 of the QHWRRA added section 8(d)(6).

(e)(1) Nothing in this Act shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: Provided, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

[(2) [Repealed.]]¹⁵⁴

(f) As used in this section—

(1) the term "owner" means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term "debt service" means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act;

(4) the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act;

(5) the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(6) the term "project-based assistance" means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2) ¹⁵⁵or (o)(13); and

(7) the term "tenant-based assistance" means rental assistance under subsection ~~156(b) or (o)~~ that is not project-based assistance ¹⁵⁷and that provides for the eligible family to select suitable housing and to move to other suitable housing.

(g) Notwithstanding any other provision of this Act, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 202 of the Housing Act of 1959.

(h) Sections 5(e) and 6¹⁵⁸ and any other provisions of this Act which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

¹⁵⁴ Section 289(a) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, provides that no new grants shall be made under this paragraph after October 1, 1991, except for funds allocated for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act. Section 289(b) of such Act repealed this paragraph, effective on October 1, 1991, except with respect to single-room occupancy dwellings under title IV of the Stewart B. McKinney Homeless Assistance Act.

The provisions of this paragraph, as in effect on the date of such repeal, are set forth in the footnote to section 441 of the Stewart B. McKinney Homeless Assistance Act, found in part VI of this compilation.

¹⁵⁵ Section 545(b) of the QHWRA amended section 8(f)(6).

¹⁵⁶ Section 550(a)(5)(A) of the QHWRA amended section 8(f)(7).

¹⁵⁷ Section 550(a)(5)(B) of the QHWRA amended section 8(f)(7).

¹⁵⁸ Section 565(c) of the QHWRA amended section 8(h) by inserting the language "(except as provided in section 6(j)(3))" after the words "section 6". This amendment could not be executed because the words "section 6" do not appear in section 8(h).

¹⁵⁹(j)(1) ~~The Secretary may enter into contracts to make assistance payments under this subsection to assist low income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family or with respect to the rental by such family of a manufactured home and the real property on which it is located. In carrying out this subsection, the Secretary may—~~

~~(A) enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or~~

~~(B) enter into such contracts directly with the owners of such real property.~~

~~(2)(A) A contract entered into pursuant to this paragraph shall establish the maximum monthly rent (including maintenance and management charges) which the owner is entitled to receive for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this paragraph.~~

~~(B) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this paragraph, and on which is located a manufactured home which is owned by such family shall be the difference between the rent the family is required to pay under section 3(a) of this Act and the sum of—~~

~~(i) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;~~

~~(ii) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and~~

~~(iii) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its manufactured home;~~

~~except that in no case may such assistance exceed the total amount of such maximum monthly rent.~~

~~(3)(A) Contracts entered into pursuant to this paragraph shall establish the maximum monthly rent permitted with respect to the manufactured home and the real property on which it is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of a manufactured home and the real property on which it is located suitable for occupancy by families assisted under this paragraph, except that the maximum monthly rent may exceed the fair market rental by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent.~~

~~(B) The amount of any monthly assistance payment with respect to any family which rents a manufactured home and the real property on which it is located and which is assisted under this paragraph shall be the difference between the rent the family is required to pay under section 3(a) of this Act and the sum of—~~

¹⁵⁹ Section 550(a)(6) of the QHWRA deleted section 8(j).

~~(i) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and~~

~~(ii) the maximum monthly rent permitted with respect to the manufactured home and real property on which it is located.~~

~~(4) The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rents under the subsection.~~

~~(5) Each contract entered into under the subsection shall be for a term of not less than one month and not more than 180 months, except that in any case in which the manufactured home park is substantially rehabilitated or newly constructed, such term may not be less than 240 months, nor more than the maximum term for a manufactured home loan permitted under section 2(b) of the National Housing Act.~~

~~(6) The Secretary may carry out this subsection without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.~~

~~(7) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this subsection, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.~~

~~(8) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.~~

(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38, United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

[~~(l)~~ [Repealed.]]

[~~(m)~~ [Repealed.]]

~~_____ ¹⁶⁰(n) In making assistance available under subsections (b)(1) and (c)(2), the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—~~

~~_____ (1) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary;~~

~~_____ (2) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose; and~~

¹⁶⁰ Section 550(a)(7) of the QHWRA deleted section 8(n).

~~————(3) in the case of assistance under subsection (b)(1), the unit of general local government in which the property is located and the local public housing agency certify to the Secretary that the property complies with local health and safety standards.~~

~~The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 3(b)(3) with respect to the assistance made available under this subsection.~~

~~¹⁶¹(o) RENTAL VOUCHERS.—(1) The Secretary may provide assistance using a payment standard in accordance with this subsection. The payment standard shall be used to determine the monthly assistance which may be paid for any family, as provided in paragraph (2) of this subsection, and shall be based on the fair market rental established under subsection (c).~~

~~————(2) The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family's monthly adjusted income, except that such monthly assistance payment shall not exceed the amount by which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family's monthly income.¹⁶² *Notwithstanding the preceding sentence, for families being admitted to the voucher program who remain in the same unit or complex, where the rent (including the amount allowed for utilities) does not exceed the payment standard, the monthly assistance payment for any family shall be the amount by which such rent exceeds the greater of 30 percent of the family's monthly adjusted income or 10 percent of the family's monthly income.*~~

~~————(3)(A) Assistance payments may be made only for (i) a family determined to be a very low-income family at the time it initially receives assistance, (ii) a family previously assisted under this Act, (iii) a family that is determined to be a low-income family at the time it initially receives assistance and that is displaced by activities under section 17(c), (iv) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act, or (v) a family that qualifies to receive a voucher under section 223 or 226 of the Low Income Housing Preservation and Resident Homeownership Act of 1990.~~

~~————(B)¹⁶³ For the purpose of selecting families to be assisted under this subsection, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act.~~

~~————(4) If a family vacates a dwelling unit before the expiration of a lease term, no assistance payment may be made with respect to the unit after the month during which the unit was vacated.~~

~~————(5) A contract with a public housing agency for annual contributions under this subsection shall be for an initial term of sixty months. The Secretary shall require (with respect to any unit) that (A) the public housing agency inspect the unit before any assistance payment may be made to~~

¹⁶¹ Section 545(a) of the QHWRRA amended section 8(o) to read as shown. Section 545(c) of the QHWRRA provides that notwithstanding the amendment made by section 545(a), any amendments to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) that are contained in title II of this Act shall apply with respect to the provision of assistance under such section during the period before implementation (pursuant to section 559 of this title) of such section 8(o) as amended by section 545(a) of this section.

¹⁶² Section 209 of the Appropriation Act, 1999 amended section 8(o)(2).

¹⁶³ Indented so in law.

Section 402(d)(3) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this subparagraph to read as shown. Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

determine that it meets housing quality standards for decent, safe, and sanitary housing established by the Secretary for the purpose of this section, and (B) the public housing agency make annual or more frequent inspections during the contract term. No assistance payment may be made for a dwelling unit which fails to meet such quality standards, unless any such failure is promptly corrected by the owner and the correction verified by the public housing agency.

———(6)(A) The amount of assistance payments under this subsection may, in the discretion of the public housing agency, be adjusted annually where necessary to assure continued affordability. The aggregate amount of adjustments pursuant to the preceding sentence may not exceed the amount of any excess of the annual contributions provided for in the contract over the amount of assistance payments actually paid (including amounts which otherwise become available during the contract period).

———(B) For the purpose of subparagraph (A), each contract with a public housing agency for annual contributions under this subsection shall provide annual contributions equal to 115 per centum of the estimated aggregate amount of assistance required during the first year of the contract.

———(C) Any amounts not needed for adjustments under subparagraph (A) may be used to provide assistance payments for additional families.

———(7) A public housing agency may utilize authority available under this subsection to provide assistance with respect to cooperative or mutual housing which has a resale structure which maintains affordability for low income families where the agency determines such action will assist in maintaining the affordability of such housing for such families.

———(8) The Secretary may set aside up to 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool for adjustments pursuant to paragraph (6)(A) to ensure continued affordability where the Secretary determines additional assistance for this purpose is necessary, based on documentation submitted by a public housing agency.

———(9) The Secretary is authorized to enter into contracts with public housing agencies to provide rental vouchers for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this paragraph shall be for a term of not more than 60 months.

———(10)(A)¹⁶⁴ The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under section (b). A public housing agency shall, at the request of a family assisted under this subsection, assist such family in negotiating a reasonable rent with an owner. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may disapprove a lease for such unit.

———(11)(A) The Secretary may enter into contracts to make assistance payments under this paragraph to assist low income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family. In carrying out this paragraph the

¹⁶⁴ So in law. There is no subparagraph (B).

~~Secretary shall enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property.~~

~~—(B)(i) A contract entered into pursuant to this subparagraph shall establish the rent (including maintenance and management charges) for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The public housing agency shall establish a payment standard based on the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subparagraph.~~

~~—(ii) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this subparagraph and on which is located a manufactured home which is owned by such family shall be the amount by which 30 percent of the family's monthly adjusted income is exceeded by the sum of—~~

~~—(I) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;~~

~~—(II) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and~~

~~—(III) the payment standard with respect to the real property which is rented by such family for the purpose of locating its manufactured home;~~

~~except that in no case may such assistance exceed the amount by which the rent for the property exceeds 10 percent of the family's monthly income.~~

~~—(C) The provisions of paragraph (6)(A) shall apply to the adjustments of maximum monthly rents under this paragraph.~~

~~—(D) The Secretary may carry out this paragraph without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.~~

~~—(E) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this paragraph, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.~~

~~—(F) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this paragraph and which are consistent with the purposes of this paragraph.~~

(o) VOUCHER PROGRAM.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

(B) ESTABLISHMENT OF PAYMENT STANDARD.—Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental.

(C) *SET-ASIDE.*—The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

(D) *APPROVAL.*—The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental.

(E) *REVIEW.*—The Secretary—

(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

(2) *AMOUNT OF MONTHLY ASSISTANCE PAYMENT.*—Subject to the requirement under section 3(a)(3) (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

(A) *TENANT-BASED ASSISTANCE; RENT NOT EXCEEDING PAYMENT STANDARD.*—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) *TENANT-BASED ASSISTANCE; RENT EXCEEDING PAYMENT STANDARD.*—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(C) *FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.*—For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

(3) *40 PERCENT LIMIT.*—At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

(4) *ELIGIBLE FAMILIES.*—To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

(A) a very low-income family;

(B) a family previously assisted under this title;

(C) a low-income family that meets eligibility criteria specified by the public housing agency;

(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(5) *ANNUAL REVIEW OF FAMILY INCOME.*—

(A) *IN GENERAL.*—Reviews of family incomes for purposes of this section shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

(B) *PROCEDURES.*—Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate. Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

(6) *SELECTION OF FAMILIES AND DISAPPROVAL OF OWNERS.*—

(A) *PREFERENCES.*—

(i) *AUTHORITY TO ESTABLISH.*—Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) *CONTENT.*—Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) *SELECTION OF TENANTS.*—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish.

(C) *PHA DISAPPROVAL OF OWNERS.*—In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance

payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) *LEASES AND TENANCY.*—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner;

and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection.

(8) *INSPECTION OF UNITS BY PHA'S.*—

(A) *IN GENERAL.*—Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the

public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).

(B) *HOUSING QUALITY STANDARDS.*—The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection; or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice

(C) *INSPECTION.*—The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

(D) *ANNUAL INSPECTIONS.*—Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A). The agency (or other entity) shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 5(h).

(E) *INSPECTION GUIDELINES.*—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

(9) *VACATED UNITS.*—If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

(10) *RENT.*—

(A) *REASONABLENESS.*—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

(B) *NEGOTIATIONS.*—A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

(C) *UNITS EXEMPT FROM LOCAL RENT CONTROL.*—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

(D) *TIMELY PAYMENTS.*—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

(E) *PENALTIES.*—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

(11) *LEASING OF UNITS OWNED BY PHA.*—If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

(12) *ASSISTANCE FOR RENTAL OF MANUFACTURED HOUSING.*—

(A) *IN GENERAL.*—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made only for the rental of the real property on which the manufactured home owned by any such family is located.

(B) *RENT CALCULATION.*—

(i) *CHARGES INCLUDED.*—For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

(ii) *PAYMENT STANDARD.*—The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

(iii) *MONTHLY ASSISTANCE PAYMENT.*—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

(13) *PHA PROJECT-BASED ASSISTANCE.*—

(A) *IN GENERAL.*—If the Secretary enters into an annual contributions contract under this subsection with a public housing agency pursuant to which the public housing agency will enter into a housing assistance payment contract with respect to an existing structure under this subsection—

(i) the housing assistance payment contract may not be attached to the structure unless the owner agrees to rehabilitate or newly construct the structure other than with assistance under this Act, and otherwise complies with this section; and

(ii) the public housing agency may approve a housing assistance payment contract for such existing structures for not more than 15 percent of the funding available for tenant-based assistance administered by the public housing agency under this section.

(B) *EXTENSION OF CONTRACT TERM.*—In the case of a housing assistance payment contract that applies to a structure under this paragraph, a public housing agency may enter into a contract with the owner, contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, to extend the term of the underlying housing assistance payment contract for such period as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner.

(C) *RENT CALCULATION.*—For project-based assistance under this paragraph, housing assistance payment contracts shall establish rents and provide for rent adjustments in accordance with subsection (c).

(D) *ADJUSTED RENTS.*—With respect to rents adjusted under this paragraph—

(i) the adjusted rent for any unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market; and

(ii) the provisions of subsection (c)(2)(C) shall not apply.

(14) *INAPPLICABILITY TO TENANT-BASED ASSISTANCE.*—Subsection (c) shall not apply to tenant-based assistance under this subsection.

(15) *HOMEOWNERSHIP OPTION.*—

(A) *IN GENERAL.*—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

(B) *ALTERNATIVE ADMINISTRATION.*—A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

(16) RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.—

(A) WITNESSES.—Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

(B) VICTIMS OF CRIME.—

(i) IN GENERAL.—Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) NOTICE.—A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

(17) DEED RESTRICTIONS.—Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act.

(p) In order to assist elderly families (as defined in section 3(b)(3)) who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their costs of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

~~¹⁶⁵(q)(1) The Secretary shall establish a fee for the costs incurred in administering the certificate and housing voucher programs under subsections (b) and (o). The amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 8.2 percent of the fair market rental established under subsection (c)(1) for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.~~

~~(2)(A) The Secretary shall also establish reasonable fees (as determined by the Secretary) for—~~

~~—(i) the costs of preliminary expenses (not to exceed \$275) that the public housing agency documents it has incurred in connection with new allocations of assistance under the certificate and housing voucher programs under subsections (b) and (o);~~

~~—(ii) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and~~

~~—(iii) extraordinary costs approved by the Secretary.~~

¹⁶⁵ Section 547 of the QHWRA amended section 8(q) to read as shown.

~~—(B) The method used to calculate fees under subparagraph (A) shall be the same for the certificate and housing voucher programs under subsections (b) and (c) and shall take into account local cost differences.~~

~~—(3)(A) Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661¹⁶⁶ of the Housing and Community Development Act of 1992 to coordinate the provision of supportive services for elderly families and disabled families on whose behalf tenant-based assistance is provided under this section or section 811(b)(1).¹⁶⁷ Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 6611 of such Act with respect to residents of such projects.~~

~~—(B) To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.~~

~~—(C) The budget authority available under section 5(e) for assistance under this section is authorized to be increased by \$5,000,000 on or after October 1, 1992, and by \$5,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).~~

~~—(4) The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriation Acts.~~

(q) ADMINISTRATIVE FEES.—

(1) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

(B) FISCAL YEAR 1999.—

(i) CALCULATION.—For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) BASE AMOUNT.—For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under section 8(c) of this Act (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act

¹⁶⁶ So in law. Probably intended to refer to section 671 of such Act.

¹⁶⁷ So in law. Probably intended to refer to section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act.

of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(C) *SUBSEQUENT FISCAL YEARS.*—For subsequent fiscal years, the Secretary shall publish a notice in the *Federal Register*, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(D) *INCREASE.*—The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(E) *DECREASE.*—The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

(2) *FEE FOR PRELIMINARY EXPENSES.*—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of \$500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the *Quality Housing and Work Responsibility Act of 1998*, the agency was not administering a tenant-based assistance program under the *United States Housing Act of 1937* (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(C) extraordinary costs approved by the Secretary.

(3) *TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.*—In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

(4) *APPLICABILITY.*—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

¹⁶⁸(r)(1) ~~Any family assisted under subsection (b) or (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same State, or~~

¹⁶⁸ Section 553(3) of the *QHWRA* amended section 8(r)(1) to read as shown.

~~the same or a contiguous metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency.~~

(r) PORTABILITY.—(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

~~(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family. ¹⁶⁹If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility.~~

~~(3) In providing assistance under subsection ¹⁷⁰(b) or (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. ¹⁷¹The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.~~

~~(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.~~

¹⁷²*(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease.*

~~(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.~~

¹⁷³~~[(t) ¹⁷⁴[Repealed.]]~~

¹⁶⁹ Section 553(1) of the QHWRA amended section 8(r)(2).

¹⁷⁰ Section 553(2)(A) of the QHWRA amended section 8(r)(3).

¹⁷¹ Section 553(2)(B) of the QHWRA amended section 8(r)(3).

¹⁷² Section 553(5) of the QHWRA added section 8(r)(5).

(u) In the case of low-income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

(1) ¹⁷⁵~~certificates or~~ vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance ¹⁷⁶~~, certificates~~ or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for ¹⁷⁷~~certificates or~~ vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

¹⁷⁸The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(w) RENEWAL OF EXPIRING CONTRACTS.—Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.

(x) FAMILY UNIFICATION.—

(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by \$100,000,000 on or after October 1, 1992, and by \$104,200,000 on or after October 1, 1993.

(2) USE OF FUNDS.—The amounts made available under this subsection shall be used only in connection with ¹⁷⁹~~housing certificate assistance~~ *tenant-based assistance* under section 8 on behalf of any family (A) who is otherwise eligible for such assistance, and (B) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's

¹⁷³ Section 554 of the QHWRA made the following amendment: "Notwithstanding section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134; 42 U.S.C. 1437f note)), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by striking subsection (t). This section shall apply beginning upon, and the amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act."

¹⁷⁴ Section 203(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134) repealed this subsection (relating to the "take-one, take-all" requirement for leasing of units in multifamily housing projects to certificate or voucher holders). Section 203(d) of such Act provides as follows:

"(d) Applicability.—The provisions of this section shall be effective for fiscal years 1996, 1997, and 1998 only."

¹⁷⁵ Section 550(a)(8)(B) of the QHWRA amended section 8(u)(1).

¹⁷⁶ Section 550(a)(8)(A) of the QHWRA amended section 8(u)(2).

¹⁷⁷ Section 550(a)(8)(B) of the QHWRA amended section 8(u)(3).

¹⁷⁸ So in law. There is no subsection designation.

¹⁷⁹ Section 550(a)(9) of the QHWRA amended section 8(x)(2).

child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care.

(3) ALLOCATION.—The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

(A) APPLICANT.—The term "applicant" means a public housing agency or any other agency responsible for administering assistance under section 8.

(B) PUBLIC CHILD WELFARE AGENCY.—The term "public child welfare agency" means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

¹⁸⁰(y) HOMEOWNERSHIP OPTION.—

(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP. ¹⁸¹—~~A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family~~ *A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—*

(A) is a first-time homeowner¹⁸², or owns or is acquiring shares in a cooperative;

(B) ¹⁸³~~(i) participates in the family self-sufficiency program under section 23 of the public housing agency providing the assistance; or~~

~~—(ii) demonstrates~~ *demonstrates that the family has income from employment or other sources (other than public assistance, ¹⁸⁴except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the*

¹⁸⁰ Section 555(b) of the QHWRA established a demonstration program for section 8(y): "Demonstration Program.—

(1) In general.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

(2) Report.—The Secretary shall report annually to Congress on activities conducted under this subsection."

¹⁸¹ Section 555(a)(1)(A) of the QHWRA amended section 8(y)(1). Section 555(c) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹⁸² Section 555(a)(1)(B) of the QHWRA amended section 8(y)(1)(A). Section 555(c) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹⁸³ Section 555(a)(1)(C)(i) of the QHWRA amended section 8(y)(1)(B). Section 555(c) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹⁸⁴ Section 555(a)(1)(C)(ii) of the QHWRA amended section 8(y)(1)(B). Section 555(c) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

¹⁸⁵ (2) MONTHLY ASSISTANCE PAYMENT. —

~~(A) IN GENERAL. — Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (e)(1) exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.~~

~~(B) EXCLUSION OF EQUITY FROM INCOME. — For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.~~

(2) DETERMINATION OF AMOUNT OF ASSISTANCE. —

(A) MONTHLY EXPENSES NOT EXCEEDING PAYMENT STANDARD. — *If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:*

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD. — *If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance*

¹⁸⁵ Section 555(a)(2) of the QHWRA amended section 8(y)(2) to read as shown. Section 555(c) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

~~¹⁸⁶(3) RECAPTURE OF CERTAIN AMOUNTS.— Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).~~

~~—(4) DOWNPAYMENT REQUIREMENT.— Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 23(d). Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.~~

~~—(5) INELIGIBILITY UNDER OTHER PROGRAMS.— A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.~~

~~(3) INSPECTIONS AND CONTRACT CONDITIONS.—~~

~~(A) IN GENERAL.— Each contract for the purchase of a unit to be assisted under this section shall—~~

~~(i) provide for pre-purchase inspection of the unit by an independent professional; and~~

~~(ii) require that any cost of necessary repairs be paid by the seller.~~

~~(B) ANNUAL INSPECTIONS NOT REQUIRED.— The requirement under subsection (o)(8)(A)(ii) for annual inspections shall not apply to units assisted under this section.~~

~~(4) OTHER AUTHORITY OF THE SECRETARY.— The Secretary may—~~

~~(A) limit the term of assistance for a family assisted under this subsection; and~~

~~(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.~~

~~¹⁸⁷(6)(5) INAPPLICABILITY OF CERTAIN PROVISIONS.— Assistance under this subsection shall not be subject to the requirements of the following provisions:~~

~~(A) Subsection (c)(3)(B) of this section.~~

~~(B) Subsection (d)(1)(B)(i) of this section.~~

~~(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.~~

~~(D) Any other provisions of this section concerning contracts between public housing agencies and owners.~~

¹⁸⁶ Section 555(a)(3) of the QHWRRA amended sections 8(y)(3) and (4) to read as shown and deleted section 8(y)(5). Section 555(c) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

¹⁸⁷ Section 555(a)(4) of the QHWRRA redesignated section 8(y)(6) to 8(y)(5). Section 555(c) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

¹⁸⁸(7)(6) REVERSION TO RENTAL STATUS.—

(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

~~(8)~~(7)¹⁸⁹ DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term "first-time homeowner" means—

(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

(B) any other family, as the Secretary may prescribe.

¹⁹⁰(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

(1) GENERAL AUTHORITY.—*The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:*

(A) TENANT-BASED ASSISTANCE.—*Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.*

(B) PROJECT-BASED ASSISTANCE.—*Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.*

(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—*Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances*

¹⁸⁸ Section 555(a)(4) of the QHWRA redesignated section 8(y)(7) to 8(y)(6). Section 555(c) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹⁸⁹ Section 555(a)(4) of the QHWRA redesignated section 8(y)(8) to 8(y)(7). Section 555(c) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

¹⁹⁰ Section 548(1) of the QHWRA moved section 8(z). There was no change to the text.

only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.

(aa)¹⁹¹ REFINANCING INCENTIVE.—

(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

(B) is subject to an assistance contract under this section; and

(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

~~¹⁹²(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—~~

~~—(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:~~

~~—(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.~~

~~—(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.~~

~~—(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.~~

~~—(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.~~

(bb) TRANSFER, REUSE, AND RESCISSION OF BUDGET AUTHORITY.—

(1) TRANSFER OF BUDGET AUTHORITY¹⁹³.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed,

¹⁹¹ So in law. There is no subsection (z). The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2316, approved September 28, 1994, amended this section by adding this subsection. Such Act also provides that such amendment "shall be effective only during fiscal year 1995."

¹⁹² Section 548(1) of the QHwRA moved section 8(z). There was no change to the text. See footnote 187.

¹⁹³ So in law.

or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

(2) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.— Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

¹⁹⁴(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) IN GENERAL.—*Notwithstanding any other provision of this Act, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the Act.*

(2) RENT REQUIREMENTS.—*With respect to any assistance provided by an owner under this subsection, the Secretary may—*

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

(3) APPLICABILITY.—*This subsection shall apply to fiscal year 1999 and fiscal years thereafter.*

¹⁹⁵(dd) TENANT-BASED CONTRACT RENEWALS.—*Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.*

¹⁹⁶~~ANNUAL CONTRIBUTIONS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS~~

¹⁹⁴ Section 548(2) of the QHWRA added section 8(cc).

¹⁹⁵ Section 556(a) of the QHWRA added section 8(dd). Section 556(b) provided additional implementation information: "Implementation.—The Secretary of Housing and Urban Development shall implement the provision added by the amendment made by subsection (a) through notice, not later than December 31, 1998, and shall issue final regulations which shall be developed pursuant to the procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code, not later than one year after the date of the enactment of this Act."

¹⁹⁶ Section 519(a) of the QHWRA amended section 9 to read as shown. Section 519(e) of the QHWRA states "(e) TRANSITIONAL PROVISION OF ASSISTANCE.--

~~SEC. 9. [42 U.S.C. 1437g] (a)(1)(A) In addition to the contributions authorized to be made for the purposes specified in section 5 of this Act, the Secretary may make annual contributions to public housing agencies for the operation of low income housing projects. The contributions payable annually under this section shall not exceed the amounts which the Secretary determines are required (i) to assure the lower income character of the projects involved, and (ii) to achieve and maintain adequate operating services and reserve funds. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment subject to the availability of funds, and such contract shall provide that no disposition of the low income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary. If the Secretary determines that a public housing agency has failed to take the actions required to submit an acceptable audit on a timely basis in accordance with chapter 75 of title 31, United States Code, the Secretary may arrange for, and pay the costs of, the audit. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this section, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition.~~

~~(B)(i) Annual contributions under this section to any public housing agency for any project with a sufficient number of residents who are frail elderly or persons with disabilities may be used, with respect to such project, for (I) the cost of a management staff member to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to residents of the project who are frail elderly or persons with disabilities to enable such residents to live independently and prevent placement in nursing homes or institutions; and (II) expenses for the provision of services for such residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health related services, except that not more than 15 percent of the cost of the provision of such services may be provided under this section. For~~

(1) IN GENERAL.--Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937, as those sections existed immediately before the enactment of this Act (except that such sections shall be subject to any amendments to such sections that may be contained in title II of this Act).

(2) QUALIFICATIONS.--Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section)--

(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section, the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937;

(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937; and

(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937, the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937."

Section 519(f) of the QHWR states "(f) EFFECTIVE DATE OF OPERATING FORMULA.--Notwithstanding the effective date under section 503(a), the Secretary may extend the effective date of the formula under section 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) for up to 6 months if such additional time is necessary to implement such formula."

purposes of this clause, the term "frail elderly" shall have the meaning given the term under section 202(d) of the Housing Act of 1959, except that such term does not include any person receiving assistance provided under the Congregate Housing Services Act of 1978 or section 802 of the Cranston Gonzalez National Affordable Housing Act, and the term "persons with disabilities" shall have the meaning given the term under section 811 of the Cranston Gonzalez National Affordable Housing Act.

—(ii) Annual contributions under this section to any public housing agency for any project may be used, with respect to such project, for (I) the cost of employing or otherwise retaining the services of one or more service coordinators under section 661¹⁹⁷ of the Housing and Community Development Act of 1992 to coordinate the provision of any supportive services within the project for residents of the project who are elderly families and disabled families, and (II) expenses for the provision of such services for such residents of the project. Not more than 15 percent of the cost of the provision of such services may be provided under this section. Services may not be provided under this clause for any person receiving assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston Gonzalez National Affordable Housing Act. The budget authority available under section 5(c) for assistance under this section is authorized to be increased by \$30,000,000 on or after October 1, 1992, and by \$30,000,000 on or after October 1, 1993. Amounts made available under this clause shall be used to provide additional annual contributions to public housing agencies only for the purpose of providing service coordinators and services under this clause for public housing projects.

—(2) The Secretary may not make assistance available under this section for any low income housing project unless such project is one developed pursuant to a contributions contract authorized by section 5 but not subject to section 8, except that after the duration of any such contributions contract with respect to a low income housing project, the Secretary may provide assistance under this section with respect to such project as long as the lower income nature of such project is maintained.

—(3)(A) For purposes of making payments under this section (except for payments under paragraph (1)(B)), the Secretary shall utilize a performance funding system that is substantially based on the system defined in regulations and in effect on the date of the enactment of the Housing and Community Development Act of 1987¹⁹⁸ (as modified by this paragraph), and that establishes standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and the characteristics of the families served, in accordance with a formula representing the operations of a prototype well-managed project. Such performance funding system shall be established in consultation with public housing agencies and their associations, be contained in a regulation promulgated by the Secretary prior to the start of any fiscal year to which it applies, and remain in effect for the duration of such fiscal year without change. Notwithstanding the preceding sentences, the Secretary shall revise the performance funding system by June 15, 1988, to accurately reflect the increase in insurance costs incurred by public housing agencies.¹⁹⁹ *Notwithstanding the preceding sentences, the Secretary may revise the performance funding system in a manner that takes into account equity among public housing agencies and that includes appropriate incentives for sound management.* Notwithstanding sections 583(a) and 585(a) of title 5, United States Code (as added by section 3(a) of the

¹⁹⁷ So in law. Probably intended to refer to section 671 of such Act.

¹⁹⁸ February 5, 1988.

¹⁹⁹ Section 210(1) of the Appropriations Act, 1999 amended section 9(a)(3)(A).

Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units²⁰⁰, ~~or any substantial change under the preceding sentence~~, shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.

~~— (B) Under the performance funding system established under this paragraph —~~

~~— (i) in the first year that the reductions occur, any public housing agency shall share equally with the Secretary any cost reductions due to the differences between projected and actual utility rates attributable to actions taken by the agency which lead to such reductions, and in subsequent years, if the energy savings are cost effective, the Secretary may continue the sharing arrangement with the public housing agency;~~

~~— (ii) in the case of any public housing agency that receives financing (from a person other than the Secretary) or enters into a performance contract to undertake energy conservation improvements in a public housing project, under which payment does not exceed the cost of the energy saved as a result of the improvements during a negotiated contract period of not more than 12 years that is approved by the Secretary —~~

~~— (I) the public housing agency shall retain 100 percent of any cost avoidance due to differences between projected and actual utility consumption (adjusted for heating degree days)²⁰¹ attributable to the improvements, until the term of the financing agreement is completed, at which time the annual utility expense level 3-year rolling base procedures shall be applied using —~~

~~— (a) in the first year following the end of the contract period, the energy use during the 2 years prior to installation of the energy conservation improvements and the last contract year;~~

~~— (b) in the second year following the end of the contract period, the energy use during the 1 year prior to installation of the energy conservation improvements and the 2 years following the end of the contract period; and~~

~~— (c) in the third year following the end of the contract period, the energy use in the 3 years following the end of the contract period; or~~

~~— (II) the Secretary shall provide an additional operating subsidy above the current allowable utility expense level equivalent to the cost of the energy saved as a result of the improvements and sufficient to cover payments for the improvements through the term of the contract or agreement;~~

~~— (iii) there shall be a formal review process for the purpose of providing such revisions (either increases or reductions) to the allowable expense level of a public housing agency as necessary —~~

~~— (I) to correct inequities and abnormalities that exist in the base year expense level of such public housing agency;~~

²⁰⁰ Section 210(2) of the Appropriations Act, 1999 amended section 9(a)(3)(A).

²⁰¹ Section 508 of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, provides as follows:

"SEC. 508. COOLING DEGREE DAY ADJUSTMENT UNDER PERFORMANCE FUNDING SYSTEM.

"In determining the Performance Funding System utility subsidy for public housing agencies pursuant to section 9 of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included."

~~———(II) to accurately reflect changes in operating circumstances since the initial determination of such base year expense level; and~~

~~———(III) to ensure that the allowable expense limit accurately reflects the higher cost of operating the project in an economically distressed unit of local government and the lower cost of operating the project in an economically prosperous unit of local government;~~

~~———(iv) if a public housing agency redesigns or substantially rehabilitates a public housing project so that 2 or more dwelling units are combined to create a single larger dwelling unit, the payments received under this section shall not be reduced solely because of the resulting reduction in the number of dwelling units if not less than the same number of individuals will reside in the new larger dwelling unit as resided in the dwelling units that were combined to form such larger dwelling unit; and~~

~~———(v) if a public housing agency renovates, converts, or combines one or more dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services in accordance with section 22 of this Act and section 802 of the Cranston-Gonzalez National Affordable Housing Act, the payments received under this section shall not be reduced because of the resulting reduction in the number of dwelling units.~~

~~———(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.~~

~~———(b) The aggregate rentals required to be paid in any year by families residing in the dwelling units administered by a public housing agency receiving annual contributions under this section shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families.~~

~~———(c)(1) There are authorized to be appropriated for purposes of providing annual contributions under this section \$2,282,436,000 for fiscal year 1993 and \$2,378,298,312 for fiscal year 1994.~~

~~———(2) There are also authorized to be appropriated to provide annual contributions under this section, in addition to amounts under paragraph (1), such sums as may be necessary for each of fiscal years 1993 and 1994, to provide each public housing agency with the difference between (A) the amount provided to the agency from amounts appropriated pursuant to paragraph (1), and (B) all funds for which the agency is eligible under the performance funding system without adjustments for estimated or unrealized savings.~~

~~———(3) In addition to amounts under paragraphs (1) and (2), there are authorized to be appropriated for annual contributions under this section to provide for the costs of the adjustments to income and adjusted income under the amendments made by sections 573(b) and (e) of the Cranston-Gonzalez National Affordable Housing Act such sums as may be necessary for fiscal years 1993 and 1994.~~

~~———(d) If, in any fiscal year beginning after September 30, 1979, any funds which have been appropriated for such year remain after applying the provisions of the second and fourth sentences of subsection (a)(1), the Secretary shall distribute such funds to low-income housing projects which incurred excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution of funds for such fiscal year.~~

~~—(e) In the case of any public housing agency that submits its budget for any fiscal year of such agency to the Secretary in a timely manner in accordance with the regulations issued by the Secretary under this section, assistance to be provided to such agency under this section for such fiscal year shall commence not later than the 1st month of such fiscal year, and shall be paid in accordance with such payment schedule as may be agreed upon by the Secretary and such agency.~~

SEC. 9. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

(a) *MERGER INTO CAPITAL FUND.*—*Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 14 of this Act before October 1, 1999, shall be merged into the Capital Fund established under subsection (d).*

(b) *MERGER INTO OPERATING FUND.*—*Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 9 of this Act before October 1, 1999, shall be merged into the Operating Fund established under subsection (e).*

(c) *ALLOCATION AMOUNT.*—

(1) *IN GENERAL.*—*For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds for assistance for public housing agencies eligible for such assistance. The Secretary shall determine the amount of the allocation for each eligible agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2)—*

(A) *for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2); and*

(B) *for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2).*

(2) *FUNDING.*—*There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:*

(A) *CAPITAL FUND.*—*For allocations of assistance from the Capital Fund, \$3,000,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.*

(B) *OPERATING FUND.*—*For allocations of assistance from the Operating Fund, \$2,900,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.*

(d) *CAPITAL FUND.*—

(1) *IN GENERAL.*—*The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—*

(A) *the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;*

(B) *vacancy reduction;*

(C) *addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;*

(D) *planned code compliance;*

- (E) management improvements;
- (F) demolition and replacement;
- (G) resident relocation;
- (H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;
- (I) capital expenditures to improve the security and safety of residents;
- and
- (J) homeownership activities, including programs under section 32.

(2) *FORMULA.*—The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as—

- (A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);
- (B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and reconstruction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;
- (C) the cost of constructing and rehabilitating property in the area;
- (D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;
- (E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 6(j); and
- (F) any other factors that the Secretary determines to be appropriate.

(3) *CONDITIONS ON USE FOR DEVELOPMENT AND MODERNIZATION.*—

(A) *DEVELOPMENT.*—Except as otherwise provided in this Act, any public housing developed using amounts provided under this subsection, or under section 14 as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

(B) *MODERNIZATION.*—Except as otherwise provided in this Act, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

(C) *APPLICABILITY OF LATEST EXPIRATION DATE.*—Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

(e) *OPERATING FUND.*—

(1) *IN GENERAL.*—The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

(A) *procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 6(j)(6) by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);*

(B) *activities to ensure a program of routine preventative maintenance;*

(C) *anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;*

(D) *activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;*

(E) *activities to provide for management and participation in the management and policy making of public housing by public housing residents;*

(F) *the costs of insurance;*

(G) *the energy costs associated with public housing units, with an emphasis on energy conservation;*

(H) *the costs of administering a public housing work program under section 12, including the costs of any related insurance needs;*

(I) *the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish; and*

(J) *the costs associated with the operation and management of mixed finance projects, to the extent appropriate.*

(2) *FORMULA.*—

(A) *IN GENERAL.*—The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

(i) *standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing project;*

(ii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

(iii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

(iv) to the extent quantifiable, the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

(v) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

(vi) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 23(d)(2) for families participating in a family self-sufficiency program of the agency under such section 23; and

(vii) any other factors that the Secretary determines to be appropriate.

(B) INCENTIVE TO INCREASE CERTAIN RENTAL INCOME.—The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

(C) TREATMENT OF SAVINGS.—The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

(3) CONDITION ON USE.—No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this Act.

(f) NEGOTIATED RULEMAKING PROCEDURE.—The formulas under subsections (d)(2) and (e)(2) shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

(g) LIMITATIONS ON USE OF FUNDS.—

(1) FLEXIBILITY FOR CAPITAL FUND AMOUNTS.—Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection

(e) for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

(2) FULL FLEXIBILITY FOR SMALL PHA'S.—Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 6(j)(2) as a troubled public housing agency, and (in the determination of the Secretary) is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1), regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.

(3) LIMITATION ON NEW CONSTRUCTION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

(B) EXCEPTION REGARDING USE OF ASSISTANCE.—A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

(C) EXCEPTION REGARDING FORMULAS.—Subject to reasonable limitations set by the Secretary, the formulas established under subsections (d)(2) and (e)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 8(o) for the same period of time.

(h) TECHNICAL ASSISTANCE.—To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

(2) training for public housing agency employees and residents;

(3) data collection and analysis;
(4) training, technical assistance, and education to public housing agencies that are—

(A) at risk of being designated as troubled under section 6(j), to assist such agencies from being so designated; and

(B) designated as troubled under section 6(j), to assist such agencies in achieving the removal of that designation;

(5) contract expertise;

(6) training and technical assistance to assist in the oversight and management of public housing or tenant-based assistance; and

(7) clearinghouse services in furtherance of the goals and activities of this subsection.

As used in this subsection, the terms 'training' and 'technical assistance' shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

(i) **ELIGIBILITY OF UNITS ACQUIRED FROM PROCEEDS OF SALES UNDER DEMOLITION OR DISPOSITION PLAN.**—If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 32 to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

(j) **PENALTY FOR SLOW EXPENDITURE OF CAPITAL FUNDS.**—

(1) **OBLIGATION OF AMOUNTS.**—Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

(2) **EXTENSION OF TIME PERIOD FOR OBLIGATION.**—The Secretary—

(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

(i) litigation;

(ii) obtaining approvals of the Federal Government or a State or local government;

(iii) complying with environmental assessment and abatement requirements;

(iv) relocating residents;

(v) an event beyond the control of the public housing agency; or

(vi) any other reason established by the Secretary by notice published in the Federal Register;

(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

(i) the size of the public housing agency;

(ii) the complexity of capital program of the public housing agency;

(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

(iv) such other factors as the Secretary determines to be relevant.

(3) EFFECT OF FAILURE TO COMPLY.—

(A) PROHIBITION OF NEW ASSISTANCE.—A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

(B) WITHHOLDING OF ASSISTANCE.—During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(C) REDISTRIBUTION.—The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 6(j) to be high-performing.

(4) EXCEPTION TO OBLIGATION REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

(B) PRIOR FISCAL YEARS.—Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

(5) EXPENDITURE OF AMOUNTS.—

(A) IN GENERAL.—A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

(B) *ENFORCEMENT.*—The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

(6) *RIGHT OF RECAPTURE.*—Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

(k) *EMERGENCY RESERVE AND USE OF AMOUNTS.*—

(1) *SET-ASIDES.*—In each fiscal year after fiscal year 1999, the Secretary shall set aside, for use in accordance with this subsection, not more than 2 percent of the total amount made available to carry out this section for such fiscal year. In addition to amounts set aside under the preceding sentence, in each fiscal year the Secretary may set from the total amount made available to carry out this section for such fiscal year not more than \$20,000,000 for the Operation Safe Home program administered by the Office of the Inspector General of the Department of Housing and Urban Development, for law enforcement efforts to combat violent crime on or near the premises of public and federally assisted housing.

(2) *USE OF FUNDS.*—Amounts set aside under paragraph (1) shall be available to the Secretary for use for assistance, as provided in paragraph (3), in connection with—

(A) emergencies and other disasters; and

(C) housing needs resulting from any settlement of litigation; and

(3) *ELIGIBLE USES.*—In carrying out this subsection, the Secretary may use amounts set aside under this subsection to provide—

(A) assistance for any eligible use under the Operating Fund or the Capital Fund established by this section; or

(B) tenant-based assistance in accordance with section 8.

(4) *LIMITATION.*—With respect to any fiscal year, the Secretary may carry over not more than a total of \$25,000,000 in unobligated amounts set aside under this subsection for use in connection with the activities described in paragraph (2) during the succeeding fiscal year.

(5) *PUBLICATION.*—The Secretary shall publish the use of any amounts allocated under this subsection relating to emergencies (other than disasters and housing needs resulting from any settlement of litigation) in the Federal Register.

(l) *TREATMENT OF NONRENTAL INCOME.*—A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

(m) *PROVISION OF ONLY CAPITAL OR OPERATING ASSISTANCE.*—

(1) *AUTHORITY.*—In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

(2) *Exemptions.*—In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3), as applicable, during which such units must be operated

under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 requirements applicable, as appropriate, by regulation.

(n) TREATMENT OF PUBLIC HOUSING.—

(1) CERTAIN STATE AND CITY FUNDED HOUSING.—

(A) IN GENERAL.—Notwithstanding any other provision of this section—

(i) for purposes of determining the allocations from the Operating and Capital Funds pursuant to the formulas under subsections (d)(2) and (e)(2) and determining assistance pursuant to section 519(e) of the Quality Housing and Work Responsibility Act of 1998 and under section 9 or 14 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act), for any period before the implementation of such formulas, the Secretary shall deem any covered locally developed public housing units as public housing units developed under this title and such units shall be eligible for such assistance; and

(ii) assistance provided under this section, under such section 518(d)(3), or under such section 9 or 14 to any public housing agency may be used with respect to any covered locally developed public housing units.

(B) COVERED UNITS.—For purposes of this paragraph, the term "covered locally developed public housing units" means—

(i) not more than 7,000 public housing units developed pursuant to laws of the State of New York and that received debt service and operating subsidies pursuant to such laws; and

(ii) not more than 5,000 dwelling units developed pursuant to section 34 of chapter 121B of the General Laws of the State of Massachusetts.

(2) REDUCTION OF ASTHMA INCIDENCE.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than exceeding \$500,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this title.

(3) SERVICES FOR ELDERLY RESIDENTS.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than \$600,000 per year for the purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

(4) *EFFECTIVE DATE.*—*This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.*

GENERAL PROVISIONS

SEC. 10. [42 U.S.C. 1437h] (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain an integral set of accounts which may be audited by the General Accounting Office as provided by chapter 91 of title 31, United States Code.

(b) All receipts and assets of the Secretary under this Act shall be available for the purposes of this Act until expended.

(c) The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his powers under this Act, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon.

FINANCING LOWER INCOME HOUSING PROJECTS

SEC. 11. [42 U.S.C. 1437i] (a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(b) Except as provided in section 5(g), obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

LABOR STANDARDS ²⁰²AND COMMUNITY SERVICE REQUIREMENT

SEC. 12. [42 U.S.C. 1437j] (a) Any contract for loans, contributions, sale, or lease pursuant to this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision

²⁰² Section 512(a)(1) of the QHWRA amended the heading for section 12.

that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 8 of this Act, where the public housing agency or the Secretary and the builder or sponsor enter into an agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any individual that—

- (1) performs services for which the individual volunteered;
- (2)(A) does not receive compensation for such services; or
(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and
- (3) is not otherwise employed at any time in the construction work.

²⁰³(c) *COMMUNITY SERVICE REQUIREMENT.*—

(1) *IN GENERAL.*—*Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—*

(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or

(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g)) for 8 hours per month.

(2) *EXEMPTIONS.*—*The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—*

(A) is 62 years of age or older;

(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997);

(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) *ANNUAL DETERMINATIONS.*—

(A) REQUIREMENT.—*For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before*

²⁰³ Section 512(a)(2) of the QHWRA added sections 12(c)-(g).

the expiration of each lease term of the resident under section 6(l)(1), review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) DUE PROCESS.—Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

(C) NONCOMPLIANCE.—If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency—

(i) shall notify the resident—

(I) of such noncompliance;

(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); and

(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident's lease will not be renewed; and

(ii) may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) INELIGIBILITY FOR OCCUPANCY FOR NONCOMPLIANCE.—A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) INCLUSION IN PLAN.—Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) GEOGRAPHIC LOCATION.—The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) PROHIBITION AGAINST REPLACEMENT OF EMPLOYEES.—In carrying out this subsection, a public housing agency may not—

(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

(B) supplant a job at any location at which community work requirements are fulfilled.

(8) THIRD-PARTY COORDINATING.—A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-

based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

(d) TREATMENT OF INCOME CHANGES RESULTING FROM WELFARE PROGRAM

REQUIREMENTS.—

(1) COVERED FAMILY.—For purposes of this subsection, the term "covered family" means a family that (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 8.

(2) DECREASES IN INCOME FOR FAILURE TO COMPLY.—

(A) IN GENERAL.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or paragraph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

(B) NO REDUCTION BASED ON TIME LIMIT FOR ASSISTANCE.—For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.

(3) EFFECT OF FRAUD.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or paragraph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.

(4) NOTICE.—Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this Act on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with

economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

(5) *OCCUPANCY RIGHTS.*—*This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 8.*

(6) *REVIEW.*—*Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 6(k) for the public housing agency.*

(7) *COOPERATION AGREEMENTS FOR ECONOMIC SELF-SUFFICIENCY ACTIVITIES.*—

(A) *REQUIREMENT.*—*A public housing agency providing public housing dwelling units or tenant-based assistance under section 8 for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) and paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.*

(B) *CONTENTS.*—*A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 8, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.*

(C) *CONFIDENTIALITY.*—*This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.*

(e) *LEASE PROVISIONS.*—*A public housing agency shall incorporate into leases under section 6(l) and into agreements for the provision of tenant-based assistance under section 8, provisions incorporating the conditions under subsection (d).*

(f) *TREATMENT OF INCOME.*—*Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 8, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.*

(g) *DEFINITION.*—*For purposes of this section, the term "economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training,*

education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.

²⁰⁴ENERGY CONSERVATION

~~SEC. 13. [42 U.S.C. 1437k] The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under this Act with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems.~~

SEC. 13. CONSORTIA, JOINT VENTURES, AFFILIATES, AND SUBSIDIARIES OF PUBLIC HOUSING AGENCIES.

(a) *CONSORTIA.*—

(1) *IN GENERAL.*—Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

(2) *EFFECT.*—With respect to any consortium described in paragraph (1)—

(A) any assistance made available under this title to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

(3) *RESTRICTIONS.*—

(A) *AGREEMENT.*—Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 5A.

(B) *MINIMUM REQUIREMENTS.*—The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

(b) *JOINT VENTURES.*—

(1) *IN GENERAL.*—Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of directors or similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit—

(i) with respect to the administration of the programs of the public housing agency, including any program that is subject to this title; or

(ii) for the purpose of providing or arranging for the provision of supportive or social services.

²⁰⁴ Section 515 of the QHWRA amended section 13 to read as shown.

(2) *USE OF AND TREATMENT INCOME.*—Any income generated under paragraph (1)—

(A) shall be used for low-income housing or to benefit the residents assisted by the public housing agency; and

(B) shall not result in any decrease in any amount provided to the public housing agency under this title, except as otherwise provided under the formulas established under section 9(d)(2) and 9(e)(2).

(3) *AUDITS.*—The Comptroller General of the United States, the Secretary, or the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.

²⁰⁵PUBLIC HOUSING MODERNIZATION

~~SEC. 14. [42 U.S.C. 1437f] (a) It is the purpose of this section to provide assistance~~

~~(1) to improve the physical condition of existing public housing projects; and~~

~~(2) to upgrade the management and operation of such projects;~~

~~in order to assure that such projects continue to be available to serve low-income families.~~²⁰⁶

~~(b)(1) The Secretary may make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as may be approved in appropriations Acts) to public housing agencies for the purpose of improving the physical~~

²⁰⁵ Section 522(a) of the QHWRA repealed section 14. However, Section 522(c)(1) of the QHWRA states: "In general.—Section 14 of the United States Housing Act of 1937 shall apply as provided in section 519(e) of this Act." Section 519(e) of the QHWRA states: "(e) Transitional Provision of Assistance.—(1) In general.—Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937, as those sections existed immediately before the enactment of this Act (except that such sections shall be subject to any amendments to such sections that may be contained in title II of this Act).

(2) Qualifications.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section)—

(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section, the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937;

(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937; and

(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937, the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937." Section 519(g) of the QHWRA made section 519(e) effective upon the enactment of the QHWRA (October 21, 1998).

²⁰⁶ The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 759, provides as follows:

"Section 14(a) of the Housing Act of 1937, as amended (42 U.S.C. 1437f(a)) is amended by—

"(1) striking 'and' at the end of clause (1); and

"(2) adding clauses (3), (4), and (5) as follows:

"(3) to assess the risks of lead-based paint poisoning through the use of professional risk assessments that include dust and soil sampling and laboratory analysis in all projects constructed before 1980 that are, or will be, occupied by families;

"(4) to take effective interim measures to reduce and contain the risks of lead-based paint poisoning recommended in such professional risk assessments; and

"(5) the costs of testing, interim containment, professional risk assessments and abatement of lead are eligible modernization expenses. The costs of professional risk assessment are eligible modernization expenses whether or not they are incurred in connection with insurance and costs for such assessments that were incurred or disbursed in fiscal year 1991 from other accounts shall be paid or reimbursed from modernization funds in fiscal year 1992."

The amendments could not be executed and were probably intended to be made to the United States Housing Act of 1937.

condition of existing low rent public housing projects and for upgrading the management and operation of such projects to the extent necessary to maintain such physical improvements.

~~— (2) The Secretary may make contributions (in the form of grants) to public housing agencies under this section. The contract under which the contributions shall be made shall specify that the terms and conditions of the contract shall remain in effect for a 20-year period for any project receiving the benefit of a grant under the contract.~~

~~— (c) Assistance under subsection (b) may be made available only for buildings of low rent housing projects —~~

~~— (1) which projects are owned by public housing agencies;~~

~~— (2) which projects are operated as rental housing projects and assisted under section 5 or section 9 of this Act;~~

~~— (3) which projects are not assisted under section 8 of this Act;~~

~~— (4) which buildings are not assisted under section 5(j)(2); and~~

~~— (5) which projects meet such other requirements consistent with the purposes of this section as the Secretary may prescribe.~~

~~— (d) Except as provided in subsection (f)(4), no assistance may be made available under subsection (b) to a public housing agency that owns or operates less than 250 public housing dwelling units unless the Secretary has approved an application from the public housing agency which has been developed in consultation with appropriate local officials and with tenants of the housing projects for which assistance is requested. Such application shall contain at least —~~

~~— (1) a comprehensive assessment of (A) the current physical condition of each project for which assistance is requested, and (B) the physical improvements necessary for each such project to meet the standards established by the Secretary pursuant to subsection (j);~~

~~— (2) a comprehensive assessment of the improvements needed to upgrade the management and operation of each such project so that decent, safe, and sanitary living conditions will be provided in such projects; such assessment shall include at least an identification of needs related to —~~

~~— (A) the management, financial, and accounting control systems of the public housing agency which are related to each project eligible for assistance under this section;~~

~~— (B) the adequacy and qualifications of personnel employed by such public housing agency (in the management and operation of such projects) for each category of employment; and~~

~~— (C) the adequacy and efficacy of —~~

~~— (i) tenant programs and services in such projects;~~

~~— (ii) the security of each such project and its tenants;~~

~~— (iii) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and~~

~~— (iv) other policies and procedures of such agency relating to such projects, as specified by the Secretary; and~~

~~— (3) a plan for making the improvements and for meeting the needs, described in paragraphs (1) and (2); such plan shall include at least —~~

~~— (A) a schedule of those actions which are to be completed, over a period of not greater than 5 years from the date of approval of such application by the~~

Secretary, within each 12-month period covered by such plan and which are necessary—

——(i) to make the improvements, described in paragraph (1)(B), for each project for which assistance is requested, and

——(ii) to upgrade the management and operation of such projects as described in paragraph (3); and

——(B) the estimated cost of each of the actions described in subparagraph (A):

——(e)(1) No financial assistance may be made available under this section to a public housing agency that owns or operates 250 or more public housing dwelling units unless the Secretary approves (or has approved before the effective date of this subsection²⁰⁷) a 5-year comprehensive plan submitted by the public housing agency, except that the Secretary may provide such assistance if it is necessary to correct conditions that constitute an immediate threat to the health or safety of tenants. The comprehensive plan shall contain—

——(A) a comprehensive assessment of—

——(i) the current physical condition of each public housing project owned or operated by the public housing agency;

——(ii) the physical improvements necessary for each such project to permit the project—

——(I) to be rehabilitated to a level at least equal to the modernization standards specified in the Modernization Handbook of the Department of Housing and Urban Development in effect on the date of the enactment of the Housing and Community Development Act of 1987,⁺ as well as the modernization standards established by the Secretary and in effect at the time of the preparation of the comprehensive plan; and

——(II) to comply with life-cycle cost-effective energy conservation performance standards established by the Secretary to reduce operating costs over the estimated life of the building; and

——(iii) the replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the 5-year period covered by the comprehensive plan;

——(B) a comprehensive assessment of the improvements needed to upgrade the management and operation of the public housing agency and of each such project so that decent, safe, and sanitary living conditions will be provided such projects, which assessment shall include at least an identification of needs related to—

——(i) the management, financial, and accounting control systems of the public housing agency that are related to such projects;

——(ii) the adequacy and qualifications of personnel appropriate to be employed by the public housing agency (in the management and operation of such projects) for each significant category of employment; and

——(iii) the improvement of the efficacy of—

——(I) tenant programs and services in such projects;

——(II) the security of each such project and its tenants;

²⁰⁷ February 5, 1988.

~~———(III) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and~~

~~———(IV) other policies and procedures of the public housing agency relating to such projects, as specified by the Secretary;~~

~~———(C) an analysis, made on a project by project basis in accordance with standards and criteria prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under subparagraphs (A) and (B) will reasonably ensure the long-term physical and social viability of each such project at a reasonable cost;~~

~~———(D) an action plan for making the improvements and replacements identified under subparagraphs (A) and (B) that are determined under the analysis described in subparagraph (C) to reasonably ensure long-term viability of each such project at a reasonable cost, which action plan shall include at least a schedule, in order of priority established by the public housing agency, of the actions that are to be completed over a period of 5 years from the date of approval of the comprehensive plan by the Secretary (or any longer period reasonably needed to make the improvements and replacements, considering the scope of the improvements and replacements and the amount of funding provided) and that are necessary—~~

~~———(i) to make the improvements and replacements identified under subparagraph (A) for each project expected to receive capital improvements or replacements (with priority to improvements and replacements required to correct any life-threatening condition); and~~

~~———(ii) to upgrade the management and operation of the public housing agency and its public housing projects as described in subparagraph (B);~~

~~———(E) a statement, to be signed by the chief local government official, certifying that—~~

~~———(i) the comprehensive plan was developed by the public housing agency in consultation with appropriate local government officials and with tenants of the housing projects eligible for assistance under this section, which shall include at least one public hearing that shall be held prior to the initial adoption of any plan by the public housing agency for use of such assistance, and afford tenants and interested parties an opportunity to summarize their priorities and concerns, to ensure their due consideration in the planning process of the public housing agency; and~~

~~———(ii) the comprehensive plan is consistent with the assessment of the community of its low-income housing needs and that the unit of general local government will cooperate in the provision of tenant programs and services (as defined in section 3(c)(2));~~

~~———(F) a statement, to be signed by the chief public housing official, certifying that the public housing agency will carry out the comprehensive plan in conformity with title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968 (commonly known as the Civil Rights Act of 1968), and section 504 of the Rehabilitation Act of 1973;~~

~~———(G) a preliminary estimate of the total cost of the items identified in subparagraphs (A) and (B), including a preliminary estimate of the funds that will be required during each~~

year covered by the comprehensive plan to accomplish the work pursuant to the action plan; and

~~_____ (H) such other information as the Secretary may require.~~

~~_____ (2)(A) The Secretary shall approve a comprehensive plan unless—~~

~~_____ (i) the comprehensive plan is incomplete in significant matters;~~

~~_____ (ii) on the basis of available significant facts and data pertaining to the physical and operational condition of the public housing projects of the public housing agency or the management and operations of the public housing agency, the Secretary determines that the identification by the public housing agency of needs is plainly inconsistent with such facts and data;~~

~~_____ (iii) on the basis of the comprehensive plan, the Secretary determines that the action plan described in paragraph (1)(D) is plainly inappropriate to meeting the needs identified in the comprehensive plan, or that the public housing agency has failed to demonstrate that completion of improvements and replacements identified under subparagraphs (A) and (B) of paragraph (1) will reasonably ensure long term viability of one or more public housing projects to which they relate at a reasonable cost; or~~

~~_____ (iv) there is evidence available to the Secretary that tends to challenge in a substantial manner any certification contained in the comprehensive plan.~~

~~_____ (B) The comprehensive plan shall be considered to be approved, unless the Secretary notifies the public housing agency in writing within 75 calendar days of submission that the Secretary has disapproved the comprehensive plan as submitted, indicating the reasons for disapproval and modifications required to make the comprehensive plan approvable.~~

~~_____ (3)(A) Each public housing agency that owns or operates 250 or more public housing dwelling units shall, after being advised by the Secretary of the estimated assistance it will receive under this section in any fiscal year, submit to the Secretary, at a date determined by the Secretary, an annual statement of the activities and expenditures projected to be undertaken, in whole or in part, by such assistance during the 12 month period immediately following the execution of the contract for such assistance. As long as the activities and expenditures are consistent with the approved plan, the public housing agency shall have total discretion in expending assistance for any activity or work set forth in the plan. The annual statement shall include a certification by the public housing agency that the proposed activities and expenditures are consistent with the approved comprehensive plan of the public housing agency. The annual statement also shall include a certification that the public housing agency has provided the tenants of the public housing affected by the planned activities the opportunity to review the annual statement and comment on it, and that such comments have been taken into account in formulating the annual statement as submitted to the Secretary.~~

~~_____ (B) A public housing agency may propose an amendment to its comprehensive plan under paragraph (1) in any annual statement. Any such proposed amendment shall be reviewed in accordance with paragraph (2), and shall include a certification that (i) the proposed amendment has been made publicly available for comment prior to its submission; (ii) affected tenants have been given sufficient time to review and comment on it; and (iii) such comments have been taken into consideration in the preparation and submission of the amendment. A public housing agency shall have a right to amend its comprehensive plan and related statements to extend the time for performance whenever the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.~~

~~——(C) The Secretary shall approve the annual statement and any amendment to it or the comprehensive plan unless the Secretary determines that the statement or amendment is plainly inconsistent with the activities specified in the comprehensive plan. The statement or amendment shall be considered to be approved, unless the Secretary notifies the public housing agency in writing before the expiration of the 75-day period following its submission that the Secretary has disapproved it as submitted, indicating the reasons for disapproval and the modifications required to make it approvable.~~

~~——(4)(A) Each public housing agency that owns or operates 250 or more public housing dwelling units shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the public housing agency shall include an assessment by the public housing agency of the relationship of such use of funds made available under this section, as well as the use of other funds, to the needs identified in the comprehensive plan of the public housing agency and to the purposes of this section. The public housing agency shall certify that the report has been made available for review and comment by affected tenants prior to its submission to the Secretary.~~

~~——(B) The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each public housing agency receiving assistance under this section——~~

~~——(i) has carried out its activities under this section in a timely manner and in accordance with its comprehensive plan;~~

~~——(ii) has a continuing capacity to carry out its comprehensive plan in a timely manner;~~

~~——(iii) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, and has made reasonable progress in carrying out modernization projects approved under this section.~~

~~——(C) Each public housing agency that owns or operates 250 or more public housing dwelling units and receives assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.~~

~~——(D) The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with subparagraph (A) or (B) or if an audit under subparagraph (C) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.~~

~~——(f)(1) The amount of financial assistance made available under subsection (b) to any public housing agency that owns or operates less than 250 public housing dwelling units with respect to any year may not exceed the sum of——~~

- ~~———(A) an amount determined by the Secretary to be necessary to undertake the actions specified for such year in the schedule submitted pursuant to subsection (d)(3)(A);~~
- ~~———(B) the amount determined necessary by the Secretary to reimburse the public housing agency for the cost of developing the plan described pursuant to subsection (d)(3), less any amount which has been provided such public housing agency with respect to such year under paragraph (4); and~~
- ~~———(C) in the case of a public housing agency which meets such criteria of financial distress as are established by the Secretary and which has submitted the information described in paragraphs (1) and (2) of subsection (d), the amount determined necessary by the Secretary to enable such agency to develop the plan described pursuant to subsection (d)(3);~~

~~except that not more than 5 per centum of the total amount utilized for contributions contracts under subsection (b) in any year shall be made available for the purposes described in paragraphs (3) and (4).~~

~~———(2) A public housing agency that owns or operates 250 or more public housing dwelling units may use financial assistance received under subsection (b) only —~~

- ~~———(A) to undertake activities described in its approved comprehensive plan under subsection (e)(1) or its annual statement under subsection (e)(3);~~
- ~~———(B) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for such correction is indicated in its comprehensive plan or annual statement; and~~
- ~~———(C) to prepare a comprehensive plan under subsection (e)(1), including reasonable costs that may be necessary to assist tenants in participating in the planning process in a meaningful way, an annual statement under subsection (e)(3), an annual performance and evaluation report under subsection (e)(4)(A), and an audit under subsection (e)(4)(C).~~

~~———(g) No assistance shall be made available to a public housing agency pursuant to subsection (b) for any year subsequent to the first year for which such assistance is made available to such agency unless the Secretary has determined that such agency has made substantial efforts to meet the objectives for the preceding year under the plan described in subsection (d)(3) or (e) and approved by the Secretary.~~

~~———(h) In making assistance available under subsection (b) to a public housing agency that owns or operates fewer than 250 public housing dwelling units, the Secretary shall give preference to public housing agencies —~~

- ~~———(1) which request assistance for projects (A) having conditions which threaten the health or safety of the tenants, or (B) having a significant number of vacant, substandard units; and~~
- ~~———(2) which have demonstrated a capability of carrying out the activities proposed in the plan submitted by the agency pursuant to subsection (d)(3) and approved by the Secretary.~~

~~———(i)(1) In addition to assistance made available under subsection (b) to a public housing agency that owns or operates fewer than 250 public housing dwelling units, the Secretary may, without regard to the requirements of subsection (e), (d), (f), (g), or (h), make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as approved in appropriation Acts) to any public housing agency in an amount which the Secretary determines is necessary to meet emergency or special purpose needs;~~

especially emergency and special purpose needs which relate to fire safety standards. Such needs shall be limited to—

———(A) correcting conditions which threaten the health or safety of the tenants of any project (i) which is described in subsection (c), and (ii) with respect to which an application for assistance pursuant to subsection (d) has not been approved by the Secretary;

———(B) correcting conditions (i) which threaten the health or safety of the tenants of any project with respect to which an application for assistance pursuant to subsection (d) has been approved, and (ii) which were unanticipated at the time of the development of such application;

———(C) correcting conditions which threaten the health or safety of the occupants of any low income housing project not described in subsection (c) and not assisted pursuant to section 8;

———(D)(i) physical improvements needs which (I) would not otherwise be eligible for assistance under this section, and (II) pertain to any low income housing project other than a project assisted under section 8; and

———(ii) physical improvement needs eligible under this subparagraph shall include replacing or repairing major equipment systems or structural elements, upgrading security, increasing accessibility for elderly and disabled families (as such terms are defined in section 3(b)(3)), reducing the number of vacant substandard units, and increasing the energy efficiency of the units, except that the Secretary may make financial assistance available under this clause only if the Secretary determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the project; or

———(E) management improvement needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low income housing project other than a project assisted under section 8.

———(2) The Secretary may issue such rules and regulations as may be necessary to carry out this subsection.

———(j)(1) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section.

———(2) The Secretary shall issue rules and regulations establishing standards which provide for decent, safe, and sanitary living conditions in low rent public housing projects and for energy conserving improvements in such projects and which, to the extent practicable, are consistent with the Minimum Property Standards for Multi-Family Housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards on a project-by-project basis in such cases where the Secretary deems such higher standards appropriate for furthering the purposes of this section.

———(k)(1) From amounts approved in appropriation Acts for grants under this section for fiscal year 1992 and each fiscal year thereafter, and to the extent provided by such Acts, the Secretary shall reserve not more than \$75,000,000 (including unused amounts reserved during previous fiscal years), which shall be available for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by public housing agencies from future allocations of assistance under paragraph (2), where available.

———(2)(A) After determining the amounts to be reserved under paragraphs (1) and (5)(D)(iv), the Secretary shall allocate the amount remaining pursuant to a formula contained in a regulation

prescribed by the Secretary, which shall be designed to measure the relative needs of public housing agencies. The formula shall take into account amounts previously made available by the Secretary for modernization under this section and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary.²⁰⁸

—(B) The Secretary shall allocate half of the amount allocated under this paragraph based on the relative backlog needs of public housing agencies, determined—

—(i) for individual public housing agencies with 250 or more units and for the aggregate of agencies with fewer than 250 units, where the data are statistically reliable, on the basis of the most recently available, statistically reliable data regarding the (I) backlog of needed repairs and replacements of existing physical systems in public housing projects, (II) items that must be added to projects to meet the modernization standards of the Secretary (referred to in subsection (e)(1)(A)(ii)(I)) and State and local codes, and (III) items that are necessary or highly desirable for the long-term viability of a project; or

—(ii) for individual public housing agencies with 250 or more units, where such data are not statistically reliable, on the basis of estimates of the categories of backlog specified in clause (i) using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

—(I) the average number of bedrooms in the units in a project;

—(II) the proportion of units in a project available for occupancy by very large families;

—(III) the extent to which units for families are in high-rise elevator projects;

—(IV) the age of the projects;

—(V) in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms;

—(VI) the cost of rehabilitating property in the area;

—(VII) for family projects, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses; and

—(VIII) any other factors the Secretary determines are appropriate.

The Secretary may not establish or amend any criteria regarding the backlog needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.

²⁰⁸ Section 509(h) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, approved November 28, 1990, provides in part as follows:

"(h) Regulations.—

"(1) In general. * * *

"(2) Allocation formula.— The Secretary of Housing and Urban Development shall establish the allocation formula under section 14(k)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a) of this section, by rule under section 553 of title 5, United States Code. In publishing a proposed rule regarding the formula pursuant to such section 553, the Secretary shall describe—

"(A) the analytic basis for the formula;

"(B) the weight assigned to the various criteria contained in the formula pursuant to such section 14(k)(2);

"(C) deductions from the formula share for amounts received for modernization activities under section 14 and major reconstruction of obsolete projects; and

"(D) any other information the Secretary determines is appropriate.

"(3) Alternative formulas.— When publishing the proposed rule required under paragraph (2), the Secretary of Housing and Urban Development may, at the discretion of the Secretary, publish alternative formulas, identifying the weights assigned to the various criteria under the formulas, and explaining the differences in operation and objectives of the alternative formulas."

~~——(C) The Secretary shall allocate the other half of the amount allocated under this paragraph based on the relative accrued needs of public housing agencies for the categories of need specified in subparagraphs (B)(i) (I) and (II), determined——~~

~~——(i) for individual public housing agencies with 250 or more units and for the aggregate of agencies with fewer than 250 units, where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs under subparagraph (B); or~~

~~——(ii) for individual public housing agencies with 250 or more units, where the estimates under clause (i) are not statistically reliable, on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding——~~

~~——(I) the average number of bedrooms of the units in a project;~~

~~——(II) the proportion of units in a project available for occupancy by very large families;~~

~~——(III) the age of the projects;~~

~~——(IV) the extent to which the buildings in projects of an agency average fewer than 5 units;~~

~~——(V) the cost of rehabilitating property in the area;~~

~~——(VI) the total number of units of each agency that owns or operates 250 or more units; and~~

~~——(VII) any other factors the Secretary determines are appropriate.~~

~~The Secretary may not establish or amend any criteria regarding the accrual needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.~~

~~——(D)(i) In determining how many units an agency owns or operates and the relative modernization needs of agencies, the Secretary shall, except as otherwise agreed by the Secretary and the agency, count each existing unit under the annual contributions contract, except that an existing unit under the turnkey III and the mutual help programs may be counted as less than one unit, to take into account the responsibility of families for the costs of certain maintenance and repair. For purposes of this section, an agency that qualifies to receive a formula grant under paragraph (4) may elect to continue to qualify to receive a formula grant if it owns or operates at least 200 public housing units.~~

~~——(ii) Where an existing unit under a contract is demolished or disposed of, the Secretary shall not adjust the amount the agency receives under the formula unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the units are demolished or disposed of, the Secretary shall reduce the formula amount for the agency over a 3-year period to reflect removal of the units from the contract.~~

~~——(iii) The Secretary shall determine whether the data under subparagraphs (B) and (C) are statistically reliable.~~

~~——(3) The amount determined under the formula for agencies with fewer than 250 units shall be allocated in accordance with subsection (d).~~

~~——(4) The amount determined under the formula for each agency that owns or operates 250 or more units shall be allocated to each qualifying agency in accordance with subsection (e).~~

~~— (5)(A) With respect to any agency that is designated as a troubled agency with respect to the program under this section upon the initial²⁰⁹ designation of such troubled agencies under section 6(j)(2)(A)(i), the Secretary shall limit the total amount of funding under this section for the agency for fiscal year 1992 and any fiscal year thereafter, if the agency remains designated as a troubled agency, to the sum of —~~

~~— (i) the average of the amount that the troubled agency received for modernization activities under this section and for major reconstruction of obsolete projects for each of fiscal years 1989, 1990, and 1991⁺, which average shall be adjusted to take into account changes in the cost of rehabilitating property; plus~~

~~— (ii) 25 percent of the difference between the amount determined under clause (i) and the amount that would be allocated to the agency in such fiscal year if the agency were not designated as a troubled agency.⁺~~

~~— (B) In any fiscal year the Secretary may, pursuant to the request of a troubled agency, increase the amount allocated to the agency under subparagraph (A) to an amount not exceeding the amount that would be allocated to the agency in such fiscal year if the agency were not a troubled agency. An increase under this subparagraph shall be based on the agency's progress toward meeting the performance indicators under section 6(j)(1). The Secretary shall render a decision in writing on each such request not later than 75 days after receipt of the request and any necessary supporting documentation.~~

~~— (C) For any fiscal year, any amounts that would have been allocated to an agency under the formula under paragraph (2) that are not allocated to the agency because the agency receives the amount provided under subparagraph (A) of this paragraph, shall be allocated in such year pursuant to the formula to other agencies with 500 or more units.²¹⁰~~

~~— (D) The Secretary shall carry out a credit system under this subparagraph to provide agencies that receive allocations under subparagraph (A) with additional assistance under this section after the agency is determined not to be a troubled agency, to compensate for amounts not received because of the troubled agency designation. The credit system shall be subject to the following requirements:~~

~~— (i) Any agency that receives assistance pursuant to subparagraph (A) for any fiscal year shall receive credits for the difference between the amount that the agency would have been allocated in such year if it were not designated a troubled agency and the amount allocated for the agency for such year under subparagraph (A).~~

~~— (ii) An agency may not receive credits under this subparagraph for more than 3 consecutive fiscal years.~~

²⁰⁹ The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1992, Pub. L. 102-139, 105 Stat. 757, provides as follows:

~~“Section 14(k)(5)(A) of the Housing Act of 1937, as amended, is hereby amended as follows:~~

~~“(1) by striking in the first sentence thereof the word ‘initial’;~~

~~“(2) in subsection (i) thereof by substituting the phrase ‘for each of the preceding three fiscal years’ for the phrase ‘for each of fiscal years of 1989, 1990 and 1991’; and~~

~~“(3) by adding a new subsection (iii) as follows:~~

~~“(iii) In determining whether an agency is ‘troubled with respect to the modernization program’, the Department shall consider only the agency's ability to carry out that program effectively based upon the agency's capacity to accomplish the physical work: (a) with decent quality; (b) in a timely manner; (c) under competent contract administration; and (d) with adequate budget controls. No other criteria shall be applied in the determination.”.~~

~~The amendments could not be executed and were probably intended to be made to the United States Housing Act of 1937.~~

²¹⁰ Section 509(e)(1)(F) of the Cranston Gonzalez National Affordable Housing Act, Pub. L. 101-625, provides that subparagraph (B) of this paragraph is amended, effective October 1, 1992, by striking “500” and inserting “250”. The amendment could not be executed and was probably intended to be made to this subparagraph.

~~—— (iii) After a 3-year period during which an agency has accrued credits, the credits accrued by the agency shall be —~~

- ~~—— (I) decreased by 10 percent of the total credits accumulated if the designation as a troubled agency is not removed before the conclusion of the first fiscal year after such 3-year period of accrual of credits;~~
- ~~—— (II) decreased by an additional 20 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the second fiscal year after such 3-year accrual period;~~
- ~~—— (III) decreased by an additional 30 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the third fiscal year after such 3-year accrual period; and~~
- ~~—— (IV) eliminated if the designation as a troubled agency is not removed before the conclusion of the fourth fiscal year after such 3-year accrual period.~~

~~—— (iv) After a determination by the Secretary that an agency is not a troubled agency, the Secretary shall provide the agency with amounts made available under this clause in accordance with the amount of credits accumulated by the agency (subject to the reductions under clause (iii)). Such amounts shall be provided in addition to the amounts allocated to the agency pursuant to the formula under paragraph (2). In each fiscal year, the Secretary shall reserve from amounts available for allocation under paragraph (2)(A) the amount necessary to provide assistance pursuant to such credits, except that the reserved amount may not exceed 5 percent of the total amount available for allocation under such paragraph.~~

~~—— (v) In making payments for accrued credits in accordance with clause (iv), the Secretary may take into account the ability of the agency to expeditiously expend amounts received for credits.~~

~~(E) The Secretary shall, by regulation, establish special rules for limiting the amount of assistance provided under this section to agencies that become troubled after the date of the initial designation of troubled agencies under section 6(j)(2)(A)(i). The rules may provide for a credit system based on the system established under this paragraph.²¹¹~~

~~—— (6) Any amounts (A) allocated under paragraph (4) that become available for reallocation because an agency does not qualify to receive all or a part of its formula allocation due to failure to comply with the requirements of this section (other than because of designation as a troubled agency), and (B) recaptured by the Secretary for good cause, shall (subject to approval in appropriations Acts) be reallocated by the Secretary in the next fiscal year to other housing agencies that own or operate 250 or more units, based on their relative needs. The relative needs of agencies shall be measured by the formula established pursuant to paragraph (2)(A).~~

~~—— (7) A public housing agency may appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data regarding the agency, community, and project characteristics used for determining the formula amount were not correct.~~

~~—— (8) Amounts allocated to a public housing agency under paragraph (3) or (4) may be used for any eligible activity in accordance with this section, notwithstanding that the allocation amount~~

²¹¹ The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1992, Pub. L. 102-139, 105 Stat. 757, provides as follows:

~~"Section 14(k)(5)(E) of [the Housing Act of 1937, as amended] is repealed."~~

~~The repeal could not be executed and was probably intended to be made to such section of the United States Housing Act of 1937.~~

is determined by allocating half based on relative backlog needs and half based on relative accrued needs of agencies.

~~—— (l) The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act —~~

~~—— (1) a description of the allocation, distribution, and use of assistance under this section on a regional basis and on the basis of public housing agency size; and~~

~~—— (2) a national compilation of the total funds requested in comprehensive plans for all public housing agencies owning or operating 250 or more public housing dwelling units.~~

~~—— (m) Subject to subsection (k)(1), the Secretary may issue any regulations that are necessary to carry out this section.~~

~~—— (n) LIMITATION. — The Secretary shall not make assistance under this section available with respect to a property transferred under title III.~~

~~—— (o) Any amount that the Secretary has obligated to a public housing agency under this section other than pursuant to the program established under subsection (e), shall be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency under subsection (e) and approved by the Secretary, as the agency determines to be appropriate.~~

~~—— (p)(1) The Secretary shall require any public housing agency that has a vacancy rate among dwelling units owned or operated by the agency that exceeds twice the average vacancy rate among all agencies, that is designated as a troubled agency under section 6(j), or for which a receiver has been appointed pursuant to section 6(j)(3), to participate in the vacancy reduction program under this subsection.~~

~~—— (2) Each public housing agency participating in the program under this subsection shall develop and submit to the Secretary a vacancy reduction plan regarding vacancies in units owned or operated by the agency. The plan shall include statements (A) identifying vacant dwelling units administered by the agency and explaining the reasons for the vacancies, (B) describing the actions to be taken by the agency during the following 5 years to eliminate the vacancies, (C) identifying any impediments that will prevent elimination of the vacancies within the 5-year period, (D) identifying any vacant units subject to comprehensive modernization, major reconstruction, demolition, and disposition activities that have been funded or approved, (E) identifying any vacant dwelling units that are eligible for comprehensive modernization, major reconstruction, demolition, or disposition but have not been funded or approved for such activities and are not likely to be funded or approved for at least 3 years and estimating the amount of assistance necessary to complete the comprehensive modernization, major reconstruction, demolition, or disposition of such units, (F) identifying any vacant units not identified under subparagraphs (E) and (F) and describing any appropriate activities relating to elimination of the vacancies in such units and estimating the amount of assistance necessary to carry out the activities, and (G) setting forth an agenda for implementation of management improvements (including, as appropriate, improvements recommended by the assessment team pursuant to paragraph (3)(C)) during the first fiscal year beginning after submission of the plan and including an estimate of the amount of assistance necessary to implement the improvements.~~

~~—— (3)(A) Upon the expiration of the 24-month period beginning upon the receipt of assistance under paragraph (5) by a public housing agency, the Secretary shall, after reviewing the progress made in complying with the plan, reserve from the annual contribution attributable to~~

each unit vacant for the 24-month period an amount determined by the Secretary but not exceeding 80 percent of such contribution. The Secretary may not reserve any amounts under this subparagraph for any vacant dwelling unit that is vacant because of modernization, reconstruction, or lead-based paint reduction activities.

———(B) The Secretary shall deposit any amounts reserved under subparagraph (A) in a separate account established on behalf of the public housing agency, and such amounts shall be available to the agency only for the purpose of carrying out activities in compliance with the vacancy reduction plan of the agency.

———(C) If, after the expiration of the 24-month period beginning upon the reservation under subparagraph (A) of amounts for a public housing agency, the Secretary determines that the agency has not made significant progress to comply with the provisions of the vacancy reduction plan of the agency, the amount remaining in the account for the agency established under subparagraph (B) shall be recaptured by the Secretary.

———(4)(A) In cooperation with each agency participating in the program under this subsection, the Secretary shall provide for onsite assessment of the vacancy situation of the agency by a team of knowledgeable observers. The assessment team shall include representatives of the Department of Housing and Urban Development, an equal number of independent experts knowledgeable with respect to vacancy problems and management issues relating to public housing, and officials of the public housing agency, all of whom shall be selected by the Secretary. The assessment team shall assess the vacancy situation of the agency to determine the causes of the vacancies, including any management deficiencies or modernization activities.

———(B) The assessment team shall also examine indicators of the management performance of the agency relating to vacancy, which shall include consideration of the performance of the agency as measured by the indicators under subparagraphs (A) and (E) of section 6(j)(1).

———(C) The assessment team shall submit to the agency and the Secretary written recommendations for management improvements to eliminate or alleviate management deficiencies, and may assist the agency in preparing the vacancy reduction plan under paragraph (2), including determining appropriate actions to eliminate vacancies.

———(D) The Secretary may use amounts made available under paragraph (6) for any travel and administrative expenses of assessment teams under this paragraph.

———(5) The Secretary shall, subject to the availability of amounts under paragraph (6), provide assistance under this subsection to public housing agencies submitting vacancy reduction plans for reasonable costs of —

———(A) implementing management improvements;

———(B) rehabilitating vacant dwelling units identified in the statement under paragraph (2), except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made; and

———(C) carrying out vacancy reduction activities described in the statement under paragraph (2)²¹²

²¹² Section 115(e)(2) of the Housing and Community Development Act of 1992, Pub. L. 102-550, provides that this subparagraph is amended "by inserting before the semicolon the following: ", except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made."

~~— (6)(A) Of any amounts available under this section in each of fiscal years 1993 and 1994 (after amounts are reserved pursuant to subsection (k)(1)), an amount equal to 4 percent of such remaining funds shall be available in each such fiscal year for the purposes under subparagraph (B).~~

~~— (B) Of such amounts available under subparagraph (A) in each such fiscal year —~~

~~— (i) 20 percent shall be available only for carrying out activities under section 6(j); and~~

~~— (ii) 80 percent shall be available for carrying out this subsection.~~

~~— (q)²¹³(1) In addition to the purposes enumerated in subsections (a) and (b), a public housing agency may use modernization assistance provided under section 14, and development assistance provided under section 5(a) that was not allocated, as determined by the Secretary, for priority replacement housing, for any eligible activity authorized by this section, by section 5, or by applicable Appropriations Acts for a public housing agency, including the demolition, rehabilitation, revitalization, and replacement of existing units and projects and, for up to 10 percent of its allocation of such funds in any fiscal year, for any operating subsidy purpose authorized in section 9.²¹⁴ Such assistance may involve the drawdown of funds on a schedule commensurate with construction draws for deposit into an interest earning escrow account to serve as collateral or credit enhancement for bonds issued by a public agency for the construction or rehabilitation of the development. Except for assistance used for operating subsidy purposes under the preceding sentence, assistance provided to a public housing agency under this section shall principally be used for the physical improvement, replacement of public housing, other capital purposes, and for associated management improvements, and such other extraordinary purposes as may be approved by the Secretary. Low income and very low income units assisted under this paragraph shall be eligible for operating subsidies, unless the Secretary determines that such units or projects do not meet other requirements of this Act.~~

~~— (2) A public housing agency may provide assistance to developments that include units, other than units assisted under this Act (except for units assisted under section 8 hereof) ("mixed income developments"), in the form of a grant, loan, operating assistance, or other form of investment which may be made to —~~

~~— (A) a partnership, a limited liability company, or other legal entity in which the public housing agency or its affiliate is a general partner, managing member, or otherwise participates in the activities of such entity; or~~

~~— (B) any entity which grants to the public housing agency the option to purchase the development within 20 years after initial occupancy in accordance with section 42(i)(7) of the Internal Revenue Code of 1986, as amended.~~

~~— Units shall be made available in such developments for periods of not less than 20 years, by master contract or by individual lease, for occupancy by low income and very~~

The amendment could not be executed and the material to be inserted by the amendment was probably intended to be inserted before the period at the end of this subparagraph.

²¹³ Section 1001(a) of Public Law 104-19, approved July 27, 1995, added this subsection.

Section 201(a)(1) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134), approved April 26, 1996, amended this subsection (as amended by Public Law 104-19) to read as shown. Paragraph (2) of such section 201(a) (as amended by Public Law 104-204) provides as follows:

"(2) Applicability. — Section 14(q) of the United States Housing Act of 1937, as amended by subsection (a) of this section, shall be effective only with respect to assistance provided from funds made available for fiscal year 1997 or any preceding fiscal year."

²¹⁴ Section 208 of the Appropriations Act, 1999 amended section 14(q)(1) by adding this sentence.

low-income families referred from time to time by the public housing agency. The number of such units shall be:

- ~~—— (i) in the same proportion to the total number of units in such development that the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the development, or~~
- ~~—— (ii) not be less than the number of units that could have been developed under the conventional public housing program with the assistance involved, or~~
- ~~—— (iii) as may otherwise be approved by the Secretary.~~

~~—— (3) A mixed income development may elect to have all units subject only to the applicable local real estate taxes, notwithstanding that the low-income units assisted by public housing funds would otherwise be subject to section 6(d) of the Housing Act of 1937.~~

~~—— (4) If an entity that owns or operates a mixed income project under this subsection enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units, to the maximum extent practicable.~~

PAYMENT OF NONFEDERAL SHARE

SEC. 15. [42 U.S.C. 1437m] Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this Act, other than under section 8:

- (1) annual contributions under this Act for operation of the project; or
- (2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this Act.

ELIGIBILITY FOR ASSISTED HOUSING

~~²¹⁵SEC. 16. [42 U.S.C. 1437n] (a) Not more than 25 per centum of the dwelling units which were available for occupancy under public housing annual contributions contracts and section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development Amendments of 1981,²¹⁶ and which will be leased on or after such effective date shall be available for leasing by low-income families other than very low-income families.~~

²¹⁵ Section 513(a) of the QHWRRA amended section 16 through section 16(d) to read as shown. Section 513(b) made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

²¹⁶ October 1, 1981.

~~——(b)(1) Not more than 15 percent of the dwelling units which become available for occupancy under public housing contributions contracts and section 8 housing assistance payments contracts under this Act on or after the effective date of the Housing and Community Development Amendments of 1981²¹⁷ shall be available for leasing by low income families other than very low income families.~~

~~——(2) Not more than 25 percent of the dwelling units in any project of any agency shall be available for occupancy by low income families other than very low income families. The limitation shall not apply in the case of any project in which, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act,²¹⁸ such low income families occupy more than 25 percent of the dwelling units.~~

~~——(c) In developing admission procedures implementing subsection (b), the Secretary may not totally prohibit admission of low income families other than very low income families and shall establish an appropriate specific percentage of low income families other than very low income families that may be assisted in each assisted housing program that, when aggregated, will achieve the overall percentage limitation contained in subsection (b). In developing such admission procedures, the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the written system of preferences for selection established by the public housing agency pursuant to section 6(e)(4)(A)²¹⁹. The Secretary shall issue regulations to carry out this subsection not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987.²²⁰~~

~~——(d) The limitations established in subsection (b) shall not apply to dwelling units made available under section 8 housing assistance contracts for the purpose of preventing displacement, or ameliorating the effects of displacement, including displacement caused by rents exceeding 30 percent of monthly adjusted family income, of low income families from projects being rehabilitated with assistance from rehabilitation grants under section 17 and the Secretary shall not otherwise unduly restrict the use of payments under section 8 housing assistance contracts for this purpose.~~

SEC. 16. (a) INCOME ELIGIBILITY FOR PUBLIC HOUSING.—

(1) INCOME MIX WITHIN PROJECTS.—A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA INCOME MIX.—

(A) TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

²¹⁷ ~~October 1, 1981.~~

²¹⁸ ~~November 28, 1990.~~

²¹⁹ ~~Section 402(d)(6)(A)(v) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this sentence by striking "the system of preferences established by the agency pursuant to section 6(e)(4)(A)(ii)" and inserting "the written system of preferences for selection established by the public housing agency pursuant to section 6(e)(4)(A)". Section 402(f) of such Act provides as follows:~~

~~"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."~~

²²⁰ ~~The date of enactment was February 5, 1988.~~

(3) *PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.*—

(A) *PROHIBITION.*—A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) *DECONCENTRATION.*—

(i) *IN GENERAL.*—A public housing agency shall submit with its annual public housing agency plan under section 5A an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) *INCENTIVES.*—In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) *FAMILY CHOICE.*—Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II), Provided, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 6(s).

(4) *FUNGIBILITY WITH TENANT-BASED ASSISTANCE.*—

(A) *AUTHORITY.*—Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) *CREDIT FOR EXCEEDING TENANT-BASED ASSISTANCE TARGETING REQUIREMENT.*—Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 8 by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) *LIMITATIONS ON CREDIT NUMBER.*—The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 8 by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) *FUNGIBILITY FLOOR.*—Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) *QUALIFIED FAMILY.*—For purposes of this paragraph, the term "qualified family" means a family having an income described in subsection (b)(1).

(b) *INCOME ELIGIBILITY FOR TENANT-BASED SECTION 8 ASSISTANCE.*—

(1) *IN GENERAL.*—Of the families initially provided tenant-based assistance under section 8 by a public housing agency in any fiscal year, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(2) *JURISDICTIONS SERVED BY MULTIPLE PHA'S.*—In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 8 with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(c) *INCOME ELIGIBILITY FOR PROJECT-BASED SECTION 8 ASSISTANCE.*—

(1) *PRE-1981 ACT PROJECTS.*—Not more than 25 percent of the dwelling units that were available for occupancy under section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development

Amendments of 1981, and which will be leased on or after such effective date shall be available for leasing by low-income families other than very low-income families.

(2) *POST-1981 ACT PROJECTS.*—Not more than 15 percent of the dwelling units which become available for occupancy under section 8 housing assistance payments contracts under this Act on or after the effective date of the Housing and Community Development Amendments of 1981 shall be available for leasing by low-income families other than very low-income families.

(3) *TARGETING.*—For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent ²²¹shall be available for leasing only by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(4) *PROHIBITION OF SKIPPING.*—In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

(5) *EXCEPTION.*—The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 8 for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) *DEFINITION.*—For purposes of this subsection, the term "project-based assistance" means assistance under any of the following programs:

(A) *The new construction or substantial rehabilitation program under section 8(b)(2) (as in effect before October 1, 1983).*

(B) *The property disposition program under section 8(b) (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998).*

(C) *The loan management set-aside program under subsections (b) and (v) of section 8.*

(D) *The project-based certificate program under section 8(d)(2).*

(E) *The moderate rehabilitation program under section 8(e)(2) (as in effect before October 1, 1991).*

(F) *The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).*

(G) *Section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965 or section 236(f)(2) of the National Housing Act.*

²²¹ Section 123 of the Omnibus Act, 1999, Division A, amended section 513(a) of the QHWRA.

(d) *ESTABLISHMENT OF DIFFERENT STANDARDS.*—Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

~~222(e) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—~~

~~(1) IN GENERAL.~~—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8—

~~(A) that prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person—~~

~~(i) who the public housing agency determines is illegally using a controlled substance; or~~

~~(ii) if the public housing agency determines that it has reasonable cause to believe that such person's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project; and~~

~~(B) that allow the public housing agency to terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person—~~

~~(i) who the public housing agency determines is illegally using a controlled substance; or~~

~~(ii) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the public housing agency to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project.~~

~~(2) CONSIDERATION OF REHABILITATION.~~—In determining whether, pursuant to paragraph (1), to deny occupancy or assistance to any person based on a pattern of use of a controlled substance or a pattern of abuse of alcohol, a public housing agency may consider whether such person—

~~(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);~~

~~(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or~~

~~(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).~~

²²³(f) *INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE ON THE PREMISES.*—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8 that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person who has been convicted of

²²² Section 576(d)(2) of the QHWRA deleted section 16(e).

²²³ Section 428 of the Appropriations Act, 1999 added section 16(f).

manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and
(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.

RENTAL REHABILITATION AND DEVELOPMENT GRANTS

SEC. 17.²²⁴ [42 U.S.C. 1437o] (a) PROGRAM AUTHORITY.—(1) REHABILITATION AND DEVELOPMENT GRANTS.—The Secretary is authorized—

(A) to make rental rehabilitation grants to help support the rehabilitation of privately owned real property, or of real property that will be privately owned upon the completion of rehabilitation, to be used for primarily residential rental purposes in accordance with subsection (c); and

(B) to make development grants for new construction or substantial rehabilitation in accordance with subsection (d).

(2) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this section, the Secretary may reserve authority to provide housing assistance under section 8(o) to the extent necessary—

(A) to provide housing assistance to persons displaced by activities under this section; or

(B) to support the grantee's program.

(3) AUTHORIZATION.—There are authorized to be appropriated for rental rehabilitation under this section \$125,000,000 for each of the fiscal years 1988 and 1989, of which \$1,500,000 shall be available each fiscal year for technical assistance, including the collection, processing, and dissemination of program information useful for local and national program management. There are authorized to be appropriated for development grants under this section \$75,000,000 for fiscal year 1988 and \$75,000,000 for fiscal year 1989.

(b) DISTRIBUTION OF RENTAL REHABILITATION GRANT FUNDS.—(1) FORMULA ALLOCATION.—Of the amount available in any fiscal year for rehabilitation grants under this section, the Secretary shall allocate amounts for rehabilitation grants under subsection (c) to cities having populations of fifty thousand or more, urban counties, and States for use as provided in subsection (e), on the basis of a formula which shall be contained in a regulation proposed by the Secretary not later than sixty days after the effective date of this section.²²⁵ Such regulation shall be accompanied by the specific fund allocation for fiscal year 1984 for individual cities, urban counties, and States which would result from the proposed formula and any adjustments under paragraph (2). The formula contained in the regulation shall take into account objectively measurable conditions, including such factors as low income renter population, overcrowding of rental housing, the extent of physically inadequate housing stock, and such other objectively measurable conditions as the Secretary deems appropriate to reflect the need for assistance under this section, but excluding

²²⁴ Section 289(a) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, provides that no new grants or loans may be made under this section after October 1, 1991. Subsection (b) of such section repealed this section effective on October 1, 1991.

²²⁵ The effective date was November 30, 1983.

data relating to such factors which pertain to areas eligible for assistance under title V of the Housing Act of 1949.

(2) ADJUSTMENTS.—Before an allocation determined under paragraph (1) for any fiscal year is made available for use, the Secretary may adjust the allocation as follows:

(A) The Secretary is authorized to establish minimum allocation amounts for cities and urban counties, representing program levels below which, in the Secretary's determination, conduct of a rental rehabilitation program would not be feasible. The amount of any allocation which is below this minimum shall be added to the allocation for the State in which the city or county is located and shall be available in accordance with subsection (e).

(B) Beginning with fiscal years after fiscal year 1984, the Secretary is authorized to adjust the allocation for a city, urban county, or State administering a rental rehabilitation program as provided in subsection (e), by up to 15 per centum above or below the amount of such allocation, based on an annual review of performance in carrying out activities under this section in a timely manner and in achieving the result that at least 80 per centum of the units rehabilitated with assistance under this section in all program years have rents which are and remain at a level which would be affordable by low-income families. The last sentence of subparagraph (A) shall not apply to an allocation which is below the minimum amount described therein by reason of an adjustment under this subparagraph. The Secretary shall establish by regulation performance criteria for purposes of this subparagraph.

(3) REALLOCATION.—After the allocation of rehabilitation grant amounts, the Secretary is authorized to reallocate such amounts among grantees on the basis of the Secretary's assessment of the progress of grantees in carrying out activities under this section in accordance with their specified schedules. Reallocations under this paragraph shall be designed to encourage use of these resources expeditiously, consistent with the sound development and administration of the grantees' rental rehabilitation programs.

(4) RECAPTURE.—Any rental rehabilitation grant amounts which are not obligated at the end of any fiscal year shall be added to the amount available for allocation for such grants for the succeeding fiscal year.

(c) GRANTS FOR MODERATE REHABILITATION.—(1) Program Description.—A rehabilitation grant may be made under this section on the basis of satisfactory information provided in a program description which shall be submitted by the grantee at such time and in such manner as the Secretary may prescribe and which shall contain—

(A) a description of the grantee's proposed rental rehabilitation program, which shall consist of the activities each grantee proposes to undertake for the fiscal year, including the grantee's anticipated schedule in carrying out those activities, or, in case of a State distributing resources as provided in subsection (e), its proposed method of distributing the resources, which shall have been made available to the public;

(B) a certification that the grantee's program was developed after consultation with the public;

(C) a statement of the procedures and standards which will govern selection of proposals by the grantee, which procedures and standards shall take into account the extent to which the proposal represents the efficient use of Federal resources and the

extent to which the housing units involved will be adequately maintained and operated with rents at the levels proposed;

(D) an estimate of the effect of the proposed program on neighborhood preservation;

(E) evidence demonstrating the financial feasibility of the proposed program, including the availability of non-Federal and private resources and including evidence that the projects to be selected for rehabilitation will be located in neighborhoods where rents are generally affordable to low-income families and that the character of the neighborhood indicates that such rents will not materially change over an extended period; and

(F) such other information as the Secretary shall prescribe.

(2) PROGRAM REQUIREMENTS.—A rental rehabilitation program assisted under this section shall provide that—

(A) grant assistance shall only be used to rehabilitate real property to be used for primarily residential rental purposes;

(B) grants shall only be used to assist the rehabilitation of real property located in neighborhoods where the median income does not exceed 80 per centum of the median income for the area;

(C) grant assistance for any structure shall not exceed 50 per centum of the total costs associated with the rehabilitation of that structure, as determined by the Secretary, except that where the Secretary determines that refinancing costs and the special nature of the project require a greater amount of assistance, the grant amount shall be limited to not to exceed 50 per centum of the development cost including acquisition;

(D) rehabilitation assisted under this section shall only be that which is necessary to correct substandard conditions, to make essential improvements, and to repair major systems in danger of failure;

(E) the amount of rental rehabilitation assistance provided under this section for any structure shall not exceed \$5,000 per unit for a unit with no bedrooms, \$6,500 per unit for a unit with 1 bedroom, \$7,500 per unit for a unit with 2 bedrooms, and \$8,500 per unit for a unit with 3 or more bedrooms, except as otherwise determined by the Secretary in areas of high material and labor costs where the grantee demonstrates that every appropriate step has been taken by the grantee to contain the amount of assistance within the limit set by this paragraph and that an exception is necessary to conduct a rehabilitation program while not exceeding the rehabilitation standards of subparagraph (D);

(F) a structure may be assisted under this section only if the rehabilitation of such structure will not cause the involuntary displacement of very low-income families by families who are not very low-income families;

(G) the owner of each assisted structure agrees—

(i) not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State, or local housing assistance program or, except for a structure for housing for elderly families, on the basis that the tenants have a minor child or children who will be residing with them; and

(ii) not to convert the units to condominium ownership (or in the case of a cooperative, to condominium ownership or any form of cooperative ownership not eligible for assistance under this section);

for at least 10 years beginning on the date on which the units in the project are completed;

(H) the grantee certifies to the satisfaction of the Secretary that the assistance will be made available in conformity with Public Law 88-352 and Public Law 90-284; and

(I) 100 per centum of the amount of assistance provided under this section shall be used by the grantee for the benefit of low-income families, except that such requirement shall be reduced to (i) 70 per centum if the grantee certifies in accordance with standards prescribed by the Secretary that such reduction is necessary, and that the grantee cannot develop a proposed program which complies with such requirement, after consultation with the public regarding the inability to develop a program which complies with such requirement, and (ii) to not less than 50 per centum where the Secretary determines that such further reduction is necessary.

(3) SECRETARIAL RESPONSIBILITY.—The Secretary shall assure that—

(A) an equitable share of the rehabilitation grants under this section is used to assist in the provision of housing for families with children, particularly families requiring three or more bedrooms; and

(B) a priority shall be given to projects containing units in substandard condition which are occupied by very low-income families.

(4) USE OF FUNDS TO COMPLY WITH SEISMIC STANDARDS.—If a unit of general local government has a local ordinance that requires rehabilitation to meet seismic standards, the unit of local government may use all rehabilitation assistance received under this section to rehabilitate units with no bedroom or 1 bedroom, if the occupants of the units will have incomes that do not exceed 50 percent of the median income of the area.

(d)²²⁶ GRANTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(1) TYPES OF ASSISTANCE.—Development grant funds may be used by the grantee to make grants or loans, provide interest reduction payments, or furnish other comparable assistance to support the new construction or substantial rehabilitation of real property to be used primarily for residential rental purposes.

(2) AREA ELIGIBILITY.—To be eligible for development grants under this subsection, a project must be located in an area that is experiencing a severe shortage of decent rental housing opportunities for families and individuals without other reasonable and affordable housing alternatives in the private market. The Secretary shall issue regulations, consistent with the preceding sentence, that set forth minimum standards for determining areas eligible for assistance. Such standards shall be based on objectively measurable conditions, and shall take into account the extent of poverty, the extent of occupancy of physically inadequate housing by low-income families, the extent of housing overcrowding experienced by low-income families, the level and duration of rental housing vacancies, the extent of the lag between the estimated need for and production of rental housing, and other objectively measurable conditions specified by the

²²⁶ Section 152 of the Housing and Community Development Act of 1987, Pub. L. 100-242, provides as follows:

"SEC. 152. TERMINATION OF RENTAL DEVELOPMENT GRANT PROGRAM.

"(a) In General.—Effective on October 1, 1989, the rental development grant program under section 17(d) of the United States Housing Act of 1937 shall terminate.

"(b) Savings Provision.—The provisions of subsection (a) shall not apply with respect to any housing development grant under section 17(d) of the United States Housing Act of 1937 made pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before October 1, 1989."

Secretary consistent with the first sentence of this subsection. The Secretary shall propose regulations under this paragraph not later than 60 days after the date of enactment of this section²²⁷ and shall promptly transmit to the Congress such proposed regulations accompanied by a list of those areas which meet the minimum standards contained in such regulations. Any unit of general local government located in an area which meets such minimum standards is eligible to submit an application for a rental housing development grant under this section. Notwithstanding such minimum standards, a city shall also be eligible to submit such an application if (A) according to the most recent data compiled by the United States Bureau of the Census, such city has a population of not less than 450,000; and (B) the percentage of the total rental units in such city that are vacant and available for rent is less than 10 percent. The Secretary may also consider an application for a project to be located in an area which is not eligible under such standards where the Secretary determines that a project involving assistance for other than moderate rehabilitation is necessary in order to meet special housing needs or to advance a particular neighborhood preservation purpose. Notwithstanding any other provision of law, the eligibility requirements for development grants under this section shall be the requirements in effect under this subsection on October 17, 1986.

(3) APPLICATION.—A development grant may be made under this section on the basis of information provided in an application which shall be submitted by the grantee at such time and in such manner as the Secretary may prescribe. In addition to information relating to the selection criteria set forth in paragraph (5), the application shall contain—

(A) a description of the grantee's proposed rental development program, which shall consist of the activities the grantee proposes to undertake for the fiscal year, including a specification of the grantee's anticipated schedule in carrying out those activities;

(B) a certification that the grantee's program was developed after consultation with the public;

(C) a statement of the procedures and standards which will govern selection of proposals by the grantee, which procedures and standards shall take into account the extent to which the proposal represents the efficient use of Federal resources and the extent to which the housing units involved will be adequately maintained and operated with rents maintained at the levels proposed;

(D) an estimate of the effect of the proposed program on neighborhood preservation; and

(E) such other information as the Secretary shall prescribe.

(4) PROGRAM REQUIREMENTS.—A rental development program assisted under this section shall provide that—

(A) grant assistance shall be used to develop real property to be used for residential rental purposes only;

(B) grant assistance for any structure shall not exceed 50 per centum of the total costs associated with the rehabilitation or development of that structure, as determined by the Secretary, except that where the Secretary determines that the special nature of the project require a greater amount of assistance, the grant amount shall be limited to not to exceed 50 per centum of the development cost including acquisition;

²²⁷ The date of enactment was November 30, 1983.

(C) a structure may be assisted under this section only if the development of such structure will not cause the involuntary displacement of very low-income families by families who are not very low-income families;

(D) the owner of each assisted structure agrees—

(i) not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State, or local housing assistance program or, except for a structure for housing for the elderly, on the basis that the tenants have a minor child or children who will be residing with them; and

(ii) not to convert the units to condominium ownership (or in the case of a cooperative, to condominium ownership or any form of cooperative ownership not eligible for assistance under this section);

during the 20-year period beginning on the date on which the units in the project are available for occupancy;

(E) the owner of each assisted structure agrees that, during the 20-year period beginning on the date on which 50 per centum of the units in the structure are occupied or completed, at least 20 per centum of the units the construction or substantial rehabilitation of which is provided for under the application shall be occupied, or available for occupancy by, low-income families;

(F) the structure—

(i) will have a value after rehabilitation or construction that is not more than the amount of a mortgage on the structure that could be insured under section 207 of the National Housing Act; and

(ii) is secured by a mortgage which bears a rate of interest and contains such other terms and conditions as the Secretary determines are reasonable;

(G) the grantee must commence construction or substantial rehabilitation activities not later than 24 months after notice of project selection (48 months after notice in the case of projects for which funding notices were issued prior to July 23, 1985), except that the Secretary may extend such period by not more than 6 months if the commencement of such activities is delayed due to judicial or administrative proceedings;

(H) the State or unit of general local government that receives the assistance certifies to the satisfaction of the Secretary that the assistance will be made available in conformity with Public Law 88-352 and Public Law 90-284; and

(I) the owner of each assisted structure agrees to comply with the provisions of paragraph (8) until the 20-year period specified in paragraph (7) has ended.

(5) PROJECT SELECTION.—In selecting projects to receive development grants, the Secretary shall make such selection on the basis of the extent—

(A) of the severity of the shortage of decent rental housing opportunities in the area in which the project or projects are to be located for families and individuals without other reasonable and affordable housing alternatives in the private market;

(B) of non-Federal public and private financial or other contributions that reduce the amount of assistance necessary under this section;

(C) to which the project or projects contribute to neighborhood development and mitigate displacement;

(D) to which the applicant has established a satisfactory record of performance in meeting assisted housing needs and has the capacity to undertake the program in a timely manner;

(E) to which the assistance requested will provide the maximum number of units for the least cost to the Federal Government, taking into consideration the extent to which assistance provided will be recaptured and cost differences among different areas, among financing alternatives, and among the types of projects and tenants being served;

(F) to which the grantee will establish a mechanism to assure the maintenance of affordable rentals for low-income families;

(G) to which the applicant has demonstrated the financial feasibility of the proposed program, including the availability of non-Federal and private resources; and

(H) to which an equitable share of the development grant funds under this section will be used to assist in the provision of housing for families with children, particularly families requiring three or more bedrooms.

(6) PRIORITIES.—In selecting projects for grants under this subsection, the Secretary shall give a priority to proposals involving projects—

(A) which exceed the minimum requirements of paragraph (4)(E); and

(B) in areas where the waiting lists for housing assistance are relatively long and where families holding certificates under section 8 require an excessive length of time to find housing.

(7) ENFORCEMENT OF PROGRAM REQUIREMENTS.—(A) The grantee shall take appropriate legal action to enforce compliance with the requirements of this subsection by the owner of any assisted property or his or her successors in interest during the 20-year period beginning on the date on which 50 per centum of the units are occupied or are completed. For any violation of such agreements, the owner or his or her successors in interest shall make a payment to the grantee of an amount that equals the total amount of assistance provided under this subsection with respect to such project, plus interest thereon (without compounding), for each year and any fraction thereof that the assistance was outstanding, at a rate determined by the Secretary taking into account the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which the assistance was made available. The amount of such assistance (and accrued interest) which is required to be repaid shall be reduced by 10 per centum for each full year in excess of 10 years which intervened between the commencement of the period and the violation. Any amounts recovered by the grantee shall be used to furnish assistance under this section.

(B) Notwithstanding any other provision of law, any assistance provided under this subsection shall constitute a debt, which is payable in the case of any failure to carry out the agreements, and shall be secured by the security instruments provided by the owner to the grantee.

(8)(A) RENT PROVISIONS.—Rents charged for units available for occupancy by low-income families in any project assisted under this subsection shall be approved by the grantee. In approving such rents, the grantee shall provide that the rents of such units are not more than 30 per centum of the adjusted income of a family whose income equals 50 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families. Not less than 30 days prior written notice of any increase in rents shall be provided to such tenants.

(B) Any schedule of rents submitted by an owner to the grantee for approval shall be deemed to be approved unless the grantee informs the owner, within 60 days after receiving such schedule, that such schedule is disapproved.

(9) GRANT AMOUNT.—The amount of a development grant provided under this subsection shall not be more than that amount which will provide decent rental or cooperative housing of modest design which is affordable for families and individuals without other reasonable and affordable housing alternatives in the private market, including an amount necessary to achieve compliance with paragraph (8)(A).

(10) DEVELOPMENT COST.—

(A) The Secretary shall include in the development cost of a project assisted under this subsection any developer's fee if such fee—

(i) is included in a mortgage secured by the project; and

(ii) the lender is a State housing finance agency or the project is financed by bonds issued by a State housing finance agency or similar local entity.

(B) The amount of any developer's fee shall not be counted in calculating the maximum grant amount pursuant to paragraph (4)(B).

(C) This paragraph shall only be applicable to projects with respect to which a notice of project selection is received before the date of the enactment of the Housing and Community Development Act of 1987.²²⁸

(e) STATE PROGRAM.—(1) Except as provided in paragraph (2), the State shall administer resources made available under subsection (b) for any fiscal year. These resources shall only be used to carry out activities under this section in units of general local government and areas of the State that do not receive allocations under subsection (b) and in urban counties and cities whose allocations are less than the minimum allocation amount established under subsection (b)(2), but may not be used in areas which are eligible for assistance under title V of the Housing Act of 1949. The State may use all or part of these resources (A) to carry out its own rental

²²⁸ The date of enactment was February 5, 1988. Section 304 of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, provides that section 17(d) of the "United States Housing Act of 1987 is amended as follows:

"(11) Sale of units.—

"(A) In general.—Notwithstanding any other provision of law, in the case of a project assisted by a development grant awarded pursuant to this section where (i) the grant was originally approved for a nonprofit cooperative, and (ii) a majority of the units in the approved project have 3 or more bedrooms, the nonprofit owner of such project may sell such units for fee simple or condominium ownership if the requirements of subparagraph (B) are met.

"(B) Requirements.—The requirements of this subparagraph are that—

"(i) at least 80 percent of the units in the project are initially sold to households with incomes that do not exceed 80 percent of the median income of the area;

"(ii) housing cost to such households shall be initially calculated at not to exceed 30 percent of actual household income;

"(iii) each purchaser agrees that, during the 20-year period following the initial sale, any subsequent resale of the unit shall be to a purchaser whose income does not exceed 80 percent of the median income for the area; and

"(iv) after the 20-year period described in clause (iii), the pro rata grant attributable to a unit, which shall be secured by a deed of trust on the unit, shall be repaid upon any sale, lease, or transfer of any interest in the unit except for a sale of the unit to a purchaser whose income does not exceed 80 percent of the median income of the area.

"(C) Refinancing.—A refinancing of the unit involving an equity withdrawal shall require a repayment to the extent of the withdrawal not to exceed the pro rata amount of the grant attributable to the unit. A refinancing unrelated to a sale, equity withdrawal, lease, or transfer of interest shall not require repayment.

"(D) Administration.—A homeowner may request grantee approval of a sale, equity withdrawal, or other transfer with postponement of the repayment or without full or partial repayment and grantee may approve if the grantee determines that—

"(i) an undue hardship will result from the application of the repayment requirement, such as where the proceeds are insufficient to repay the loan in full; or

"(ii) postponing repayment is in the interest of neighborhood growth and stability.

"(E) Effect of repayment.—Upon repayment of the grant, any program requirements affecting the unit shall terminate. The grantee shall use repayments of the grant for low and moderate income housing as prescribed by the Secretary. Notwithstanding any existing project covenants or inconsistencies with this section, the Secretary shall take all action necessary to implement this paragraph."

The amendatory instructions in such section 304 were insufficient to execute the amendment. The amendment probably intended to add the new paragraph (11) at the end of section 17(d) of the United States Housing Act of 1937.

rehabilitation program, or (B) to distribute them to units of general local government. A city with a population over fifty thousand may, with the agreement of the State government, elect to contract with the State to administer the grant program under this section in any fiscal year.

(2) States may elect not to administer resources made available under subsection (b). This election shall be made in such manner and before such time as the Secretary may prescribe. The Secretary shall administer the resources available to any State exercising such an election in accordance with regulations and procedures prescribed by the Secretary, including the administration of grant programs of cities with populations over fifty thousand which elect not to administer their own program. Such regulations shall, to the maximum extent practicable, be comparable to those for cities and urban counties receiving resources under subsection (b).

(3) A State may apply for and receive, on behalf of a unit of local government located in that State and with the concurrence of that unit of general local government, a rental development grant to be used in accordance with the provisions of subsection (d).

(4) In any case in which the State is a grantee under any provision of this section, the Secretary shall require that the State take such actions as may be appropriate to assure compliance with the program requirements, owner agreements, and other provisions of this section.

(f) **APPLICABILITY OF REQUIREMENTS OR AGREEMENTS.**—Requirements imposed by or agreements made with States and units of general local government regarding rents in structures assisted under this section (including requirements relating to the rents which may be charged after rehabilitation) shall not apply to a structure assisted under this section unless (1) such requirements are imposed or agreements are entered into pursuant to a State²²⁹ law or local ordinance of general applicability which was enacted and in effect in that jurisdiction prior to the date of enactment of this section, and (2) such requirements or agreements would apply generally to structures not assisted under this section. This subsection shall not apply to requirements relating to rents imposed on a structure as a condition of receiving financial assistance under a program of the State of New York or City of New York or State of Vermont or State of Maryland for the rehabilitation of the structure if (1) the dollar amount of the State financial assistance (including the principal amount of loans) exceeds the dollar amount of financial assistance provided for the structure under this section, and (2) the structure is privately owned by (A) a person or family whose income does not exceed 80 percent of the median income for the metropolitan statistical area where the structure is located (or the country, if located outside such an area), or (B) a not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing for such persons, or by a wholly owned subsidiary of such a corporation or organization. This subsection shall also not apply to requirements relating to rents imposed on a structure by the City of West Hollywood, California.

(g) **RELOCATION.**—The Secretary shall by regulation establish such standards governing reasonable relocation payments and other related assistance as the Secretary determines to be appropriate.

(h) **ADMINISTRATIVE EXPENSES.**—(1) Except as provided in paragraph (2), grantees receiving assistance under this section may not deduct therefrom any amounts to cover administrative expenses in carrying out their responsibilities under this section.

²²⁹ The Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989, Pub. L. 101-45, 103 Stat. 112, amended this subsection "in clause (1), by inserting 'or municipal' after 'State'.". The amendment could not be executed and was probably intended to be made to clause (1) of the second sentence.

(2) A grantee may use not more than 10 percent of its initial rental rehabilitation grant under subsection (c) for each year to cover administrative expenses in carrying out its responsibilities under this section. Any State shall share the amount provided pursuant to the preceding sentence with units of general local government administering the program with the State.

(i) PRESERVATION, ENVIRONMENTAL POLICY, AND LABOR STANDARDS.—(1) The Secretary shall establish procedures which support national historic preservation objectives and which assure that, if any rehabilitation or development proposed to be assisted under this section would affect property which is included on the National Register of Historic Places or which is eligible for inclusion on the National Register of Historic Places, such activity shall not be undertaken unless (A) it will reasonably meet the standards issued by the Secretary of the Interior and the appropriate State historic preservation officer is afforded the opportunity to comment on the specific rehabilitation or development program, or (B) the Advisory Council on Historic Preservation is afforded an opportunity to comment on cases for which the grantee of assistance, in consultation with the State historic preservation officer, determines that the proposed activity cannot reasonably meet such standards or would adversely affect historic property as defined therein.

(2) The Secretary's award and grantee's use of resources made available under this section shall be subject to section 104(g) of the Housing and Community Development Act of 1974.

(3) A project assisted under this section shall be treated as a project subject to a mortgage insured under section 220 of the National Housing Act for the purpose of section 212 of such Act.

(j) FINANCING.—Subject to terms and conditions that are prescribed by the Secretary and are consistent with the purpose and other provisions of this section, any obligation issued by a State or local housing agency for the purpose of financing the development of a project or projects assisted under this section is hereby deemed an obligation that meets the requirements of, and has the benefits (including the benefit of interest earned with respect to the obligation being exempt from Federal taxation) associated with, an obligation described in section 11(b).

(k) DEFINITIONS.—For the purpose of this section—

(1) the term "rehabilitation grant" means a grant to finance moderate rehabilitation;

(2) the term "development grant" means a grant to finance new construction or substantial rehabilitation;

(3) the Secretary shall use the same population data and rules for designating cities and urban counties as apply under title I of the Housing and Community Development Act of 1974;

(4) the term "privately owned real property to be used primarily for residential rental purposes" includes (A) cooperative or mutual housing which has a resale structure which enables the cooperative to maintain affordability for low-income families, and (B) housing that is owned by a State or locally chartered, neighborhood based, nonprofit organization the primary purpose of which is the provision and improvement of housing;

(5) the term "grantee" means—

(A) any city or urban county receiving resources under subsection (b), and any unit of general local government receiving resources under subsection (d);

(B) any State administering a rental rehabilitation or development program as provided in subsection (e); and

(C) any unit of general local government which receives assistance from the Secretary as provided in subsection (e);

(6) the term "State" means each of the several States and the Commonwealth of Puerto Rico; and

(7) the term "unit of general local government" means (A) any city, county, town, township, parish, village, or other general purpose political subdivision of a State; (B) any Indian tribe (as defined in section 102(a)(17) of the Housing and Community Development Act of 1974); and (C) the District of Columbia, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

The Secretary shall encourage cooperation by units of general local government in the administration of grants under this section by permitting consortia of geographically proximate units of general local government to apply for assistance on behalf of their members, including establishment of eligibility under subsection (b) for consortia whose combined populations exceed fifty thousand and which can otherwise meet the requirements of such subsection. Any amounts made available to such a consortium shall be deducted from the allocation to the State in which the units of general local government are located.

(1) REVIEW AND AUDIT.—The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(1) where the grantee is a unit of general local government, or a State carrying out its own program as provided in subsection (e)(1), whether the grantee has carried out its activities in a timely manner and in accordance with the requirements of this section, and has a continuing capacity to carry out those activities in a timely manner; and

(2) where the grantee is a State distributing resources made available under this section to units of general local government as provided in subsection (e)(1), whether the State (A) has distributed such resources in a timely manner and in accordance with the requirements of this section, and (B) has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the performance criteria described in paragraph (1).

In addition to the adjustments based on performance authorized by subsection (b)(2), the Secretary may adjust, reduce, or withdraw resources made available to States and units of general local government receiving assistance under this section, or take other action as appropriate in accordance with the findings of these reviews and audits, except that resources already expended on eligible activities shall not be recaptured or deducted from future resources made available to the grantee. Any amounts which become available as a result of actions under this paragraph shall be reallocated in the year in which they become available to such grantee or grantees as the Secretary may determine.

(m) PERFORMANCE REPORT.—Prior to the beginning of fiscal year 1985 and each fiscal year thereafter, each grantee shall submit to the Secretary a performance report concerning the activities carried out pursuant to this section, together with an assessment by the grantee of the relationship of these activities to the objectives of this section. Such report shall contain an analysis of the program's cost effectiveness, the type and income levels of tenants who benefit from the rehabilitation program, any tenant displacement resulting from the program, and any other information the Secretary may require. To facilitate this reporting requirement, each grantee shall require owners of property rehabilitated under this section to provide verified income data

and other pertinent tenant demographic information as prescribed by the Secretary (to include household size and race) or to otherwise arrange for the collection of such information on an annual basis. The Secretary shall stipulate the format for such data collection to assure that such information can be aggregated at the national level to allow congressional oversight.

(n) REPORT TO CONGRESS.—Prior to the beginning of fiscal year 1985 and each fiscal year thereafter, the Secretary shall provide a report to the Congress as to the overall progress of grantees in meeting the objectives of this section. Such report shall include an analysis of program costs, services delivered, beneficiaries, and the extent to which lower income tenants have been displaced as a result of rehabilitation assisted under this section.

(o) INAPPLICABILITY OF CERTAIN PROVISIONS.—Unless otherwise specifically provided in this section, the following provisions of this Act shall not apply to grants provided under this section: section 3(a), section 3(b)(1), the third sentence of section 3(b)(3), section 3(b)(7), the last sentence of section 6(a), and any other provision of this Act that is inconsistent with the provisions of this section.

²³⁰DEMOLITION AND DISPOSITION OF PUBLIC HOUSING

~~—SEC. 18.²³¹ [42 U.S.C. 1437p] (a) The Secretary may not approve an application by a public housing agency for permission, with or without financial assistance under this Act, to demolish or dispose of a public housing project or a portion of a public housing project unless the Secretary has determined that—~~

~~—(1) in the case of an application proposing demolition of a public housing project or a portion of a public housing project, the project or portion of the project is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes, and no reasonable program of modifications is feasible to return the project or portion of the project to useful life; or in the case of an application proposing the demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project;~~

~~—(2) in the case of an application proposing disposition of real property of a public housing agency by sale or other transfer—~~

~~—(A)(i) the property's retention is not in the best interests of the tenants or the public housing agency because developmental changes in the area surrounding the project adversely affect the health or safety of the tenants or the feasible operation of the project by the public housing agency, because disposition allows the acquisition, development, or rehabilitation of other properties which will be~~

²³⁰ Section 531(a) of the QHWRA amended section 18 to read as shown. Section 531(c) of the QHWRA states "(c) Treatment of Frost-Leland Provisions.—Notwithstanding any other provision of law, on and after the date of the enactment of this Act, the public housing projects described in section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-213), as in effect on April 25, 1996, shall be eligible for demolition under—

(1) section 9 of the United States Housing Act of 1937, as amended by this Act; and

(2) section 14 of the United States Housing Act of 1937, as that section existed on the day before the date of the enactment of this Act.

(c) Applicability.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act."

²³¹ Section 1002(a) of Public Law 104-19, approved July 27, 1995, made numerous amendments to this section repealing the requirement that each public housing dwelling unit demolished or disposed be replaced with an additional dwelling unit. Subsection (d) of such section 1002 provides as follows:

"(d) Subsections (a), (b), and (c) shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and on or before September 30, 1998."

~~more efficiently or effectively operated as low income housing projects and which will preserve the total amount of low income housing stock available in the community, or because of other factors which the Secretary determines are consistent with the best interests of the tenants and public housing agency and which are not inconsistent with other provisions of this Act; and~~

~~———(ii) for property other than dwelling units, the property is excess to the needs of a project or the disposition is incidental to, or does not interfere with, continued operation of a project; and~~

~~———(B) the net proceeds of the disposition will be used for (i) the payment of development cost for the project and for the retirement of outstanding obligations issued to finance original development or modernization of the project, which, in the case of scattered site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition, and (ii) to the extent that any proceeds remain after the application of proceeds in accordance with clause (i), the provision of housing assistance for low income families through such measures as modernization of low income housing, or the acquisition, development, or rehabilitation of other properties to operate as low income housing; or~~

~~———(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2) —~~

~~———(A) such assistance has not been provided for the portion of the project to be demolished or disposed within the 10 year period ending upon submission of the application; or~~

~~———(B) the property's retention is not in the best interest of the tenants or the public housing agency because of extraordinary changes in the area surrounding the project or other extraordinary circumstances of the project.~~

~~———(b) The Secretary may not approve an application or furnish assistance under this section or under this Act unless —~~

~~———(1) the application from the public housing agency has been developed in consultation with tenants and tenant councils, if any, who will be affected by the demolition or disposition, and the tenant councils, resident management corporation, and tenant cooperative of the project or portion of the project covered by the application, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application, and contains a certification by appropriate local government officials that the proposed activity is consistent with the applicable housing assistance plan; and~~

~~———(2) all tenants to be displaced as a result of the demolition or disposition will be given assistance by the public housing agency and are relocated to other decent, safe, sanitary, and affordable housing, which is, to the maximum extent practicable, housing of their choice, including housing assisted under section 8 of this Act, and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated.~~

~~— (c) Notwithstanding any other provision of law, the Secretary is authorized to make available financial assistance for applications approved under this section using available contributions authorized under section 5.~~

~~— (d) A public housing agency shall not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining the approval of the Secretary and satisfying the conditions specified in subsections (a) and (b): Provided, That nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants.~~

~~— (e)(1) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for assistance under section 8 that is available for families not currently receiving such assistance not more than 10 percent of such budget authority for providing replacement housing under subsection (b)(3)(A)²³² for units demolished or disposed of pursuant to this section.~~

~~— (2) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for development of public housing under section 5(a)(2) not more than the lesser of 30 percent of such budget authorization or \$150,000,000, for providing replacement housing under subsection (b)(3)(A)1 for units demolished or disposed of pursuant to this section.~~

~~— (f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be built on the original public housing site or in the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished. No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved, by a court.~~

~~— (g) The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of this Act.~~

SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) APPLICATIONS FOR DEMOLITION AND DISPOSITION.—Except as provided in subsection (b), upon receiving an application by a public housing agency for authorization, with or without financial assistance under this title, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

(1) in the case of—

(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

²³² The Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995, Pub. L. 104-19, 109 Stat. 236, amended this subsection by "striking 'under section (b)(3)(A)' in each place it occurs". The amendment could not be executed.

- (B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;*
- (2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this title—*
- (A) the retention of the property is not in the best interests of the residents or the public housing agency because—*
- (i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or*
- (ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;*
- (B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—*
- (i) in the best interests of the residents and the public housing agency;*
- (ii) consistent with the goals of the public housing agency and the public housing agency plan; and*
- (iii) otherwise consistent with this title; or*
- (C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;*
- (3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;*
- (4) that the public housing agency—*
- (A) will notify each family residing in a project subject to demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—*
- (i) the public housing project will be demolished or disposed of;*
- (ii) the demolition of the building in which the family resides will not commence until each resident of the building is relocated; and*
- (iii) each family displaced by such action will be offered comparable housing—*
- (I) that meets housing quality standards;*
- (II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and*
- (III) which may include—*
- (aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;*

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

(C) will ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

(D) will provide any necessary counseling for residents who are displaced; and

(E) will not commence demolition or complete disposition until all residents residing in the building are relocated;

(5) that the net proceeds of any disposition will be used—

(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for—

(i) the provision of low-income housing or to benefit the residents of the public housing agency; or

(ii) leveraging amounts for securing commercial enterprises, on-site in public housing projects of the public housing agency, appropriate to serve the needs of the residents; and

(6) that the public housing agency has complied with subsection (c).

(b) DISAPPROVAL OF APPLICATIONS.—The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—

(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

(2) the application was not developed in consultation with—

(A) residents who will be affected by the proposed demolition or disposition;

(B) each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition; and

(C) appropriate government officials.

(c) RESIDENT OPPORTUNITY TO PURCHASE IN CASE OF PROPOSED DISPOSITION.—

(1) IN GENERAL.—In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

(2) *TIMING.*—

(A) *EXPRESSION OF INTEREST.*—A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

(B) *OPPORTUNITY TO ARRANGE PURCHASE.*—If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice (other than to the entity providing the notice), during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

(d) *REPLACEMENT UNITS.*—Notwithstanding any other provision of law, replacement public housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished.

(e) *CONSOLIDATION OF OCCUPANCY WITHIN OR AMONG BUILDINGS.*—Nothing in this section may be construed to prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(f) *DE MINIMIS EXCEPTION TO DEMOLITION REQUIREMENTS.*—Notwithstanding any other provision of this section, in any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

(g) *UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT.*—The Uniform Relocation and Real Property Acquisition Policies Act of 1970 shall not apply to activities under this section.

(h) *RELOCATION AND REPLACEMENT.*—Of the amounts appropriated for tenant-based assistance under section 8 in any fiscal year, the Secretary may use such sums as are necessary for relocation and replacement housing for dwelling units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes).

FINANCING LIMITATIONS

SEC. 19. [42 U.S.C. 1437q] On and after October 1, 1983, the Secretary—

(1) may only enter into contracts for annual contributions regarding obligations financing public housing projects authorized by section 5(c) if such obligations are exempt from taxation under section 11(b), or if such obligations are issued under section 4 and such obligations are exempt from taxation; and

(2) may not enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first

sentence of section 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purposes of financing public housing projects authorized by section 5(c) of this Act.

PUBLIC HOUSING RESIDENT MANAGEMENT

SEC. 20. [42 U.S.C. 1437r] (a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term "public housing project" includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) PROGRAM REQUIREMENTS.—

(1) RESIDENT COUNCIL.—As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

(3) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(4) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this Act applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials,²³³ *rent determination, community service requirements*, and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

~~²³⁴(e) COMPREHENSIVE IMPROVEMENT ASSISTANCE.—Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 14 for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract.~~

(c) ASSISTANCE AMOUNTS.—A contract under this section for management of a public housing project by a resident management corporation shall provide for—

(1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing project that exceeds the income estimated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 9.

(d) WAIVER OF FEDERAL REQUIREMENTS.—

(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity

²³³ Section 532(a)(1) of the QHWRA amended section 20(b)(4).

²³⁴ Section 532(a)(2) of the QHWRA amended section 20(c) to read as shown.

to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

~~—————²³⁵(3) REPORT ON ADDITIONAL WAIVERS.—Not later than 6 months after the date of the enactment of the Housing and Community Development Act of 1987,²³⁶ the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies.~~

²³⁷(4)(3) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16, rental payments under section 3(a), tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

~~—————²³⁸(e) OPERATING SUBSIDY AND PROJECT INCOME.—~~

~~—————(1) CALCULATION OF OPERATING SUBSIDY.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the operating subsidy received by a public housing agency under section 9 that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.~~

~~—————(2) CONTRACT REQUIREMENTS.—Any contract for management of a public housing project entered into by a public housing agency and a resident management corporation shall specify the amount of income expected to be derived from the project itself (from sources such as rents and charges) and the amount of income funds to be provided to the project from the other sources of income of the public housing agency (such as operating subsidy under section 9, interest income, administrative fees, and rents).~~

~~—————(3) CALCULATION OF TOTAL INCOME.—~~

~~—————(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.~~

~~—————(B) If the total income of a public housing agency (including the operating subsidy provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or~~

²³⁵ Section 532(a)(3) of the QHWRRA deleted section 20(d)(3).

²³⁶ The date of enactment was February 5, 1988.

²³⁷ Section 532(a)(3) of the QHWRRA redesignated section 20(d)(4) to 20(d)(3).

²³⁸ Section 532(a)(4)(B) of the QHWRRA amended to read as shown.

~~increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in operating subsidy that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.~~

(e) *DIRECT PROVISION OF OPERATING AND CAPITAL ASSISTANCE.*—

(1) *IN GENERAL.*—*The Secretary shall directly provide assistance from the Operating and Capital Funds to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—*

(A) *the resident management corporation petitions the Secretary for the release of the funds;*

(B) *the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and*

(C) *the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.*

(2) *USE OF ASSISTANCE.*—*Any assistance from the Operating and Capital Funds provided to a resident management corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.*

(3) *RESPONSIBILITY OF PUBLIC HOUSING AGENCY.*—*If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.*

(4) *CALCULATION OF OPERATING FUND ALLOCATION.*—*Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the amount received by a public housing agency under section 9 that is due to an allocation from the Operating Fund and that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.*

(5) *CALCULATION OF TOTAL INCOME.*—

(A) *Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of the enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.*

(B) *If the total income of a public housing agency (including any amounts from the Capital or Operating Funds provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in amounts from the Operating Fund that occurs as a result of fraud,*

waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

²³⁹(4)(6) RETENTION OF EXCESS REVENUES.—

(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) ²⁴⁰the operating subsidies provided to the allocations from the Operating Fund for the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for low-income families.

~~²⁴¹(f) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—~~

~~(1) FINANCIAL ASSISTANCE.— To the extent budget authority is available for section 14, the Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.~~

~~(2) Limitation on assistance.— The financial assistance provided under this subsection with respect to any public housing project may not exceed \$100,000.~~

~~(3) Authorization of appropriations.— There are authorized to be appropriated to carry out this subsection \$4,750,000 for fiscal year 1993 and \$4,949,500 for fiscal year 1994.~~

~~(4) Limitation regarding assistance under hope grant program.— The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III.~~

~~(g) ASSESSMENT AND REPORT BY THE SECRETARY.— Not later than 3 years after the date of the enactment of the Housing and Community Development Act of 1987,²⁴² the Secretary shall—~~

~~(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and~~

~~(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.~~

(h) APPLICABILITY.—Any management contract between a public housing agency and a resident management corporation that is entered into after the date of the enactment of the

²³⁹ Section 532(a)(4)(A) of the QHWRA redesignated section 20(e)(4) to 20(e)(6).

²⁴⁰ Section 532(a)(4)(C) of the QHWRA amended section 20(e)(6)(A).

²⁴¹ Section 532(a)(5) of the QHWRA deleted section 20(f) and (g).

²⁴² The date of enactment was February 5, 1988.

Stewart B. McKinney Homeless Assistance Amendments Act of 1988²⁴³ shall be subject to this section and the regulations issued to carry out this section.

PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

SEC. 21. [42 U.S.C. 1437s] (a) HOMEOWNERSHIP OPPORTUNITIES IN GENERAL.—Lower income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 20;

(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

(2) HOMEOWNERSHIP ASSISTANCE.—

(A) The Secretary may provide ²⁴⁴~~comprehensive improvement assistance~~ *assistance from the Capital Fund* to a public housing project in which homeownership activities under this section are conducted.

(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.

(C) This paragraph shall not have effect after February 4, 1991. The Secretary may not provide financial assistance under subparagraph (B), after such date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.²⁴⁵

(3) CONDITIONS OF PURCHASE BY A RESIDENT MANAGEMENT CORPORATION.—

(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

(i) the resident management corporation has met the conditions of paragraph (1);

²⁴³ November 7, 1988.

²⁴⁴ Section 532(b)(1)(A) of the QHwRA amended section 21(a)(2)(A).

²⁴⁵ November 28, 1990.

(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

(v) the building or buildings meet the ²⁴⁶~~minimum safety and livability standards applicable under section 14~~ *housing quality standards applicable under section 6(f)*, and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

(C) This paragraph shall not have effect after February 4, 1991. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.²⁴⁷

(4) CONDITIONS OF RESALE.—

(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing

²⁴⁶ Section 532(b)(1)(B) of the QHWRRA amended section 21(a)(3)(A)(v).

²⁴⁷ November 28, 1990.

project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

(I) a lower income family residing in the public housing project in which the dwelling unit is located;

(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 8, with priority given in the order in which the family appears on the waiting list.

(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

(i) Limited dividend cooperative ownership.

(ii) Condominium ownership.

(iii) Fee simple ownership.

(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

(v) Any other arrangement determined by the Secretary to be appropriate.

(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 8, or to the public housing agency.

(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

(i) the contribution to equity paid by the owner;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(5) USE OF PROCEEDS.—Notwithstanding any other provision of this Act or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

(6) FINANCING.—When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

(7) ~~248 ANNUAL CONTRIBUTIONS~~ CAPITAL AND OPERATING ASSISTANCE.—Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to ~~249 pay annual contributions~~ provide assistance under section 9 with respect to the project. ~~250 Such contributions may not exceed the maximum contributions authorized in section 5(a).~~ Such assistance may not exceed the allocation for the project under section 9.

(8) ~~251 OPERATING SUBSIDIES~~.—~~Operating subsidies~~ OPERATING FUND ALLOCATION.—Amounts from the Operating Fund shall not be available with respect to a building after the date of its sale by the public housing agency.

(b) PROTECTION OF NONPURCHASING FAMILIES.—

(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

(2) TENANTS RIGHTS.—Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this Act.

(3) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) ~~252 a certificate under section 8(b)(1) or a housing voucher~~ tenant-based assistance under section 8(o) for as long as the family continues to reside in the building. The

²⁴⁸ Section 532(b)(1)(C)(i) of the QHWRRA amended section 21(a)(7).

²⁴⁹ Section 532(b)(1)(C)(ii) of the QHWRRA amended section 21(a)(7).

²⁵⁰ Section 532(b)(1)(C)(iii) of the QHWRRA amended section 21(a)(7).

²⁵¹ Section 532(b)(1)(D) of the QHWRRA amended section 21(a)(8).

²⁵² Section 532(b)(2)(A) of the QHWRRA amended section 21(b)(3).

Secretary may adjust the ²⁵³~~fair market rent for such certificate~~ *payment standard for such assistance* to take into account conditions under which the building was purchased.

(4) RENTAL AND RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 3(a)(1).

(c) FINANCIAL ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

(d) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under ²⁵⁴~~section 5(h) or section 6(c)(4)(D)~~, ²⁵⁵*as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998*, and in existence before the date of the enactment of the Housing and Community Development Act of 1987.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

[(f) [Repealed.]]

(g) LIMITATION.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act. [42 U.S.C. 1437s]

²⁵⁶FAMILY INVESTMENT CENTERS

~~SEC. 22. [42 U.S.C. 1437t] (a) PURPOSE.—The purpose of this section is to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by—~~

~~(1) developing facilities in or near public housing for training and support services;~~

~~(2) mobilizing public and private resources to expand and improve the delivery of such services;~~

²⁵³ Section 532(b)(2)(B) of the QHWRA amended section 21(b)(3).

²⁵⁴ Section 518(a)(2)(A) of the QHWRA amended section 21(d).

²⁵⁵ Section 532(b)(3) of the QHWRA amended section 21(d).

²⁵⁶ Section 533(a) of the QHWRA amended section 22 to read as shown. Entire section 22 amended by Section 533(a). NOTE: section 533(b) of the QHWRA contains "Savings Provision.—The amendment made by subsection (a) shall not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937, as such section existed immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998."

~~———(3) providing funding for such essential training and support services that cannot otherwise be funded; and~~

~~———(4) improving the capacity of management to assess the training and service needs of families with children, coordinate the provision of training and services that meet such needs, and ensure the longterm provision of such training and services.~~

~~(b) GRANT AUTHORITY.—~~

~~———(1) IN GENERAL.— The Secretary may make grants to public housing agencies to adapt public housing to help families living in the public housing gain better access to educational and job opportunities to achieve self-sufficiency and independence. Assistance under this section may be made available only to public housing agencies that demonstrate to the satisfaction of the Secretary that supportive services (as such term is defined under subsection (j)) will be made available. Facilities assisted under this section shall be in or near the premises of public housing.~~

~~———(2) SUPPLEMENTAL GRANT SET ASIDE.— The Secretary may reserve not more than 5 percent of the amounts available in each fiscal year under this section to supplement grants awarded to public housing agencies under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.~~

~~(c) USE OF AMOUNTS.— Amounts received from a grant under this section may only be used for—~~

~~———(1) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create common areas to accommodate the provision of supportive services;~~

~~———(2) the renovation of existing common areas in a public housing project to accommodate the provision of supportive services;~~

~~———(3) the renovation of facilities located near the premises of 1 or more public housing projects to accommodate the provision of supportive services;~~

~~———(4) the provision of not more than 15 percent of the cost of any supportive services (which may be provided directly to eligible residents by the public housing agency or by contract or lease through other appropriate agencies or providers) only if the public housing agency demonstrates to the satisfaction of the Secretary that—~~

~~———(A) the supportive services are appropriate to improve the access of eligible residents to employment and educational opportunities; and~~

~~———(B) the public housing agency has made diligent efforts to use or obtain other available resources to fund or provide such services; and~~

~~———(5) the employment of service coordinators subject to such minimum qualifications and standards that the Secretary may establish to ensure sound management, who may be responsible for—~~

~~———(A) assessing the training and service needs of eligible residents;~~

~~———(B) working with service providers to coordinate the provision of services and tailor such services to the needs and characteristics of eligible residents;~~

~~———(C) mobilizing public and private resources to ensure that the supportive services identified pursuant to subsection (c)(1) can be funded over the time period identified under such subsection;~~

~~——(B)²⁵⁷ monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and~~

~~——(V)⁺ performing such other duties and functions that the Secretary determines are appropriate to provide families living in public housing with better access to educational and employment opportunities.~~

~~——(d) ALLOCATION OF GRANT AMOUNTS. Assistance under this section shall be allocated by the Secretary among approvable applications submitted by public housing agencies.~~

~~——(e) APPLICATIONS. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Each application for assistance shall contain——~~

~~——(1) a description of the supportive services that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under subsection (e) that involve substantial rehabilitation);~~

~~——(2) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities assisted under subsection (e);~~

~~——(3) a description of public or private sources of assistance that can reasonably be expected to fund or provide supportive services for the entire period specified under paragraph (1), including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);~~

~~——(4) certification from the appropriate State or local agency (as determined by the Secretary) that——~~

~~——(A) the provision of supportive services described in paragraph (1) is well designed to provide resident families better access to educational and employment opportunities; and~~

~~——(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified in paragraph (1);~~

~~——(5) a description of assistance for which the public housing agency is applying under this section; and~~

~~——(6) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this section.~~

~~——(f) SELECTION. The Secretary shall establish selection criteria for grants under this section, which shall take into account——~~

~~——(1) the ability of the public housing agency or a designated service provider to provide the supportive services identified under subsection (e)(1);~~

~~——(2) the need for such services in the public housing project;~~

~~——(3) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provision of such services;~~

~~——(4) the extent to which the public housing agency has demonstrated that such services will be provided for the period identified under subsection (e)(1);~~

~~——(5) the extent to which the public housing agency has a good record of maintaining and operating public housing; and~~

²⁵⁷ So in law.

~~————(6) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this section are used effectively.~~

~~————(g) REPORTS.————~~

~~————(1) TO SECRETARY.—— Each public housing agency receiving a grant under this section shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual progress report describing and evaluating the use of grant amounts received under this section.~~

~~————(2) TO CONGRESS.—— The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this section in such fiscal year. Such report shall summarize the progress reports submitted pursuant to paragraph (1).~~

~~————(h) EMPLOYMENT OF PUBLIC HOUSING RESIDENTS.—— Each public housing agency shall, to the maximum extent practicable, employ public housing residents to provide the services assisted under this section or from other sources. Such persons shall be paid at a rate not less than the highest of——~~

~~————(1) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;~~

~~————(2) the State or local minimum wage for the most nearly comparable covered employment; or~~

~~————(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.~~

~~(i) TREATMENT OF INCOME.—— No service provided to a public housing resident under this section may be treated as income for the purpose of any other program or provision of State or Federal law.~~

~~————(j) DEFINITION OF SUPPORTIVE SERVICES.—— For purpose of this section, the term "supportive services" means new or significantly expanded services that the Secretary determines are essential to providing families living with children in public housing with better access to educational and employment opportunities. Such services may include——~~

~~————(1) child care;~~

~~————(2) employment training and counseling;~~

~~————(3) literacy training;~~

~~————(4) computer skills training;~~

~~————(5) assistance in the attainment of certificates of high school equivalency; and~~

~~————(6) other appropriate services.~~

~~————(k) AUTHORIZATION OF APPROPRIATIONS.—— There are authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 1993 and \$26,050,000 for fiscal year 1994.~~

SEC. 22. AUTHORITY TO CONVERT PUBLIC HOUSING TO VOUCHERS.

(a) AUTHORITY.—A public housing agency may convert any public housing project (or portion thereof) owned by the public housing agency to tenant-based assistance, but only in accordance with the requirements of this section.

(b) CONVERSION ASSESSMENT.——

(1) IN GENERAL.—To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes——

(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 8 for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project for the remaining useful life of the project;

(B) an analysis of the market value of the public housing project both before and after rehabilitation, and before and after conversion;

(C) an analysis of the rental market conditions with respect to the likely success of the use of tenant-based assistance under section 8 in that market for the specific residents of the public housing project, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 8 by the agency;

(D) the impact of the conversion to tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to tenant-based assistance.

(2) **TIMING.**—Not later than 2 years after the effective date under section 503(a) of the *Quality Housing and Work Responsibility Act of 1998*, each public housing agency shall conduct an assessment under paragraph (1) or (3) of the status of each public housing project owned by such agency and shall submit to the Secretary such assessment. A public housing agency may otherwise undertake an assessment under this subsection at any time and for any public housing project (or portion thereof) owned by the agency. A public housing agency may update a previously conducted assessment for a project (or portion thereof) for purposes of compliance with the one-year limitation under subsection (c).

(3) **STREAMLINED ASSESSMENT.**—At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or (3) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

(c) **CRITERIA FOR IMPLEMENTATION OF CONVERSION PLAN.**—A public housing agency may convert a public housing project (or portion thereof) owned by the agency to tenant-based assistance only pursuant to a conversion assessment under subsection (b) that one year and that demonstrates that the conversion—

(1) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing;

(2) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community; and

(3) will not adversely affect the availability of affordable housing in such community.

(d) **CONVERSION PLAN REQUIREMENT.**—A public housing project may be converted under this section to tenant-based assistance only as provided in a conversion plan under this subsection, which has not been disapproved by the Secretary pursuant to subsection (e). Each conversion plan shall—

(1) be developed by the public housing agency, in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof) to be converted;

(2) be consistent with and part of the public housing agency plan;

(3) describe the conversion and future use or disposition of the project (or portion thereof) and include an impact analysis on the affected community;

(4) provide that the public housing agency shall—

(A) notify each family residing in a public housing project (or portion) to be converted under the plan 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project (or portion) will be removed from the inventory of the public housing agency; and

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit; and

(D) provide any actual and reasonable relocation expenses for families displaced by the conversion; and

(5) provide that any proceeds to the agency from the conversion will be used subject to the limitations that are applicable under section 18(a)(5) to proceeds resulting from the disposition or demolition of public housing.

(e) REVIEW AND APPROVAL OF CONVERSION PLANS.—The Secretary shall disapprove a conversion plan only if—

(1) the plan is plainly inconsistent with the conversion assessment for the agency developed under subsection (b);

(2) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

(3) *the plan otherwise fails to meet the requirements of this section.*

(f) *TENANT-BASED ASSISTANCE.—To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 8 shall be added to the annual contribution contract administered by the public housing agency.*

SEC. 23. [42 U.S.C. 1437u] FAMILY SELF-SUFFICIENCY PROGRAM.

(a) **PURPOSE.**—The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

(b) **ESTABLISHMENT OF PROGRAM.**—

(1) **REQUIRED PROGRAMS.**—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 or makes available new public housing dwelling units—

(A) may, during fiscal years 1991 and 1992, carry out a local Family Self-Sufficiency program under this section;²⁵⁸ ~~and~~

(B) effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency program under this section.

Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program,²⁵⁹ *subject to the limitations in paragraph (4); and*

²⁶⁰(C) *effective on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, to the extent an agency is not required to carry out a program pursuant to subparagraph (B) of this paragraph and paragraph (4), may carry out a local Family Self-Sufficiency program under this section.*

(2) **EXCEPTION.**—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency provides certification (as such term is defined under title I of the Cranston-Gonzalez National Affordable Housing Act) to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include—

(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under ~~the Job Training Partnerships Act or the title I of the Workforce Investment Act of 1988 or the Job~~

²⁵⁸ Section 509(a)(1)(A)(i) of the QHWRRA amended section 23(b)(1)(A). Section 509(b) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

²⁵⁹ Section 509(a)(1)(A)(ii) of the QHWRRA amended section 23(b)(1)(B). Section 509(b) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

²⁶⁰ Section 509(a)(1)(A)(iii) of the QHWRRA added section 23(b)(1)(C). Section 509(b) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

²⁶¹ Section 405(d)(31)(A) and section 405(f)(23)(A) of the Omnibus Act, 1999, amended section 23(b)(2)(A) of the United States Housing Act of 1937.

Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

- (B) lack of funding for reasonable administrative costs;
- (C) lack of cooperation by other units of State or local government; or
- (D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.

(3) SCOPE.—~~Each~~ *Subject to paragraph (4), each*²⁶² public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

(A) Certificate and voucher assistance under section 8(b) and (o), in an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year).

(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

²⁶³(4) *TERMINATION OF REQUIREMENT TO EXPAND PROGRAM.*—

(A) *In general.*—*Notwithstanding any other provision of law, a public housing agency that receives incremental assistance under subsection (b) or (o) of section 8 or that makes available new public housing dwelling units shall not be required, after the enactment of the Quality Housing and Work Responsibility Act of 1998, to provide assistance under a local Family Self-Sufficiency program under this section to any families not required to be assisted under subparagraph (B) of this paragraph.*

(B) *CONTINUATION OF EXISTING OBLIGATIONS.*—

(i) *IN GENERAL.*—*Each public housing agency that, before the enactment of the Quality Housing and Work Responsibility Act of 1998, was required under this section to carry out a local Family Self-Sufficiency program shall continue to operate such local program for the number of families determined under paragraph (3), subject only to the availability under appropriations Acts of sufficient amounts for housing assistance.*

(ii) *REDUCTION.*—*The number of families for which an agency is required under clause (i) to operate such local program shall be decreased by one for each family that, after enactment of the Quality*

²⁶² Section 509(a)(1)(B) of the QHWRA amended section 23(b)(3). Section 509(b) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

²⁶³ Section 509(a)(1)(D) of the QHWRA added section 23(b)(4). Section 509(b) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

Housing and Work Responsibility Act of 1998, fulfills its obligations under the contract of participation.

²⁶⁴(4)(5) NONPARTICIPATION.—Assistance under the certificate or voucher programs under section 8 for a family that elects not to participate in a local program shall not be delayed by reason of such election.

(c) CONTRACT OF PARTICIPATION.—

(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program, shall establish specific interim and final goals by which compliance with and performance of the contract may be measured, and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).

(2) SUPPORTIVE SERVICES.—A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1). The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include—

- (A) child care;
- (B) transportation necessary to receive services;
- (C) remedial education;
- (D) education for completion of high school;
- (E) job training and preparation;
- (F) substance abuse treatment and counseling;
- (G) training in homemaking and parenting skills;
- (H) training in money management;
- (I) training in household management; and
- (J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

²⁶⁴ Section 509(a)(1)(C) of the QHWRA redesignated section 23(b)(4) to 23(b)(5). Section 509(b) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

(d) INCENTIVES FOR PARTICIPATION.—

(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

(2) ESCROW SAVINGS ACCOUNTS.—For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.

(3) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.

~~²⁶⁵(3)²⁶⁶ USE OF ESCROW SAVINGS ACCOUNTS FOR SECTION 8 HOMEOWNERSHIP.—~~
~~Notwithstanding paragraph (3)²⁶⁷, a family that uses assistance under section 8(y) to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (3)²⁶⁸ for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.~~

(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(f) PROGRAM COORDINATING COMMITTEE.—

(1) FUNCTIONS.—Each public housing agency ²⁶⁸*carrying out a local program under this section* shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out ~~²⁶⁹programs under the Job Training Partnership Act and the programs under title I of the Workforce Investment Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act~~, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

(g) ACTION PLAN.—

(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local

²⁶⁵ Section 509(a)(2) of the QHWRA deleted section 23(d)(3). Section 509(b) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

²⁶⁶ So in law. See section 185(b) of the Housing and Community Development Act of 1992, Pub. L. 102-550.

²⁶⁷ So in law. Probably intended to refer to paragraph (2).

²⁶⁸ Section 509(a)(3) of the QHWRA amended section 23(f)(1). Section 509(b) of the QHWRA made this amendment effective upon enactment of the QHWRA (October 21, 1998).

²⁶⁹ Section 405(d)(31)(B) and section 405(f)(23)(B) of the Omnibus Act, 1999, amended section 23(f)(2) of the United States Housing Act of 1937.

government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for ²⁷⁰~~programs under the Job Training Partnership Act and the~~ *programs under title I of the Workforce Investment Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act*, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public housing programs, which shall be provided by both public and private resources;

(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;

(E) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

(F) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

(G) a timetable for implementation of the local program;

(H) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and ²⁷¹~~program under the Job Training Partnership Act and any other~~ *programs under title I of the Workforce Investment Act of 1998 and any other* relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.

(h) ALLOWABLE PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES AND COSTS.—

(1) SECTION 8 FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section. The fee shall be the fee

²⁷⁰ Section 405(d)(31)(C)(i) and section 405(f)(23)(C)(i) of the Omnibus Act, 1999, amended section 23(g)(2) of the United States Housing Act of 1937.

²⁷¹ Section 405(d)(31)(C)(ii) and section 405(f)(23)(C)(ii) of the Omnibus Act, 1999, amended section 23(g)(3)(H) of the United States Housing Act of 1937.

in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 8(q)(2)(A)(i) shall, subject to approval in appropriations Acts, be \$300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

(2) PERFORMANCE FUNDING SYSTEM.—Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 9(c) for fiscal year 1993, \$25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, \$25,900,000 is authorized to be used for costs under this paragraph.

(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish performance²⁷² criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 8 that is available for purposes of providing assistance under the existing housing certificate and housing voucher programs for families not currently receiving assistance, and not less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 5(a)(2) (excluding amounts for major reconstruction of obsolete projects).

(j) ON-SITE FACILITIES.—Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of

²⁷² So in law.

supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

(l) REPORTS.—

(1) TO SECRETARY.—Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

(A) a description of the activities carried out under the program;

(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

(m) GAO REPORT.—The Comptroller General of the United States may submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

(n) DEFINITIONS.—As used in this section:

(1) The term "contract of participation" means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

(2) The term "earned income" means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

(3) The term "eligible family" means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program.

(4) The term "local program" means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

(5) The term "participating family" means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

(6) The term "vacant unit" means a dwelling unit that has been vacant for not less than 9 consecutive months.

(o) EFFECTIVE DATE AND REGULATIONS.—

(1) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act,²⁷³ the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

[(2) [Repealed.]]

~~²⁷⁴SEC. 24. [42 U.S.C. 1437v] REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.~~

~~—(a) PROGRAM AUTHORITY.—The Secretary may make—~~

~~—(1) planning grants under subsection (c) to enable applicants to develop revitalization programs for severely distressed public housing in accordance with this section; and~~

~~—(2) implementation grants under subsection (d) to carry out revitalization programs for severely distressed public housing in accordance with this section.~~

~~—(b) DESIGNATION OF ELIGIBLE PROJECTS.—~~

~~—(1) IDENTIFICATION.—Not later than 90 days after the date of enactment of the Housing and Community Development Act of 1992²⁷⁵, public housing agencies shall identify, in such form and manner as the Secretary may prescribe, any public housing projects that they consider to be severely distressed public housing for purposes of receiving assistance under this section.~~

~~—(2) REVIEW BY SECRETARY.—The Secretary shall review the projects identified pursuant to paragraph (1) to ascertain whether the projects are severely distressed housing (as such item is defined in subsection (h)). Not later than 180 days after the date of enactment of this section²⁷⁶, the Secretary shall publish a list of those projects that the Secretary determines are severely distressed public housing.~~

~~—(3) APPEAL OF SECRETARY'S DETERMINATION.—The Secretary shall establish procedures for public housing agencies to appeal the Secretary's determination that a project identified by a public housing agency is not severely distressed.~~

²⁷³ The date of enactment was november 28, 1990.

²⁷⁴ Section 535(a) amended section 24 to read as shown. Section 535(b) of the QHWRRA made this amendment effective upon enactment of the QHWRRA (October 21, 1998).

²⁷⁵ The date of the enactment was October 28, 1992.

²⁷⁶ The date of the enactment was October 28, 1992.

~~(c) PLANNING GRANTS.—~~

~~(1) IN GENERAL.—~~ The Secretary may make planning grants under this subsection to applicants for the purpose of developing revitalization programs for severely distressed public housing under this section.

~~(2) AMOUNT.—~~ The amount of a planning grant under this subsection may not exceed \$200,000 per project, except that the Secretary may for good cause approve a grant in a higher amount.

~~(3) ELIGIBLE ACTIVITIES.—~~ A planning grant may be used for activities to develop revitalization programs for severely distressed public housing, including—

~~(A) studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options;~~

~~(B) providing technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes;~~

~~(C) improvements to stabilize the development, including security investments;~~

~~(D) conducting workshops to ascertain the attitudes and concerns of the neighboring community;~~

~~(E) preliminary architectural and engineering work;~~

~~(F) planning for economic development, job training and self sufficiency activities that promote the economic self sufficiency of residents under the revitalization program;~~

~~(G) designing a suitable replacement housing plan, in situations where partial or total demolition is considered;~~

~~(H) planning for necessary management improvements; and~~

~~(I) preparation of an application for an implementation grant under this section.~~

~~(4) APPLICATIONS.—~~ An application for a planning grant shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

~~(A) a request for a planning grant, specifying the activities proposed, the schedule for completing the activities, the personnel necessary to complete the activities and the amount of the grant requested;~~

~~(B) a description of the applicant and a statement of its qualifications;~~

~~(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;~~

~~(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and~~

~~(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.~~

~~————(5) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—~~

~~————(A) the qualities or potential capabilities of the applicant;~~

~~————(B) the extent of resident interest and involvement in the development of a revitalization program for the project;~~

~~————(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;~~

~~————(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;~~

~~————(E) national geographic diversity among housing for which applicants are selected to receive assistance;~~

~~————(F) the extent of the need for and potential impact of the revitalization program; and~~

~~————(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this section in an effective and efficient manner.~~

~~————(6) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.~~

~~————(d) IMPLEMENTATION GRANTS.—~~

~~————(1) IN GENERAL.—The Secretary may make implementation grants under this subsection to applicants for the purpose of carrying out revitalization programs for severely distressed public housing under this section.~~

~~————(2) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out revitalization programs for severely distressed public housing, including—~~

~~————(A) architectural and engineering work;~~

~~————(B) the redesign, reconstruction, or redevelopment of the severely distressed public housing development, including the site on which the development is located;~~

~~————(C) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this subsection as the Secretary may prescribe;~~

~~————(D) any necessary temporary relocation of tenants during the activity specified under subparagraph (B);~~

~~————(E) payment of legal fees;~~

~~————(F) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;~~

~~————(G) necessary management improvements;~~

~~————(H) transitional security activities; and~~

~~————(I) any necessary support services, except that not more than 15 percent of any grant under this subsection may be used for such purpose.~~

~~— (3) APPLICATION.—An application for a implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—~~

~~— (A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;~~

~~— (B) a description of the applicant and a statement of its qualifications;~~

~~— (C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;~~

~~— (D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and~~

~~— (E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.~~

~~— (4) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—~~

~~— (A) the qualities or potential capabilities of the applicant;~~

~~— (B) the extent of resident involvement in the development of a revitalization program for the project;~~

~~— (C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;~~

~~— (D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;~~

~~— (E) national geographic diversity among housing for which applicants are selected to receive assistance;~~

~~— (F) the extent of the need for and potential impact of the revitalization program; and~~

~~— (G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this subtitle²⁷⁷ in an effective and efficient manner.~~

~~— (5) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.~~

~~(e)²⁷⁸ EXCEPTION TO GENERAL PROGRAM REQUIREMENTS.—The Secretary may waive or revise rules established under this title governing rents, income eligibility, and other areas of public housing management, to permit a public housing agency to undertake measures that~~

²⁷⁷ So in law. Probably intended to refer to this section.

²⁷⁸ Section 402(d)(6)(A)(vi) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this subsection by striking paragraph (2) (relating to selection of tenants for revitalization projects in accordance with the Federal preferences). Section 402(f) of such Act provides as follows:

"(f) This section shall be effective upon the enactment of this Act and only for fiscal years 1996, 1997, and 1998."

enhance the long-term viability of a severely distressed public housing project revitalized under this section.

~~(f) OTHER PROGRAM REQUIREMENTS.~~

~~(1) COST LIMITATIONS.~~ Subject to the provisions of this section, the Secretary

~~(A) shall establish cost limitations on eligible activities under this section sufficient to provide for effective revitalization programs; and~~

~~(B) may establish other cost limitations on eligible activities under this section.~~

~~(2) Economic development.~~ Not more than an aggregate of \$250,000 from amounts made available under subsections (c) and (d) may be used for economic development activities under subsections (c) and (d) for any project, except that the Secretary may for good cause waive the applicability of this paragraph for a project.

~~(g) ADMINISTRATION.~~ For the purpose of carrying out the revitalization of severely distressed public housing in accordance with this section, the Secretary shall establish within the Department of Housing and Urban Development an Office of Severely Distressed Public Housing Revitalization.

~~(h) DEFINITIONS.~~ For the purposes of this section:

~~(1) APPLICANT.~~ The term "applicant" means

~~(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);~~

~~(B) any public housing agency or private housing management agent selected, or receiver appointed pursuant, to section 6(j)(3);~~

~~(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2), if such agency acts in concert with a private nonprofit organization, another public housing agency that is not designated as a troubled agency, resident management corporation or other entity approved by the Secretary; and~~

~~(D) any public housing agency that is designated as troubled pursuant to section 6(j)(2) that~~

~~(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;~~

~~(ii) is making substantial progress toward eliminating the deficiencies of the agency; or~~

~~(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.~~

~~(2) PRIVATE NONPROFIT CORPORATION.~~ The term "private nonprofit organization" means any private nonprofit organization (including a State or locally chartered nonprofit organization) that

~~(A) is incorporated under State or local law;~~

~~(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;~~

~~(C) complies with standards of financial accountability acceptable to the Secretary; and~~

~~(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low income families.~~

~~————(3) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given the term in section 3(b).~~

~~————(4) RESIDENT MANAGEMENT CORPORATION.—The term "resident management corporation" means a resident management corporation established in accordance with the requirements of the Secretary under section 20.~~

~~————(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term "severely distressed public housing" means a public housing project—~~

~~————(A) that—~~

~~————(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including appropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;~~

~~————(ii) is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single parent households, long term dependency on public assistance and minimal educational achievement;~~

~~————(iii) is in a location for recurrent vandalism and criminal activity (including drug related criminal activity); and~~

~~————(iv) cannot remedy the elements of distress specified in clauses (i) through (iii) through assistance under other programs, such as the programs under section 9 or 14, or through other administrative means; or~~

~~————(B) that—~~

~~————(i) is owned by a public housing agency designated as troubled pursuant to section 6(j)(2);~~

~~————(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more, unless the project or building is vacant because it is awaiting rehabilitation under a modernization program under section 14 that—~~

~~————(I) has been approved and funded; and~~

~~————(II) as determined by the Secretary, is on schedule and is expected to result in full occupancy of the project or building upon completion of the program; and~~

~~————(iii) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.²⁷⁹~~

~~————(i) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—~~

~~————(1) the number, type, and cost of public housing units revitalized pursuant to this section;~~

~~————(2) the status of projects identified as severely distressed public housing pursuant to subsection (b);~~

~~————(3) the amount and type of financial assistance provided under and in conjunction with this section; and~~

²⁷⁹ So in law. Probably intended to refer to this section.

~~——(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.~~

SEC. 24. DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR PROJECTS.

(a) *PURPOSES.*—*The purpose of this section is to provide assistance to public housing agencies for the purposes of—*

(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing projects are located and contributing to the improvement of the surrounding neighborhood;

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) building sustainable communities.

(b) *GRANT AUTHORITY.*—*The Secretary may make grants as provided in this section to applicants whose applications for such grants are approved by the Secretary under this section.*

(c) *CONTRIBUTION REQUIREMENT.*—

(1) IN GENERAL.—*The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will—*

(A) supplement the aggregate amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section; and

(B) in addition to supplemental amounts provided in accordance with subparagraph (A), if the applicant uses more than 5 percent of the amount of assistance provided under this section for services under subsection (d)(1)(L), provide supplemental funds from sources other than this section in an amount equal to the amount so used in excess of 5 percent.

(2) SUPPLEMENTAL FUNDS.—*In calculating the amount of supplemental funds provided by a grantee for purposes of paragraph (1), the grantee may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.*

(3) EXEMPTION.—*If assistance provided under this title will be used only for providing tenant-based assistance under section 8 or demolition of public housing (without replacement), the Secretary may exempt the applicant from the requirements under paragraph (1)(A).*

(d) *ELIGIBLE ACTIVITIES.*—

(1) IN GENERAL.—*Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—*

(A) architectural and engineering work;

(B) redesign, rehabilitation, or reconfiguration of a severely distressed public housing project, including the site on which the project is located;

(C) the demolition, sale, or lease of the site, in whole or in part;

(D) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

(E) payment of reasonable legal fees;

(F) providing reasonable moving expenses for residents displaced as a result of the revitalization of the project;

(G) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

(H) necessary management improvements;

(I) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the project that will benefit future residents of the site;

(J) replacement housing (including appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities) and rental assistance under section 8;

(K) transitional security activities; and

(L) necessary supportive services, except that not more than 15 percent of the amount of any grant may be used for activities under this paragraph.

(2) *ENDOWMENT TRUST FOR SUPPORTIVE SERVICES.*—In using grant amounts under this section made available in fiscal year 2000 or thereafter for supportive services under paragraph (1)(L), a public housing agency may deposit such amounts in an endowment trust to provide supportive services over such period of time as the agency determines. Such amounts shall be provided to the agency by the Secretary in a lump sum when requested by the agency, shall be invested in a wise and prudent manner, and shall be used (together with any interest thereon earned) only for eligible uses pursuant to paragraph (1)(L). A public housing agency may use amounts in an endowment trust under this paragraph in conjunction with other amounts donated or otherwise made available to the trust for similar purposes.

(e) *APPLICATION AND SELECTION.*—

(1) *APPLICATION.*—An application for a grant under this section shall demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives, and shall include such other information and be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) *SELECTION CRITERIA.*—The Secretary shall establish selection criteria for the award of grants under this section and shall include such factors as—

(A) the relationship of the grant to the public housing agency plan for the applicant and how the grant will result in a revitalized site that will enhance the neighborhood in which the project is located and enhance economic opportunities for residents;

(B) the capability and record of the applicant public housing agency, or any alternative management entity for the agency, for managing large-scale redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

(C) the extent to which the applicant could undertake such activities without a grant under this section;

(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development of a revitalization program for the project;

(E) the need for affordable housing in the community;

(F) the supply of other housing available and affordable to families receiving tenant-based assistance under section 8;

(G) the amount of funds and other resources to be leveraged by the grant;

(H) the extent of the need for, and the potential impact of, the revitalization program; and

(I) such other factors as the Secretary considers appropriate.

(3) *APPLICABILITY OF SELECTION CRITERIA.*—The Secretary may determine not to apply certain of the selection criteria established pursuant to paragraph (2) when awarding grants for demolition only, tenant-based assistance only, or other specific categories of revitalization activities. This section may not be construed to require any application for a grant under this section to include demolition of public housing or to preclude use of grant amounts for rehabilitation or rebuilding of any housing on an existing site.

(f) *COST LIMITS.*—Subject to the provisions of this section, the Secretary—

(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

(2) may establish other cost limits on eligible activities under this section.

(g) *DISPOSITION AND REPLACEMENT.*—Any severely distressed public housing disposed of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 18. Severely distressed public housing demolished pursuant to a revitalization plan shall not be subject to the provisions of section 18.

(h) *ADMINISTRATION BY OTHER ENTITIES.*—The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the public housing agency to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

(i) *WITHDRAWAL OF FUNDING.*—If a grantee under this section does not proceed within a reasonable timeframe, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the public housing agency. The Secretary shall redistribute any withdrawn amounts to one or more other applicants eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(j) *DEFINITIONS.*—For purposes of this section, the following definitions shall apply:

(1) *APPLICANT.*—The term "applicant" means—

(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

(B) any public housing agency for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 6(j)(3); and

(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2) and that—

(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) *SEVERELY DISTRESSED PUBLIC HOUSING.*—The term "severely distressed public housing" means a public housing project (or building in a project)—

(A) that—

(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii)(I) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance; or

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area;

(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this Act, or the programs under sections 9 and 14 of the United States Housing Act of 1937 (as in effect before the effective date under section 503(a) the Quality Housing and Work Responsibility Act of 1998), because of cost constraints and inadequacy of available amounts; and

(v) in the case of individual buildings, is, in the Secretary's determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

(3) *SUPPORTIVE SERVICES.*—The term "supportive services" includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved, including literacy training, job training, day care, transportation, and economic development activities.

(k) *GRANTEE REPORTING.*—The Secretary shall require grantees of assistance under this section to report the sources and uses of all amounts expended for revitalization plans.

(l) *ANNUAL REPORT.*—The Secretary shall submit to the Congress an annual report setting forth—

- (1) the number, type, and cost of public housing units revitalized pursuant to this section;
 - (2) the status of projects identified as severely distressed public housing;
 - (3) the amount and type of financial assistance provided under and in conjunction with this section; and
 - (4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.
- (m) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section \$600,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000, 2001, and 2002.

(2) TECHNICAL ASSISTANCE AND PROGRAM OVERSIGHT.—Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use up to 2 percent for technical assistance or contract expertise. Such assistance or contract expertise may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents.

(n) SUNSET.—No assistance may be provided under this section after September 30, 2002.

²⁸⁰~~SEC. 25. [42 U.S.C. 1437w] CHOICE IN PUBLIC HOUSING MANAGEMENT.~~

~~(a) SHORT TITLE.—This section may be cited as the "Choice in Public Housing Management Act of 1992".~~

~~(b) FUNDING.—~~

~~(1) REHABILITATION AND REDEVELOPMENT GRANTS.—From amounts reserved under section 14(k)(2) for each of fiscal years 1993 and 1994, the Secretary may reserve not more than \$50,000,000 in each such fiscal year for activities under this section (which may include funding operating reserves for eligible housing transferred under this section). The Secretary may make grants to managers and ownership entities to rehabilitate eligible housing in accordance with this section, as appropriate.~~

~~(2) TECHNICAL ASSISTANCE.—The Secretary may use up to 5 percent of the total amount reserved under paragraph (1) for any fiscal year to provide, by contract, technical assistance to residents of public housing and resident councils to help such residents and councils make informed choices about options for alternative management under this section.~~

~~(c) PROGRAM AUTHORITY.—~~

~~(1) TRANSFER OF MANAGEMENT.—~~

~~(A) IN GENERAL.—The Secretary may approve not more than 25 applications submitted for fiscal years 1993 and 1994 by resident councils for the transfer of the management of distressed public housing projects, or one or more buildings within projects, that are owned or operated by troubled public housing agencies, from public housing agencies to alternative managers.~~

~~(B) REQUIRED VOTES.—An application for such transfer may be submitted and approved only if a majority of the members of the board of the resident council~~

²⁸⁰ Section 534 of the QHWRA amended section 25 to read as shown.

has voted in favor of the proposed transfer of management responsibilities, and a majority of the residents has also voted in favor of the transfer in an election supervised by a disinterested third party.

~~————(C) ASSISTANCE OF MANAGEMENT SPECIALIST.—— Any resident council seeking to transfer management of distressed public housing under this section shall, in cooperation with the public housing agency for such housing, select a qualified public housing management specialist to assist in identifying and acquiring a capable manager for the housing.~~

~~————(2) REHABILITATION AND CAPITAL IMPROVEMENTS.—— The Secretary may make rehabilitation grants and provide capital improvement funding under subsection (e) in connection with the transfer of eligible housing to a manager under this section.~~

~~————(d) OPERATING SUBSIDIES.——~~

~~————(1) AUTHORITY TO PROVIDE.—— The Secretary may make operating subsidies under section 9 available to managers under this section.~~

~~————(2) AMOUNT OF SUBSIDY.—— The Secretary shall establish the amount of the operating subsidies made available to a manager based on the share for the housing under section 9 as determined by the Secretary.~~

~~————(3) EFFECT ON PHA GRANT.—— Operating subsidies for any public housing agency transferring management under this section shall be reduced in accordance with the requirements of section 9.~~

~~————(e) REHABILITATION GRANTS AND CAPITAL IMPROVEMENT FUNDING.——~~

~~————(1) REHABILITATION GRANTS.—— An application under subsection (f) may request approval of amounts set aside under subsection (b) for the rehabilitation of eligible housing. The manager and the Secretary shall enter into a contract governing the use of any such assistance provided.~~

~~————(2) ANNUAL CAPITAL IMPROVEMENT FUNDING.——~~

~~————(A) AUTHORITY TO PROVIDE.—— The Secretary may make funding for capital improvements available annually from amounts under section 14 to managers of eligible housing. In accordance with the contract entered into pursuant to subsection (h), each manager receiving such funding shall establish a capital improvements reserve account and deposit in the account each year an amount not less than the annual amount of comprehensive grant funds it receives. Amounts in the reserve account may be used only for capital improvements and replacements.~~

~~————(B) AMOUNT OF SUBSIDY.—— The Secretary shall establish the amount made available to a manager under paragraph (1) for capital improvements based on the share for the housing under the comprehensive grant formula and, to the extent practicable, the public housing agency's comprehensive grant plan, in accordance with section 14, as determined by the Secretary.~~

~~————(C) LIMITATION IN THE CASE OF RECENT REHABILITATION.—— Where eligible housing has received rehabilitation funding under paragraph (1) or has otherwise been comprehensively modernized within 3 years before the effective date of the contract between the Secretary and the manager for management of the eligible housing, only the accrual portion of the comprehensive grant formula amount shall be available for payment to the manager.~~

~~————(D) EFFECT ON PHA GRANT.——The formula amount of a comprehensive grant for a public housing agency transferring the housing under this section shall be reduced in accordance with the requirements of section 14.~~

~~————(3) RELATIONSHIP TO SECTION 14.——The provisions of section 14 shall apply with respect to rehabilitation grants under paragraph (1) or capital improvement funding under paragraph (2); except that the Secretary may waive the applicability of any of the provisions of such section where such provisions are not appropriate to the assistance under this subsection.~~

~~————(f) APPLICATION.——~~

~~————(1) FORM AND PROCEDURES.——~~

~~————(A) IN GENERAL.——To be eligible for approval for transfer of management from a public housing agency to a manager and for a grant under subsection (e), a resident council shall submit an application to the Secretary in such form and in accordance with such procedures as the Secretary shall establish.~~

~~————(B) PHA COMMENT ON APPLICATION.——A resident council submitting an application shall provide the public housing agency that owns or operates the housing involved a reasonable opportunity to comment on the application, as the Secretary shall prescribe.~~

~~————(C) PHA PROPOSAL.——The public housing agency may present to the resident council a proposal for the continued management of the housing by the agency, and the resident council shall give reasonable consideration to any such proposal.~~

~~————(2) MINIMUM REQUIREMENTS.——The Secretary shall require that an application contain——~~

~~————(A) a description of the resident council and documentation of its authority;~~

~~————(B) documentation of the votes required under subsection (e)(1)(B);~~

~~————(C) a description of the proposed manager selected by the applicant (in accordance with procedures established or approved by the Secretary) and documentation of its capacity to manage the eligible housing;~~

~~————(D) a plan for carrying out the manager's responsibilities for managing the eligible housing;~~

~~————(E) documentation that the project (or building or buildings) for which management transfer is proposed is eligible housing;~~

~~————(F) documentation that each of the requirements under paragraph (1)(B) have been fulfilled;~~

~~————(G)(i) if the application includes a request for a rehabilitation grant under subsection (e) (which shall be included in any application involving eligible housing that is 50 percent or more vacant), the basis for the estimate of the amount requested, including——~~

~~————(I) the estimate of the eligible housing's need under the public housing agency's comprehensive plan (under section 14(e)(1)); and~~

~~————(II) an explanation, where appropriate, if an amount higher than the amount planned by the agency is being requested; or~~

~~————(ii) if the application does not include a request for a rehabilitation grant under subsection (e), a demonstration that needs for capital improvements and~~

replacement for the housing can reasonably be expected to be funded from funding for capital improvements under subsection (e);

——— (H) if the manager proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to the program;

——— (I) an analysis showing that the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost;

——— (J) a certification that the manager will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

——— (K) such other information that the Secretary considers appropriate.

~~(g) REVIEW AND APPROVAL BY THE SECRETARY.—~~

~~——— (1) APPLICATIONS NOT REQUESTING REHABILITATION ASSISTANCE.— In the case of applications for the transfer of management of public housing that do not include a request for rehabilitation assistance under subsection (e), the Secretary may approve an application that meets the requirements of subsection (f)(2) and this section.~~

~~——— (2) APPLICATIONS REQUESTING REHABILITATION GRANTS.— In the case of applications that include a request for rehabilitation assistance under subsection (e), the Secretary shall select applicants for approval based on a national competition. The Secretary shall, by regulation, establish selection criteria for the competition which provide for separate rating of applicants under this paragraph and of applicants under this section, and for selections from a single list of all applicants. The criteria shall include—~~

~~——— (A) the quality of the plan for rehabilitating the eligible housing;~~

~~——— (B) the extent of the capacity or potential capacity of the proposed manager to manage the housing and to carry out the rehabilitation program;~~

~~——— (C) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency;~~

~~——— (D) the extent to which the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost; and~~

~~——— (E) such other criteria as the Secretary may require.~~

~~(h) CONTRACT BETWEEN SECRETARY AND MANAGER.—~~

~~——— (1) TERMS.— After the Secretary approves an application, the Secretary shall enter into a contract with the manager for transfer of management of the eligible housing. In addition to other contract provisions required under this section, the contract shall—~~

~~——— (A) give the manager the right to receive operating subsidies under subsection (d) and capital improvement funding under subsection (e);~~

~~——— (B) require the manager to carry out all management responsibilities for the eligible housing, as provided in or required by the contract;~~

~~——— (C) require the manager to carry out, for the eligible housing, all management responsibilities applicable to public housing agencies owning or operating public housing projects, including (i) maintaining the units in decent, safe, and sanitary condition in accordance with any standards for public housing established or adopted by the Secretary, (ii) determining eligibility of applicants for occupancy of units subject to the requirements of this Act, (iii) terminating tenancy~~

~~in accordance with the procedures applicable to the section 8 new construction program, and (iv) determining the amount of rent paid for units in accordance with this Act; and~~

~~————(D) permit, but not require, the manager to select applicants from the public housing waiting list maintained by the public housing agency.~~

~~————(2) EXTENSION, EXPIRATION, AND TERMINATION.——~~

~~————(A) IN GENERAL.—— The Secretary shall provide for a resident council that has entered into a contract under this subsection to——~~

~~————(i) approve the renewal of the contract between the Secretary and the manager; or~~

~~————(ii) disapprove renewal and submit an application to the Secretary, in accordance with subsection (f), proposing another manager, which may be the public housing agency.~~

~~————(B) DEFAULT.—— If the Secretary determines that a manager is in default of its responsibilities under the contract, the Secretary may require the resident council to submit another application proposing a different manager, which may be the public housing agency.~~

~~————(i) OTHER PROGRAM REQUIREMENTS.——~~

~~————(1) COST LIMITATIONS.—— The Secretary may establish cost limitations on activities under this section. The amount of rehabilitation funds under subsection (c)(1) that may be approved may not exceed the per unit cost limit applicable to the comprehensive grant program under section 14.~~

~~————(2) DEMOLITION AND DISPOSITION NOT PERMITTED.—— A manager may not demolish or dispose of eligible housing under this section.~~

~~————(3) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS.—— To be eligible to become a manager under this section, a resident management corporation——~~

~~————(A) shall demonstrate to the Secretary its ability to manage public housing effectively and efficiently, as determined by the Secretary, which shall include evidence of its most recent financial audit; or~~

~~————(B) shall arrange for operation of the housing by a qualified management entity.~~

~~————(4) LIMITATIONS ON PHA LIABILITY.—— A public housing agency shall not be liable for any act or failure to act by the manager or resident council.~~

~~————(5) BONDING AND INSURANCE.—— Before assuming any management responsibility for eligible housing, a manager shall obtain fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements established by the Secretary. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the manager or its employees.~~

~~————(6) RESTRICTION ON DISPLACEMENT BEFORE TRANSFER.—— A public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing during the period beginning on the date that an application under subsection (f) is submitted by a resident council, and ending upon transfer of management of the housing or, if the application is disapproved, the date of the disapproval.~~

~~————(j) PERFORMANCE REVIEW AND COMPLIANCE.——~~

~~——(1) MONITORING.—The Secretary shall monitor the performance of managers under this section and shall assess their management performance using the performance indicators established under section 6(j)(1).~~

~~——(2) RECORDS, REPORTS, AND AUDITS OF MANAGERS.—~~

~~——(A) KEEPING OF RECORDS.—Each manager and resident council under this subtitle²⁸¹ shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the manager of the proceeds of assistance received under this section and to ensure compliance with the requirements of this section.~~

~~——(B) ACCESS TO DOCUMENTS.—~~

~~——(i) SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager, resident council, and public housing agency that are pertinent to assistance received under, and to the requirements of, this section.~~

~~——(ii) GAO.—The Comptroller General of the United States, and any duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager and resident council that are pertinent to assistance received under, and to the requirements of, this section.~~

~~——(C) REPORTING REQUIREMENTS.—Each manager shall submit to the Secretary such reports as the Secretary determines appropriate to carry out the Secretary's responsibilities under this section, including an annual financial audit.~~

~~——(D) ANNUAL REPORT.—The Secretary shall submit an annual report to the Congress evaluating management transfers under this section compared to other methods of dealing with severely distressed public housing.~~

~~——(k) NONDISCRIMINATION.—No person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.~~

~~——(l) RELATIONSHIP TO OTHER PROGRAMS.—~~

~~——(1) HOMEOWNERSHIP.—After a transfer of management in accordance with this section, the eligible housing shall remain eligible for assistance under title III and for sale under section 5(h). Participation in a homeownership program shall be consistent with a contract between the Secretary and a manager.~~

~~——(2) SELF-SUFFICIENCY.—Where an application under subsection (f) proposes a program to enable residents to achieve economic independence and self-sufficiency, consistent with the objectives of the program under section 23, and demonstrates that the manager has the capacity to carry out a self-sufficiency program, the Secretary may approve such a program. Where such a program is approved, the Secretary shall authorize the manager to adopt policies consistent with section 23(d) (relating to maximum rents and escrow savings accounts) and section 23(e) (relating to effect of increases in family income).~~

²⁸¹ So in law. Probably intended to refer to this section.

~~—(m) DEFINITIONS.—For purposes of this section:~~

~~—(1) The term "eligible housing" means a public housing project, or one or more buildings within a project, that—~~

~~—(A) is owned or operated by a troubled public housing agency; and~~

~~—(B) has been identified as severely distressed under section 24 of this Act.~~

~~In the case of an individual building, the building shall, in the determination of the Secretary, be sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section.~~

~~—(2) The term "manager" means one of the following entities that has entered into a contract with the Secretary for the management of eligible housing under this section:~~

~~—(A) A public or private nonprofit organization (including, as determined by the Secretary, such an organization sponsored by the public housing agency).~~

~~—(B) A for-profit entity, if it has (i) demonstrated experience in providing low-income housing, and (ii) is participating in joint venture with an organization described in paragraph (3).~~

~~—(C) A State or local government, including an agency or instrumentality thereof.~~

~~—(D) A public housing agency (other than the public housing agency that owns the project).~~

~~The term does not include a resident council.~~

~~—(3) The term "private nonprofit organization" means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—~~

~~—(A) is incorporated under State or local law;~~

~~—(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;~~

~~—(C) complies with standards of financial accountability acceptable to the Secretary; and~~

~~—(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.~~

~~The term includes resident management corporations.~~

~~—(4) The term "public housing agency" has the meaning given such term in section 3(b).~~

~~—(5) The term "public nonprofit organization" means any public nonprofit entity, except the public housing agency that owns the eligible housing.~~

~~—(6) The term "resident council" means any nonprofit organization or association that—~~

~~—(A) is representative of the residents of the eligible housing;~~

~~—(B) adopts written procedures providing for the election of officers on a regular basis; and~~

~~—(C) has a democratically elected governing board, elected by the residents of the eligible housing.~~

~~—(7) The term "resident management corporation" means a resident management corporation established in accordance with the requirements of the Secretary under section 20.~~

~~—(8) The term "troubled public housing agency" means a public housing agency with 250 or more units that—~~

~~—(A) has been designated as a troubled public housing agency for the current Federal fiscal year, and for the 2 preceding Federal fiscal years—~~

~~—(i) under section 6(j)(2)(A)(i); or~~

~~—(ii) before the implementation of such authority, under any other procedure for designating troubled public housing agencies that was used by the Secretary and is determined by the Secretary to be appropriate for purposes of this section; and~~

~~—(B) has not met targets for improved performance under section 6(j)(2)(C).~~

SEC. 25. TRANSFER OF MANAGEMENT OF CERTAIN HOUSING TO INDEPENDENT MANAGER AT REQUEST OF RESIDENTS.

(a) AUTHORITY.—The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b); and

(2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b), determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) REQUEST FOR TRANSFER.—The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 6(j)(2)—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary; or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 6(j)(2)—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) CAPITAL AND OPERATING ASSISTANCE.—Pursuant to a contract under subsection (d), the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under

section 9 for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under subsection (d)(1) and (e)(1) of section 9. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) *CONTRACT BETWEEN SECRETARY AND MANAGER.*—

(1) *REQUIREMENTS.*—Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) *TERMS.*—A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this Act applicable to public housing projects.

(e) *COMPLIANCE WITH PUBLIC HOUSING AGENCY PLAN.*—A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) *DEMOLITION AND DISPOSITION BY MANAGER.*—A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) *LIMITATION ON PHA LIABILITY.*—A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(h) *DEFINITIONS.*—For purposes of this section, the following definitions shall apply:

(1) *ELIGIBLE MANAGEMENT ENTITY.*—The term "eligible management entity" means, with respect to any public housing project, any of the following entities:

(A) *NONPROFIT ORGANIZATION.*—A public or private nonprofit organization, which may—

(i) include a resident management corporation; and

(ii) not include the public housing agency that owns or operates the project.

(B) *FOR-PROFIT ENTITY.*—A for-profit entity that has demonstrated experience in providing low-income housing.

(C) *STATE OR LOCAL GOVERNMENT.*—A State or local government, including an agency or instrumentality thereof.

(D) *PUBLIC HOUSING AGENCY.*—A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) *MANAGER.*—The term "manager" means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) *NONPROFIT.*—The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) *PRIVATE NONPROFIT ORGANIZATION.*—The term "private nonprofit organization" means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) *PUBLIC NONPROFIT ORGANIZATION.*—The term "public nonprofit organization" means any public entity that is nonprofit in character.

(6) *SPECIFIED HOUSING.*—The term "specified housing" means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.

SEC. 26. [42 U.S.C. 1437x] ENVIRONMENTAL REVIEWS.

(a) *IN GENERAL.*—

(1) *RELEASE OF FUNDS.*—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

(2) *IMPLEMENTATION.*—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

(b) *PROCEDURE.*—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The

Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

- (1) be in a form acceptable to the Secretary;
- (2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;
- (3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and
- (4) specify that the certifying officer—
 - (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and
 - (B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

SEC. 27. [42 U.S.C. 1437y] PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the "Service"), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is not lawfully present in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is not lawfully present in the United States.

SEC. 28. [42 U.S.C. 1437z] EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.

Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer—

- (1) furnishes the public housing agency with the name of the recipient; and

- (2) notifies the agency that—
 - (A) such recipient—
 - (i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or
 - (ii) is violating a condition of probation or parole imposed under Federal or State law; or
 - (iii) has information that is necessary for the officer to conduct the officer's official duties;
 - (B) the location or apprehension of the recipient is within such officer's official duties; and
 - (C) the request is made in the proper exercise of the officer's official duties.

SEC. 29. CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

(a) IN GENERAL.—

(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

- (A) any owner of a property receiving project-based assistance under section 8;
- (B) any general partner of a partnership owner of that property; and
- (C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

- (A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or
- (B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed \$25,000 per violation.

(c) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

(2) FINAL ORDERS.—

(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

(A) the gravity of the offense;

(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

(C) the ability of the violator to pay the penalty;

(D) any injury to tenants;

(E) any injury to the public;

(F) any benefits received by the violator as a result of the violation;

(G) deterrence of future violations; and

(H) such other factors as the Secretary may establish by regulation.

(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

(e) REMEDIES FOR NONCOMPLIANCE.—

(1) JUDICIAL INTERVENTION.—

(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) DEPOSIT OF PENALTIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or was formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

(h) DEFINITIONS.—In this section—

(1) the term "agent employed to manage the property that has an identity of interest" means an entity—

(A) that has management responsibility for a project;

(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

(C) over which such ownership entity exerts effective control; and

(2) the term "knowing" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

SEC. 30.²⁸² PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.

(a) GENERAL AUTHORIZATION.—*The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.*

(b) TERMS AND CONDITIONS.—*In making any authorization under subsection (a), the Secretary may consider—*

(1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

(2) the ability of the public housing agency to make payments on the mortgage or security interest; and

(3) such other criteria as the Secretary may specify.

(c) NO FEDERAL LIABILITY.—*No action taken under this section shall result in any liability to the Federal Government.*

²⁸² Section 516 of the QHWRA added section 30.

SEC. 31.²⁸³ PET OWNERSHIP IN PUBLIC HOUSING.

(a) *OWNERSHIP CONDITIONS.*—A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

(b) *REASONABLE REQUIREMENTS.*—The reasonable requirements referred to in subsection (a) may include—

(1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

(2) limitations on the number of animals in a unit, based on unit size;

(3) prohibitions on—

(A) types of animals that are classified as dangerous; and

(B) individual animals, based on certain factors, including the size and weight of the animal; and

(4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) *PET OWNERSHIP IN PUBLIC HOUSING DESIGNATED FOR OCCUPANCY BY ELDERLY OR HANDICAPPED FAMILIES.*—For purposes of this section, the term "public housing" has the meaning given the term in section 3(b), except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 227(d) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r-1(d)).

(d) *REGULATIONS.*—This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 32²⁸⁴. RESIDENT HOMEOWNERSHIP PROGRAMS.

(a) *IN GENERAL.*—A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

(b) *PARTICIPATING UNITS.*—A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned,

²⁸³ Section 526 of the QHWRA added section 31.

²⁸⁴ Section 536 of the QHWRA added section 32.

assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.

(c) *ELIGIBLE PURCHASERS.*—

(1) *LOW-INCOME REQUIREMENT.*—Only low-income families assisted by a public housing agency, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) *OTHER REQUIREMENTS.*—A public housing agency may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) *RIGHT OF FIRST REFUSAL.*—In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

(e) *PROTECTION OF NONPURCHASING RESIDENTS.*—If a public housing resident does not exercise the right of first refusal under subsection (d) with respect to the public housing unit in which the resident resides, the public housing agency—

(1) shall notify the resident residing in the unit 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(A) the public housing unit will be sold;

(B) the transfer of possession of the unit will occur until the resident is relocated; and

(C) each resident displaced by such action will be offered comparable housing—

(i) that meets housing quality standards;

(ii) that is located in an area that is generally not less desirable than the location of the displaced resident's housing; and

(iii) which may include—

(I) tenant-based assistance, except that the requirement under this subclause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such resident into such housing;

(II) project-based assistance; or

(III) occupancy in a unit owned, operated, or assisted by the public housing agency at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated;

(2) shall provide for the payment of the actual and reasonable relocation expenses of the resident to be displaced;

(3) shall ensure that the displaced resident is offered comparable housing in accordance with the notice under paragraph (1);

(4) shall provide any necessary counseling for the displaced resident; and

(5) shall not transfer possession of the unit until the resident is relocated.

(f) *FINANCING AND ASSISTANCE.*—A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program, or for acquisition of housing by the public housing agency for sale under the program, in any manner considered appropriate by the agency (including sale to a resident management corporation).

(g) *DOWNPAYMENT REQUIREMENT.*—

(1) *IN GENERAL.*—Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the public housing agency. Except as provided in paragraph (2), the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

(2) *DIRECT FAMILY CONTRIBUTION.*—In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(h) *OWNERSHIP INTERESTS.*—A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the public housing agency considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a public housing agency providing financing.

(i) *RESALE.*—

(1) *AUTHORITY AND LIMITATION.*—A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the agency considers appropriate (whether the family purchases directly from the agency or from another entity) for the agency to recapture—

(A) some or all of the economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the agency to the purchaser.

(2) *CONSIDERATIONS.*—The limitations referred to in paragraph (1)(A) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the agency considers appropriate.

(j) *NET PROCEEDS.*—The net proceeds of any sales under a homeownership program under this section remaining after payment of all costs of the sale shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan of the agency carrying out the program.

(k) *HOMEOWNERSHIP ASSISTANCE.*—From amounts distributed to a public housing agency under the Capital Fund under section 9(d), or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.

(l) *INAPPLICABILITY OF DISPOSITION REQUIREMENTS.*—The provisions of section 18 shall not apply to disposition of public housing dwelling units under a homeownership program under this section.

SEC. 33²⁸⁵. REQUIRED CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.

(a) *IDENTIFICATION OF UNITS.*—Each public housing agency shall identify all public housing projects of the public housing agency that meet all of the following requirements:

(1) *The project is on the same or contiguous sites.*

(2) *The project is determined by the public housing agency to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992).*

(3) *The project—*

(A) is identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; or

(B) has an estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing that exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 8 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

²⁸⁵ Section 537(a) of the QHWA added section 33. Additional information from section 537 of the QHWA: "(b) Conforming Amendment.—Section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 note) is repealed.

(c) *Transition.*—

(1) *Use of amounts.*—Any amounts made available to a public housing agency to carry out section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (enacted as section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134; 110 Stat. 1321-279)) may be used, to the extent or in such amounts as are or have been provided in advance in appropriation Acts, to carry out section 33 of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(2) *Savings provision.*—Notwithstanding the amendments made by this section, section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 note) and any regulations implementing such section, as in effect immediately before the enactment of this Act, shall continue to apply to public housing developments identified by the Secretary or a public housing agency for conversion pursuant to that section or for assessment of whether such conversion is required prior to enactment of this Act."

(b) *CONSULTATION.*—Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

(c) *PLAN FOR REMOVAL OF UNITS FROM INVENTORIES OF PHA'S.*—

(1) *DEVELOPMENT.*—Each public housing agency shall develop and carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

(2) *APPROVAL.*—Each plan required under paragraph (1) shall—

(A) be included as part of the public housing agency plan;

(B) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

(C) include a description of any disposition and demolition plan for the public housing units.

(3) *EXTENSIONS.*—The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(4) *REVIEW BY SECRETARY.*—

(A) *FAILURE TO IDENTIFY PROJECTS.*—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a), the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

(B) *ERRONEOUS IDENTIFICATION OF PROJECTS.*—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a), the Secretary shall—

(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

(d) *CONVERSION TO TENANT-BASED ASSISTANCE.*—

(1) *IN GENERAL.*—To the extent approved in advance in appropriations Acts, the Secretary shall make budget authority available to a public housing agency to provide assistance under this Act to families residing in any public housing project that, pursuant to this section, is removed from the inventory of the agency and the annual contributions contract of the agency.

(2) *CONVERSION REQUIREMENTS.*—Each agency carrying out a plan under subsection (c) for removal of public housing dwelling units from the inventory of the agency shall—

(A) notify each family residing in a public housing project to be converted under the plan 90 days prior to the displacement date, except in cases of

imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be removed from the inventory of the public housing agency; and

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards; and

(II) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit;

(D) ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

(E) provide any actual and reasonable relocation expenses for families displaced by such action.

(e) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a project or projects of a public housing agency meet or are likely to meet the criteria set forth in subsection (a), the Secretary may direct the agency to cease additional spending in connection with such project or projects until the Secretary determines or approves an appropriate course of action with respect to such project or projects under this section, except to the extent that failure to expend such amounts would endanger the health or safety of residents in the project or projects.

(f) USE OF BUDGET AUTHORITY.—Notwithstanding any other provision of law, if a project or projects are identified pursuant to subsection (a), the Secretary may authorize or direct the transfer, to the tenant-based assistance program of such agency or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(1) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such project or projects pursuant to section 14 of the United States Housing Act of 1937 (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(2) in the case of an agency receiving public housing modernization assistance by formula pursuant to such section 14, any amounts provided to the agency which are

attributable pursuant to the formula for allocating such assistance to such project or projects;

(3) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such project or projects pursuant to section 5(j)(2) of the United States Housing Act of 1937, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998; and

(4) in the case of an agency receiving assistance pursuant to the formulas under section 9, any amounts provided to the agency which are attributable pursuant to the formulas for allocating such assistance to such project or projects.

(g) REMOVAL BY SECRETARY.—The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

(h) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

(2) APPLICABILITY OF SECTION 18.—Section 18 shall not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.

SEC. 34²⁸⁶. SERVICES FOR PUBLIC HOUSING RESIDENTS.

(a) IN GENERAL.—To the extent that amounts are provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to provide supportive services to public housing residents or assist such residents in becoming economically self-sufficient.

(b) ELIGIBLE ACTIVITIES.—Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project that are designed to promote the self-sufficiency of public housing residents or provide supportive services for such residents, including activities relating to—

(1) physical improvements to a public housing project in order to provide space for supportive services for residents;

²⁸⁶ Section 538(a) of the QHWRA added section 34. Additional information from section 538: "(b) Assessment and Report by Secretary.—Not later than 3 years after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the Secretary of Housing and Urban Development shall—

(1) conduct an evaluation and assessment of grants carried out by resident organizations, and particularly of the effect of the grants on living conditions in public housing; and

(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.

This subsection shall take effect on the date of the enactment of this Act."

(2) *the provision of service coordinators or a congregate housing services program for elderly individuals, elderly disabled individuals, nonelderly disabled individuals, or temporarily disabled individuals;*

(3) *the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;*

(4) *economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;*

(5) *resident management activities and resident participation activities; and*

(6) *other activities designed to improve the economic self-sufficiency of residents.*

(c) *FUNDING DISTRIBUTION.—*

(1) *IN GENERAL.—Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.*

(2) *FACTORS FOR DISTRIBUTION.—Factors for distribution under paragraph (1) shall include—*

(A) *the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;*

(B) *the ability of the applicant to leverage additional resources for the provision of services; and*

(C) *the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.*

(d) *MATCHING REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant supplements amounts made available under this section with funds from sources other than this section in an amount equal to not less than 25 percent of the grant amount. Such supplemental amounts may include—*

(1) *funds from other Federal sources;*

(2) *funds from any State or local government sources;*

(3) *funds from private contributions; and*

(4) *the value of any in-kind services or administrative costs provided to the applicant.*

(e) *FUNDING FOR RESIDENT ORGANIZATIONS.—To the extent that there are a sufficient number of qualified applications for assistance under this section, not less than 25 percent of any amounts appropriated to carry out this section shall be provided directly to resident councils, resident organizations, and resident management corporations. In any case in which a resident council, resident organization, or resident management corporation lacks adequate expertise, the Secretary may require the council, organization, or corporation to utilize other qualified organizations as contract administrators with respect to financial assistance provided under this section.*

SEC. 35²⁸⁷. MIXED FINANCE PUBLIC HOUSING.

(a) **AUTHORITY.**—A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

(b) **ASSISTANCE.**—

(1) **FORMS.**—A public housing agency may provide to a mixed-finance project assistance from the Operating Fund under section 9, assistance from the Capital Fund under such section, or both forms of assistance. A public housing agency may, in accordance with regulations established by the Secretary, provide capital assistance to a mixed-finance project in the form of a grant, loan, guarantee, or other form of investment in the project, which may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a public agency, or for other forms of public or private borrowings, for the construction or rehabilitation of the development.

(2) **USE.**—To the extent deemed appropriate by the Secretary, assistance used in connection with the costs associated with the operation and management of mixed-finance projects may be used for funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project.

(c) **COMPLIANCE WITH PUBLIC HOUSING REQUIREMENTS.**—The units assisted with capital or operating assistance in a mixed-finance project shall be developed, operated, and maintained in accordance with the requirements of this Act relating to public housing during the period required by under this Act, unless otherwise specified in this section. For purposes of this Act, any reference to public housing owned or operated by a public housing agency shall include dwelling units in a mixed finance project that are assisted by the agency with capital or operating assistance.

(d) **MIXED-FINANCE PROJECTS.**—

(1) **IN GENERAL.**—For purposes of this section, the term "mixed-finance project" means a project that meets the requirements of paragraph (2) and is financially assisted by private resources, which may include low-income housing tax credits, in addition to amounts provided under this Act.

(2) **TYPES OF PROJECTS.**—The term includes a project that is developed—

(A) by a public housing agency or by an entity affiliated with a public housing agency;

(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

(C) by any entity that grants to the public housing agency the right of first refusal and first option to purchase, after the close of the compliance period, of the qualified low-income building in which the public housing units exist in accordance with section 42(i)(7) of the Internal Revenue Code of 1986; or

²⁸⁷ Section 539 of the QHWRRA added section 35. Additional information from section 539: "(b) Regulations.—The Secretary shall issue such regulations as may be necessary to promote the development of mixed-finance projects, as that term is defined in section 3(b) of the United States Housing Act of 1937 (as amended by this Act)."

(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

(e) *STRUCTURE OF PROJECTS.*—Each mixed-finance project shall be developed—

(1) in a manner that ensures that public housing units are made available in the project, by regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest;

(2) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance, or as may otherwise be approved by the Secretary; and

(3) in accordance with such other requirements as the Secretary may prescribe by regulation.

(f) *TAXATION.*—

(1) *IN GENERAL.*—A public housing agency may elect to exempt all public housing units in a mixed-finance project—

(A) from the provisions of section 6(d), and instead subject such units to local real estate taxes; and

(B) from the finding of need and cooperative agreement provisions under section 5(e)(1)(ii) and 5(e)(2), but only if the development of the units is not inconsistent with the jurisdiction's comprehensive housing affordability strategy.

(2) *LOW-INCOME HOUSING TAX CREDIT.*—With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section, provided that such levels for public housing residents do not exceed the amounts allowable under section 3.

(g) *USE OF SAVINGS.*—Notwithstanding any other provision of this Act, to the extent deemed appropriate by the Secretary, to facilitate the establishment of socioeconomically mixed communities, a public housing agency that uses assistance from the Capital Fund for a mixed-finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other costs relating to public housing, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

(h) *EFFECT OF CERTAIN CONTRACT TERMS.*—If an entity that owns or operates a mixed-finance project, that includes a significant number of units other than public housing units enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9 or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and

requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.

[TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES]

[Note.—Title II of the United States Housing Act of 1937 established low-income housing programs for Indians and Alaska Natives. Title II was repealed by section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104-330). For provisions regarding termination of assistance under such programs see sections 502, 503, and 507 of such Act, set forth in Part VII of this compilation.]

TITLE III²⁸⁸—HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP

SEC. 301. [42 U.S.C. 1437aaa] PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to help applicants to develop homeownership programs in accordance with this title; and

(2) implementation grants to carry out homeownership programs in accordance with this title.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

SEC. 302. [42 U.S.C. 1437aaa-1] PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title. The amount of a planning grant under this section may not exceed \$200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance for applicants related to development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

²⁸⁸ Subtitle A of title IV of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, amended the United States Housing Act of 1937 by adding this title and making various related amendments. Section 419 of such Act provides as follows:

"SEC. 419. APPLICABILITY TO INDIAN PUBLIC HOUSING.

"In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title affects the program under section 202 of such Act."

- (4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;
- (5) preliminary architectural and engineering work;
- (6) tenant and homebuyer counseling and training;
- (7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;
- (8) development of security plans; and
- (9) preparation of an application for an implementation grant under this title.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act,²⁸⁹ that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the project;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

²⁸⁹ The date of enactment was November 28, 1990.

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

SEC. 303. [42 U.S.C. 1437aaa-2] IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including pro-grams for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

(1) Architectural and engineering work.

(2) Implementation of the homeownership program, including acquisition of the public housing project from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance ²⁹⁰under section 9 from the Operating Fund, with adjustments comparable to those that would have been made under section 9.²⁹¹

(11) Implementation of a replacement housing plan.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

²⁹⁰ Section 519(c)(1) of the QHWRA amended section 303(b)(10).

²⁹¹ Section 181(g)(1)(B) of the Housing and Community Development Act of 1992, Pub. L. 102-550, provides as follows:

"(B) Operating subsidies.—Section 303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa-2(b)(9)) is amended by inserting before the period at the end the following: ` , and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program'."

The amendment could not be executed and was probably intended to be made to this paragraph of the United States Housing Act of 1937.

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-sale operating expenses and replacement housing, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(3) REDUCTION OF REQUIREMENT.—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 304(b);

(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

(I) the estimated sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act,²⁹² that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

(2) the feasibility of the homeownership program;

(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

²⁹² The date of enactment was November 28, 1990.

(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

(8) the extent to which a sufficient supply of affordable rental housing exists in the locality, so that the implementation of the homeownership program will not reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) LOCATION WITHIN PARTICIPATING JURISDICTIONS.—The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions—

(1) which are participating jurisdictions under title III of the Cranston-Gonzalez National Affordable Housing Act; or

(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

(g) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

SEC. 304. [42 U.S.C. 1437aaa-3] HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this title shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this title shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) PLAN.—A homeownership program under this title shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

(4) providing ongoing training and counseling for homebuyers and homeowners; and

(5) replacing units in eligible projects covered by a homeownership program.

(d) ACQUISITION AND REHABILITATION LIMITATIONS.—Acquisition or rehabilitation of public housing projects under a homeownership program under this title may not consist of acquisition or rehabilitation of less than the whole public housing project in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) FINANCING.—

(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this title shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this title.

²⁹³[(g)²⁹⁴ [Repealed.]]

²⁹³ Section 531(b) of the QHWRRA repealed section 305(g). Additional information: "(b) Homeownership Replacement Plan.—(1) In general.—Notwithstanding subsections (b) and (c) of section 1002 of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995 (Public Law 104-19; 109 Stat. 236), subsection (g) of section 304 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-3(g)) is repealed.

(h) PROTECTION OF NON-PURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

(2) REPLACEMENT ASSISTANCE.—If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 3(a) of this Act or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 assistance for use in other housing.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(4) OTHER RIGHTS.—Tenants renting a unit in a project transferred under this title shall have all rights provided to tenants of public housing under this Act.

SEC. 305. [42 U.S.C. 1437aaa-4] OTHER PROGRAM REQUIREMENTS.

(a) SALE BY PUBLIC HOUSING AGENCY TO APPLICANT OR OTHER ENTITY REQUIRED.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

(b) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(c) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this title, subject to the provisions of this title.

(d) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

(e) OPERATING SUBSIDIES.—²⁹⁵~~Operating subsidies~~ *Amounts from an allocation from the Operating Fund* under section 9 of this Act shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

(f) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the

(2) *Effective date.*—The amendment made by paragraph (1) shall be effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by the Secretary after September 30, 1995."

²⁹⁴ Section 1002(b) of Public Law 104-19, approved July 27, 1995, repealed this subsection (relating to 1-for-1 replacement of public housing dwelling units transferred). Subsection (d) of such section 1002 provides as follows:

"(d) Subsections (a), (b), and (c) shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and on or before September 30, 1998."

²⁹⁵ Section 519(c)(2) of the QHWRA amended section 305(e).

homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(g) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares

representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(h) **THIRD PARTY RIGHTS.**—The requirements under this title regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(i) **DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.**—Not more than an aggregate of \$250,000 from amounts made available under sections 302 and 303 may be used for economic development activities under sections 302(b)(6)²⁹⁶ and 303(b)(9) for any project.

(j) **TIMELY HOMEOWNERSHIP.**—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(k) **CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.**—To be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

(l) **RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.**—

(1) **IN GENERAL.**—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) **ACCESS BY THE SECRETARY.**—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

(3) **ACCESS BY THE COMPTROLLER GENERAL.**—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General,

²⁹⁶ So in law. Probably intended to refer to section 302(b)(7).

shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

SEC. 306. [42 U.S.C. 1437aaa-5] DEFINITIONS.

For purposes of this title:

(1) The term "applicant" means the following entities that may represent the tenants of the project:

(A) A public housing agency.

(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

(C) A resident council.

(D) A cooperative association.

(E) A public or private nonprofit organization.

(F) A public body, including an agency or instrumentality thereof.

(2) The term "eligible family" means—

(A) a family or individual who is a tenant in the public housing project on the date the Secretary approves an implementation grant;

(B) a low-income family; or

(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

(3) The term "homeownership program" means a program for homeownership meeting the requirements under this title.

(4) The term "recipient" means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

(5) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

²⁹⁷SEC. 307. [42 U.S.C. 1437aaa-6] RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES.

The program authorized under this title shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h) of this Act.

SEC. 308. [42 U.S.C. 1437aaa-7] LIMITATION ON SELECTION CRITERIA.

²⁹⁷ The amendment made by Section 518(a)(2)(C) of the QHWRRA could not be executed. The amendment strikes the text "section 5(h) and" from section 307, which does not appear in section 307.

In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 309. [42 U.S.C. 1437aaa-8] ANNUAL REPORT.

The Secretary shall annually submit to the Congress a report setting forth—

- (1) the number, type, and cost of public housing units sold pursuant to this title;
- (2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;
- (3) the amount and type of financial assistance provided under and in conjunction with this title;
- (4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and
- (5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

²⁹⁸**TITLE IV—HOME RULE FLEXIBLE GRANT DEMONSTRATION**

SEC. 401. PURPOSE.

The purpose of this title is to demonstrate the effectiveness of authorizing local governments and municipalities, in coordination with the public housing agencies for such jurisdictions—

- (1) *to receive and combine program allocations of covered housing assistance;*
and
- (2) *to design creative approaches for providing and administering Federal housing assistance based on the particular needs of the jurisdictions that—*
 - (A) *provide incentives to low-income families with children whose head of the household is employed, seeking employment, or preparing for employment by participating in a job training or educational program, or any program that otherwise assists individuals in obtaining employment and attaining economic self-sufficiency;*
 - (B) *reduce costs of Federal housing assistance and achieve greater cost-effectiveness in Federal housing assistance expenditures;*
 - (C) *increase the stock of affordable housing and housing choices for low-income families;*
 - (D) *increase homeownership among low-income families;*
 - (E) *reduce geographic concentration of assisted families;*
 - (F) *reduce homelessness through providing permanent housing solutions;*
 - (G) *improve program management; and*
 - (H) *achieve such other purposes with respect to low-income families, as determined by the participating local governments and municipalities in coordination with the public housing agencies;*

²⁹⁸ Section 561 of the QHWRRA added Title IV.

SEC. 402. FLEXIBLE GRANT PROGRAM.

(a) *AUTHORITY AND USE.*—The Secretary shall carry out a demonstration program in accordance with the purposes under section 401 and the provisions of this title. A jurisdiction approved by the Secretary for participation in the program may receive and combine and enter into performance-based contracts for the use of amounts of covered housing assistance, in the manner determined appropriate by the participating jurisdiction, during the period of the jurisdiction's participation—

- (1) to provide housing assistance and services for low-income families in a manner that facilitates the transition of such families to work;
- (2) to reduce homelessness through providing permanent housing solutions;
- (3) to increase homeownership among low-income families; or
- (4) for other housing purposes for low-income families determined by the participating jurisdiction.

(b) *PERIOD OF PARTICIPATION.*—A jurisdiction may participate in the demonstration program under this title for a period consisting of not less than 1 nor more than 5 fiscal years.

(c) *PARTICIPATING JURISDICTIONS.*—

(1) *IN GENERAL.*—Subject to paragraph (2), during the 4-year period consisting of fiscal years 1999 through 2002, the Secretary may approve for participation in the program under this title not more than an aggregate of 100 jurisdictions over the entire term of the demonstration program. A jurisdiction that was approved for participation in the demonstration program under this title in a fiscal year and that is continuing such participation in any subsequent fiscal year shall count as a single jurisdiction for purposes of the numerical limitation under this paragraph.

(2) *EXCLUSION OF HIGH PERFORMING AGENCIES.*—Notwithstanding any other provision of this title other than paragraph (4) of this subsection, the Secretary may approve for participation in the demonstration program under this title only jurisdictions served by public housing agencies that—

(A) are not designated as high-performing agencies, pursuant to their most recent scores under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval; and

(B) have a most recent score under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval, that is among the lowest 40 percent of the scores of all agencies.

(3) *LIMITATION ON TROUBLED AND NON-TROUBLED PHAS.*—Of the jurisdictions approved by the Secretary for participation in the demonstration program under this title—

(A) not more than 55 may be jurisdictions served by a public housing agency that, at the time of approval, is designated as a troubled agency under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies); and

(B) not more than 45 may be jurisdictions served by a public housing agency that, at the time of approval, is not designated as a troubled agency under

the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies).

(4) EXCEPTION.—If the City of Indianapolis, Indiana submits an application for participation in the program under this title and, upon review of the application under section 406(b), the Secretary determines that such application is approvable under this title, the Secretary shall approve such application, notwithstanding the second sentence of section 406(b)(2). Such City shall count for purposes of the numerical limitations on jurisdictions under paragraphs (1) and (3) of section 402(c), but the provisions of section 402(c)(2) (relating to exclusion of high-performing agencies) shall not apply to such City.

SEC. 403. PROGRAM ALLOCATION AND COVERED HOUSING ASSISTANCE.

(a) PROGRAM ALLOCATION.—In each fiscal year, the amount made available to each participating jurisdiction under the demonstration program under this title shall be equal to the sum of the amounts of covered housing assistance that would otherwise be made available under the provisions of this Act to the public housing agency for the jurisdiction.

(b) COVERED HOUSING ASSISTANCE.—For purposes of this title, the term "covered housing assistance" means—

- (1) operating assistance under section 9 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);*
- (2) modernization assistance under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);*
- (3) assistance for the certificate and voucher programs under section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);*
- (4) assistance from the Operating Fund under section 9(e);*
- (5) assistance from the Capital Fund under section 9(d); and*
- (6) tenant-based assistance under section 8 (as amended by the Quality Housing and Work Responsibility Act of 1998).*

SEC. 404. APPLICABILITY OF REQUIREMENTS UNDER PROGRAMS FOR COVERED HOUSING ASSISTANCE.

(a) IN GENERAL.—In each fiscal year of the demonstration program under this title, amounts made available to a participating jurisdiction under the demonstration program shall be subject to the same terms and conditions as such amounts would be subject to if made available under the provisions of this Act pursuant to which covered housing assistance is otherwise made available under this Act to the public housing agency for the jurisdiction, except that—

- (1) the Secretary may waive any such term or condition identified by the jurisdiction to the extent that the Secretary determines such action to be appropriate to carry out the purposes of the demonstration program under this title; and*
- (2) the participating jurisdiction may combine the amounts made available and use the amounts for any activity eligible under the programs under sections 8 and 9.*

(b) NUMBER OF FAMILIES ASSISTED.—In carrying out the demonstration program under this title, each participating jurisdiction shall assist substantially the same total number of

eligible low-income families as would have otherwise been served by the public housing agency for the jurisdiction had the jurisdiction not participated in the demonstration program under this title.

(c) *PROTECTION OF RECIPIENTS.*—This title may not be construed to authorize the termination of assistance to any recipient receiving assistance under this Act before the date of the enactment of this title as a result of the implementation of the demonstration program under this title.

(d) *EFFECT ON ABILITY TO COMPETE FOR OTHER PROGRAMS.*—This title may not be construed to affect the ability of any applying or participating jurisdiction (or a public housing agency for any such jurisdiction) to compete or otherwise apply for or receive assistance under any other housing assistance program administered by the Secretary.

SEC. 405. PROGRAM REQUIREMENTS.

(a) *APPLICABILITY OF CERTAIN PROVISIONS.*—Notwithstanding section 404(a)(1), the Secretary may not waive, with respect to any participating jurisdiction, any of the following provisions:

(1) The first sentence of paragraph (1) of section 3(a) (relating to eligibility of low-income families).

(2) Section 16 (relating to income eligibility and targeting of assistance).

(3) Paragraph (2) of section 3(a) (relating to rental payments for public housing families).

(4) Paragraphs (2) and (3) of section 8(o) (to the extent such paragraphs limit the amount of rent paid by families assisted with tenant-based assistance).

(5) Section 18 (relating to demolition or disposition of public housing).

(b) *COMPLIANCE WITH ASSISTANCE PLAN.*—A participating jurisdiction shall provide assistance using amounts received pursuant to this title in the manner set forth in the plan of the jurisdiction approved by the Secretary under section 406(a)(2).

SEC. 406. APPLICATION.

(a) *IN GENERAL.*—The Secretary shall provide for jurisdictions to submit applications for approval to participate in the demonstration program under this title. An application—

(1) shall be submitted only after the jurisdiction provides for citizen participation through a public hearing and, if appropriate, other means;

(2) shall include a plan for the provision of housing assistance with amounts received pursuant to this title that—

(A) is developed by the jurisdiction;

(B) takes into consideration comments from the public hearing, any other public comments on the proposed program, and comments from current and prospective residents who would be affected; and

(C) identifies each term or condition for which the jurisdiction is requesting waiver under section 404 (a)(1);

(3) shall describe how the plan for use of amounts will assist in meeting the purposes of, and be used in accordance with, sections 401 and 402(a), respectively;

(4) shall propose standards for measuring performance in using assistance provided pursuant to this title based on the performance standards under subsection (b)(4);

(5) shall propose the length of the period for participation of the jurisdiction is in the demonstration program under this title;

(6) shall—

(A) in the case of the application of any jurisdiction within whose boundaries are areas subject to any other unit of general local government, include the signed consent of the appropriate executive official of such unit to the application; and

(B) in the case of the application of a consortia of units of general local government (as provided under section 409(1)(B)), include the signed consent of the appropriate executive officials of each unit included in the consortia;

(7) shall include information sufficient, in the determination of the Secretary—

(A) to demonstrate that the jurisdiction has or will have management and administrative capacity sufficient to carry out the plan under paragraph (2), including a demonstration that the applicant has a history of effectively administering amounts provided under other programs of the Department of Housing and Urban Development, such as the community development block grant program, the HOME investment partnerships program, and the programs for assistance for the homeless under the Stewart B. McKinney Homeless Assistance Act;

(B) to demonstrate that carrying out the plan will not result in excessive duplication of administrative efforts and costs, particularly with respect to activities performed by public housing agencies operating within the boundaries of the jurisdiction;

(C) to describe the function and activities to be carried out by such public housing agencies affected by the plan; and

(D) to demonstrate that the amounts received by the jurisdiction will be maintained separate from other funds available to the jurisdiction and will be used only to carry out the plan;

(8) shall include information describing how the jurisdiction will make decisions regarding asset management of housing for low-income families under programs for covered housing assistance or assisted with grant amounts under this title;

(9) shall—

(A) clearly identify any State or local laws that will affect implementation of the plan under paragraph (2) and any contractual rights and property interests that may be affected by the plan;

(B) describe how the plan will be carried out with respect to such laws, rights, and interests; and

(C) contain a legal memorandum sufficient to describe how the plan will comply with such laws and how the plan will be carried out without violating or impairing such rights and interests; and

(10) shall identify procedures for how the jurisdiction shall return to providing covered assistance for the jurisdiction under the provisions of title I, in the case of determination under subsection (b)(4)(B).

A plan required under paragraph (2) to be included in the application may be contained in a memorandum of agreement or other document executed by a jurisdiction and public housing agency, if such document is submitted together with the application.

(b) REVIEW, APPROVAL, AND PERFORMANCE STANDARDS.—

(1) REVIEW.—The Secretary shall review each application for participation in the demonstration program under this title and shall determine and notify the jurisdiction submitting the application, not later than 90 days after its submission, of whether the application is approvable under this title. If the Secretary determines that the application of a jurisdiction is approvable under this title, the Secretary shall provide affected public housing agencies an opportunity to review and to provide written comments on the application for a period of not less than 30 days after notification under the preceding sentence. If the Secretary determines that an application is not approvable under this title, the Secretary shall notify the jurisdiction submitting the application of the reasons for such determination. Upon making a determination of whether an application is approvable or nonapprovable under this title, the Secretary shall make such determination publicly available in writing together with a written statement of the reasons for such determination.

(2) APPROVAL.—The Secretary may approve jurisdictions for participation in the demonstration program under this title, but only from among applications that the Secretary has determined under paragraph are approvable under this title and only in accordance with section 402(c). The Secretary shall base the selection of jurisdictions to approve on the potential success, as evidenced by the application, in—

(A) achieving the goals set forth in the performance standards under paragraph (4)(A); and

(B) increasing housing choices for low-income families.

(3) AGREEMENT.—The Secretary shall offer to enter into an agreement with each jurisdiction approved for participation in the program under this title providing for assistance pursuant to this title for a period in accordance with section 402(b) and incorporating a requirement that the jurisdiction achieve a particular level of performance in each of the areas for which performance standards are established under paragraph (4)(A) of this subsection. If the Secretary and the jurisdiction enter into an agreement, the Secretary shall provide any covered housing assistance for the jurisdiction in the manner authorized under this title. The Secretary may not provide covered housing assistance for a jurisdiction in the manner authorized under this title unless the Secretary and jurisdiction enter into an agreement under this paragraph.

(4) PERFORMANCE STANDARDS.—

(A) ESTABLISHMENT.—The Secretary and each participating jurisdiction may collectively establish standards for evaluating the performance of the participating jurisdiction in meeting the purposes under section 401 of this title, which may include standards for—

(i) moving dependent low-income families to economic self-sufficiency;

- (ii) *reducing the per-family cost of providing housing assistance;*
- (iii) *expanding the stock of affordable housing and housing choices for low-income families;*
- (iv) *improving program management;*
- (v) *increasing the number of homeownership opportunities for low-income families;*
- (vi) *reducing homelessness through providing permanent housing resources;*
- (vii) *reducing geographic concentration of assisted families; and*
- (viii) *any other performance goals that the Secretary and the participating jurisdiction may establish.*

(B) FAILURE TO COMPLY.—If, at any time during the participation of a jurisdiction in the program under this title, the Secretary determines that the jurisdiction is not sufficiently meeting, or making progress toward meeting, the levels of performance incorporated into the agreement of the jurisdiction pursuant to subparagraph (A), the Secretary shall terminate the participation of the jurisdiction in the program under this title and require the implementation of the procedures included in the application of the jurisdiction pursuant to subsection (a)(10).

(5) TROUBLED AGENCIES.—The Secretary may establish requirements for the approval of applications under this section submitted by public housing agencies designated under section 6(j)(2) as troubled, which may include additional or different criteria determined by the Secretary to be more appropriate for such agencies.

(c) STATUS OF PHAS.—This title may not be construed to require any change in the legal status of any public housing agency or in any legal relationship between a jurisdiction and a public housing agency as a condition of participation in the program under this title.

(d) PHA PLANS.—In carrying out this title, the Secretary may provide for a streamlined public housing agency plan and planning process under section 5A for participating jurisdictions.

SEC. 407. TRAINING.

The Secretary, in consultation with representatives of public and assisted housing interests, may provide training and technical assistance relating to providing assistance under this title and may conduct detailed evaluations of up to 30 jurisdictions for the purpose of identifying replicable program models that are successful at carrying out the purposes of this title.

SEC. 408. ACCOUNTABILITY.

(a) MAINTENANCE OF RECORDS.—Each participating jurisdiction shall maintain such records as the Secretary may require to—

- (1) document the amounts received by the jurisdiction under this Act and the disposition of such amounts under the demonstration program under this title;*
- (2) ensure compliance by the jurisdiction with this title; and*
- (3) evaluate the performance of the jurisdiction under the demonstration program under this title.*

(b) *REPORTS.*—Each participating jurisdiction shall annually submit to the Secretary a report in a form and at a time specified by the Secretary, which shall include—

(1) documentation of the use of amounts made available to the jurisdiction under this title;

(2) any information as the Secretary may request to assist the Secretary in evaluating the demonstration program under this title; and

(3) a description and analysis of the effect of assisted activities in addressing the objectives of the demonstration program under this title.

(c) *ACCESS TO DOCUMENTS BY SECRETARY AND COMPTROLLER GENERAL.*—The Secretary and the Comptroller General of the United States, or any duly authorized representative of the Secretary or the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records maintained by a participating jurisdiction that relate to the demonstration program under this title.

(d) *PERFORMANCE REVIEW AND EVALUATION.*—

(1) *PERFORMANCE REVIEW.*—Based on the performance standards established under section 406(b)(4), the Secretary shall monitor the performance of participating jurisdictions in providing assistance under this title.

(2) *STATUS REPORT.*—Not later than 60 days after the conclusion of the second year of the demonstration program under this title, the Secretary shall submit to Congress an interim report on the status of the demonstration program and the progress each participating jurisdiction in achieving the purposes of the demonstration program under section 401.

SEC. 409. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) *JURISDICTION.*—The term "jurisdiction" means—

(A) a unit of general local government (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) that has boundaries, for purposes of carrying out this title, that—

(i) wholly contain the area within which a public housing agency is authorized to operate; and

(ii) do not contain any areas contained within the boundaries of any other participating jurisdiction; and

(B) a consortia of such units of general local government, organized for purposes of this title.

(2) *PARTICIPATING JURISDICTION.*—The term "participating jurisdiction" means, with respect to a period for which such an agreement is made, a jurisdiction that has entered into an agreement under section 406(b)(3) to receive assistance pursuant to this title for such fiscal year.

SEC. 410. TERMINATION AND EVALUATION.

(a) *TERMINATION.*—The demonstration program under this title shall terminate not less than 2 and not more than 5 years after the date on which the demonstration program is commenced.

(b) EVALUATION.—Not later than 6 months after the termination of the demonstration program under this title, the Secretary shall submit to the Congress a final report, which shall include—

(1) an evaluation the effectiveness of the activities carried out under the demonstration program; and

(2) any findings and recommendations of the Secretary for any appropriate legislative action.

SEC. 411. APPLICABILITY.

This title shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.