

PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The SHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments, and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

The SHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to, and usable by, persons with disabilities. It is the sole responsibility of the SHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The SHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The SHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the SHA has otherwise opted not to implement a homeownership program.

The SHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to, and usable by, persons with disabilities.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The SHA may also establish additional initial requirements as long as they are described in this administrative plan.

- The family must have been admitted to the Housing Choice Voucher program;
- The family must qualify as a first-time homeowner, or may be a cooperative member;
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home;
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12;
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families;
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family;

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family which includes a person with disabilities, the SHA must grant an exemption from the employment requirement if the SHA determines that it is needed as a reasonable accommodation;
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option;
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home; and
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

SHA Policy

The SHA has elected the following additional requirements for a family to participate in the Homeownership Program:

- The family must have been a participant in the HCV program for at least one year;
- The family must not owe the SHA or any other PHA an outstanding debt;
- The family must complete a homeownership counseling program approved by the SHA prior to their application for participation in the Homeownership Program; and
- The family must be able to provide a minimum down payment of at least 3% of the purchase price and at least 1% of the purchase price must come from the family's personal resources. This requirement may be waived by the Executive Director for mortgages provided by the United States Department of Agriculture, Rural Development 502 Direct Loan Program and Habitat for Humanity participation.

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the SHA may limit homeownership assistance to families or purposes defined by the SHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the SHA administrative plan.

If the SHA limits the number of families that may participate in the homeownership option, the SHA must establish a system by which to select families to participate.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the SHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
 - A public housing or Indian housing unit;
 - A unit receiving Section 8 project-based assistance;

- A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
- A college or other school dormitory; or
- On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction, or already exist, at the time the family enters into the contract of sale.
- The unit must be a one-unit property, or a single dwelling unit in a cooperative, or condominium.
- The unit must have been inspected by the SHA, and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- For SHA-owned units all of the following conditions must be satisfied:
 - The SHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a SHA-owned unit is freely selected by the family without SHA pressure or steering;
 - The unit is not ineligible housing; and
 - The SHA will review the independent inspection report for compliance with HQS, review the contract of sale, and determine the reasonableness of the sales price.

The SHA must not approve the unit if the SHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL SHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The SHA may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the SHA, the SHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

SHA Policy

- After entering into a written agreement with the SHA to comply with all of its obligations under the HCV Homeownership program, a family shall have 120 days to locate a home to purchase. A home shall be considered located if the family submits an executed purchase and sale agreement. For a family member with a disability, a search period in excess of 120 days may be granted by the SHA as a reasonable accommodation.

- During a participant's search for a home to purchase, the family must check in at least monthly with the SHA Homeownership Coordinator and update him/her on the progress of the search.
- If a participant is unable to locate a home within the 120 time frame, they may continue their participation in the HCV rental assistance program and may not re-apply for the Homeownership Program until they have completed an additional year of participation.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the SHA. HUD suggests the following topics for the required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the SHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The SHA may choose to utilize a third-party for pre-assistance counseling.

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

If the SHA does not use a HUD-approved housing counseling agency to provide the counseling, the SHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND SHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The SHA may not commence monthly homeownership assistance payments for a family until the SHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by, and paid for by, the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

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

The SHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS. The SHA may require specific repairs to the unit prior to approval based on the information in the independent inspector's report.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the SHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the SHA may deny approval of a seller for the same reasons the SHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The SHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The SHA must establish policies describing these requirements in the administrative plan.

The SHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

SHA Policy

- Balloon payment mortgages and variable interest rate mortgages are prohibited and will not be approved by the SHA;
- Seller financed mortgages shall be considered by the SHA on a case-by-case basis; and
- If a mortgage is not backed by a government program, the SHA will require the lender to comply with accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, USDA-RD or other private lending institution.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

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

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt;
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i);
- The family must supply information to the SHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the SHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses;
- The family must notify the SHA before moving out of the home;
- The family must notify the SHA if the family defaults on the mortgage used to purchase the home;
- No family member may have any ownership interest in any other residential property; and
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the SHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The SHA may pay the homeownership assistance payments directly to the family, or at the SHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the SHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, the SHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The SHA must adopt policies for determining the amount of homeownership expenses to be allowed by the SHA in accordance with HUD requirements.

SHA Policy

Homeownership expenses (not including cooperatives) only include amounts allowed by the SHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The SHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the SHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)];
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association; and
- Homeowner Association monthly dues.

Homeownership expenses for a cooperative member may only include amounts allowed by the SHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The SHA utility allowance for the home;
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the SHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person; and
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and the SHA's policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit,

are acceptable. The receiving PHA must promptly notify the SHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the SHA.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The SHA may deny permission to move to a new unit with continued voucher assistance:

- If the SHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the SHA's policy regarding number of moves within a 12-month period.

The SHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the SHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The SHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice dated 12/29/14.

The SHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.