

**§ 1437d. Contract provisions and requirements; loans and annual contributions**

**(a) Conditions; elevators**

The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this chapter, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the project involved, in a manner consistent with the public housing agency plan. 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.

**(b) Limitation on development costs**

(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 chapter 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.

(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<sup>1</sup> 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 [42 U.S.C. 12721 et seq.]; or
- ( ) the community development block grants program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(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.

<sup>1</sup>So in original. Probably should be "is".

**(c) Revision of maximum income limits; certification of compliance with requirements; notification of eligibility; informal hearing; compliance with procedures for sound management**

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 chapter;

(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 not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking<sup>2</sup>

(4) 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; and

(5) 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—

- (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 1437c-1(f) of this title 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 pay-

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<sup>2</sup>So in original. Probably should be followed by a semicolon.

ment 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 designed to assure that 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) for each agency that receives assistance under this subchapter, 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 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

**(d) Exemption from personal and real property taxes; payments in lieu of taxes; cash contribution or tax remission**

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 chapter) 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 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 1437c(e)(2) of this title, 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.

**(e) Repealed. Pub. L. 105-276, title V, § 529(2), Oct. 21, 1998, 112 Stat. 2569**

**(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 1437f(o)(8)(B)(i) of this title. 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 1437c(h) of this title, shall make such results available.

**(g) Substantial default; conveyance of title and delivery of possession; reconveyance and redelivery; payments for outstanding obligations**

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 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 chapter, 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 re-

delivery, 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 chapter, 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. 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) 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 chapter) 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) New construction contracts**

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) of this section, would be.

**(i) Reserve fund; major repairs**

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.

**( ) Performance indicators for public housing agencies**

(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. Such 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 for public housing agencies, to the extent practicable:

(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.

(B) The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 1437g(d) of this title which remain unobligated by the public housing agency after 3 years.

(C) The percentage of rents uncollected.

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

(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).

(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) <sup>3</sup> 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.

(K) Any other factors as the Secretary deems appropriate which shall not exceed the seven factors in the statute, plus an additional five.

(I) <sup>4</sup> The Secretary shall:

(1) administer the system of evaluating public housing agencies flexibly to ensure

<sup>3</sup> Another subpar. (I) is set out after subpar. (K).

<sup>4</sup> Another subpar. (I) is set out before subpar. (J).

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 1437l<sup>5</sup> of this title" based upon factors solely related to its ability to carry out that program.

(2)(A)(i) The Secretary shall, under the rule-making procedures under section 553 of title 5, 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. 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, agencies that are troubled with respect to the program for assistance from the Capital Fund under section 1437g(d) of this title.

(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 for assistance from the Capital Fund under section 1437g(d) of this title), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency with more than 250 units as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any 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 1437l<sup>5</sup> of this title 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 in-

ventory are severely distressed and eligible for assistance pursuant to section 1437v of this title.

(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, 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) (if applicable) and consulting with the agency's assessment team. 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.

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. 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) 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—

(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;

(ii) petition for the appointment of a receiver (which may be another public housing

<sup>5</sup> See References in Text note below.

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 from the Capital Fund under section 1437g(d) of this title for the housing; and<sup>6</sup>

(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 subchapter; 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 1437f of this title for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

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.

(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.

(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 October 21, 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 October 21, 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).

( ) 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 1437p of this title, 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.

<sup>6</sup> So in original. The word "and" probably should not appear.

(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 1437p of this title, including disposition by transfer of properties to resident-supported nonprofit entities;

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

(III) 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;

(IV) 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

(II) 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).

( ) 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 1437f

of this title. 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 chapter 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.

(4) SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

(A) IN GENERAL.—In addition to any other actions authorized under this chapter, if the Secretary finds that a public housing agency receiving assistance amounts under section 1437g of this title for public housing has failed to comply substantially with any provision of this chapter relating to the public housing program, the Secretary may—

(i) terminate assistance payments under this<sup>7</sup> section 1437g of this title to the agency;

(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 1437g of this title;

(i) reduce the amount of future assistance payments under section 1437g of this title to the agency by an amount equal to the amount of such payments that were not expended in accordance with this chapter;

(ii) limit the availability of assistance amounts provided to the agency under section 1437g of this title to programs, projects, or activities not affected by such failure to comply;

(iii) withhold from the agency amounts allocated for the agency under section 1437f of this title; or

<sup>7</sup> So in original. The word "this" probably should not appear.

(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 1437g of this title to the agency in the full amount of the total allocations under section 1437g of this title for the agency at the time that the Secretary first determines that the agency will comply with the provisions of this chapter 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 chapter 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 chapter 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 chapter relating to such program.

(5) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 3536 of this title, 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), including an accounting of the authorized funds that have been expended to support such actions; and

(F) describes the status of any public housing agency designated as troubled with respect to the program for assistance from the Capital Fund under section 1437g(d) of this title and specifies the amount of assistance the agency received under such program.

(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 1437g of this title,

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) Administrative grievance procedure regulations: grounds of adverse action, hearing, examination of documents, representation, evidence, decision; judicial hearing; eviction and termination procedures**

The Secretary shall by regulation require each public housing agency receiving assistance under this chapter 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 (l) of this section;

(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 violent or drug-related criminal activity on or off such premises, or 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, 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). 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) Leases; terms and conditions; maintenance; termination**

Each public housing agency shall utilize leases which—

(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 1437j(c) of this title (relating to community service requirements); except that

nothing in this subchapter shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;

(2) do not contain unreasonable terms and conditions;

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

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

(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, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(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, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence;

(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; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A) or any Federal, State, or local law to the contrary, a public housing agency may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of

such violence who is also a tenant or lawful occupant and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up;

(D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.;

(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;

(7)<sup>9</sup> provide that any occupancy in violation of section 13661(b) of this title (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 13662 of this title (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;<sup>10</sup>

(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, 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

<sup>8</sup> So in original. The period probably should not appear.

<sup>9</sup> So in original. Probably should be "(8)".

<sup>10</sup> So in original. Probably should be followed by "and".



(2)<sup>11</sup> is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5),<sup>12</sup> 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 802 of title 21).

**(m) Reporting requirements; limitation**

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

**(n) Notice to post office regarding eviction for criminal activity**

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) Public housing assistance for foster care children**

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.

**(p) Repealed. Pub. L. 105–276, title V, § 519(b), Oct. 21, 1998, 112 Stat. 2561**

**(q) Availability of records**

**(1) In general**

**(A) Provision of information**

Notwithstanding any other provision of law, except as provided in 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, covered housing assistance for purposes of applicant screening, lease enforcement, and eviction.

**(B) Requests by owners of project-based section 8 [42 U.S.C. 1437f] 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 as-

sistance under section 1437f of this title 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.

**(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 subchapter 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) Fees**

A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In 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

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

**(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

<sup>11</sup> So in original. Probably should be “(B)”.

<sup>12</sup> See References in Text note below.

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 <sup>13</sup> 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.

**(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—

- (i) a dwelling unit in public housing;
- (ii) a dwelling unit in housing that is provided project-based assistance under section 1437f of this title, including new construction and substantial rehabilitation projects; and
- (iii) tenant-based assistance under section 1437f of this title.

**(C) Owner**

The term “owner” means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private per-

son (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

**(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 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], 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.

**(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) of this section regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

**(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**

**(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 re-

<sup>13</sup> So in original. Probably should be “includes”.

ceived by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act [42 U.S.C. 290dd-2];

(ii) is not misused or improperly disseminated; and

(iv) 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 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

(v) 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 802 of title 21.

**(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 on October 21, 1998, and without the necessity of guidance from, or any regulation issued by, the Secretary.

**(u) Certification and confidentiality**

**(1) Certification**

**(A) In general**

A public housing agency responding to subsection (j)(5) and (6) of this section may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the individual receives a request for such certification from the public housing agency.

**(B) Failure to provide certification**

If the individual does not provide the certification within 14 business days after the individual has received a request in writing for such certification from the public housing agency, nothing in this subsection, or in paragraph (5) or (6) of subsection (l) of this section, may be construed to limit the authority of the public housing agency to evict any tenant or lawful occupant that commits violations of a lease. The public housing agency may extend the 14-day deadline at its discretion.

**(C) Contents**

An individual may satisfy the certification requirement of subparagraph (A) by—

- (i) providing the requesting public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or
- (ii) producing a Federal, State, tribal, territorial, or local police or court record.

**(D) Limitation**

Nothing in this subsection shall be construed to require any public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At the public housing agency's discretion, a public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

**(E) Preemption**

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

**(F) Compliance not sufficient to constitute evidence of unreasonable act**

Compliance with this statute by a public housing agency, or assisted housing provider based on the certification specified in subparagraphs (A) and (B) of this subsection<sup>14</sup> or based solely on the victim's statement or other corroborating evidence, as permitted by subparagraph (D) of this subsection,<sup>14</sup> shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a public housing agency or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to

comply with the requirements of subsection (l)(5) and (6) of this section.

**(2) Confidentiality****(A) In general**

All information provided to any public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by such public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

- (i) requested or consented to by the individual in writing;
- (ii) required for use in an eviction proceeding under subsection (l)(5) or (6) of this section; or
- (vi) otherwise required by applicable law.

**(B) Notification**

Public housing agencies must provide notice to tenants assisted under this section of their rights under this subsection and subsection (l)(5) and (6) of this section, including their right to confidentiality and the limits thereof.

**(3) Definitions**

For purposes of this subsection, subsection (c)(3) of this section, and subsection (l)(5) and (6) of this section—

(A) the term “domestic violence” has the same meaning given the term in section 13925 of this title;

(B) the term “dating violence” has the same meaning given the term in section 13925 of this title;

(C) the term “stalking” means—

(i)(I) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or

(II) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

(ii) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

(I) that person;

(II) a member of the immediate family of that person; or

(III) the spouse or intimate partner of that person; and

(D) the term “immediate family member” means, with respect to a person—

(i) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(ii) any other person living in the household of that person and related to that person by blood or marriage.

(Sept. 1, 1937, ch. 896, title I, § 6, as added Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 659; amended Pub. L. 96-153, title II, § 206(a), Dec. 21, 1979, 93 Stat. 1108; Pub. L. 96-399, title II,

<sup>14</sup> So in original. Probably should be “of this paragraph”.

§§ 201(c), (e), 202(c), Oct. 8, 1980, 94 Stat. 1625, 1629; Pub. L. 97-35, title III, § 322(c), (d), Aug. 13, 1981, 95 Stat. 402; Pub. L. 98-181, title II, §§ 201(c), 203(a), 204, 205, 214(b), Nov. 30, 1983, 97 Stat. 1177-1179, 1185; Pub. L. 98-479, title I, § 102(b)(4), (5), title II, § 204(b)(1), Oct. 17, 1984, 98 Stat. 2221, 2233; Pub. L. 99-160, title I, § 101, Nov. 25, 1985, 99 Stat. 910; Pub. L. 100-242, title I, §§ 112(b)(2), 116, 170(d), Feb. 5, 1988, 101 Stat. 1824, 1826, 1867; renumbered title I, Pub. L. 100-358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 100-628, title X, §§ 1001(b), 1014(a)(1), Nov. 7, 1988, 102 Stat. 3263, 3269; Pub. L. 100-690, title V, § 5101, Nov. 18, 1988, 102 Stat. 4300; Pub. L. 101-144, title II, Nov. 9, 1989, 103 Stat. 846; Pub. L. 101-625, title V, §§ 501, 502(a), (c)(1), 503(a), (b), 504-506, 572, Nov. 28, 1990, 104 Stat. 4180, 4181, 4183-4185, 4236; Pub. L. 102-139, title II, Oct. 28, 1991, 105 Stat. 756, 757; Pub. L. 102-550, title I, §§ 112, 113, title VI, §§ 622(b), 625(a)(2), 682(a), Oct. 28, 1992, 106 Stat. 3689, 3817, 3820, 3830; Pub. L. 103-233, title I, § 101(c)(1), title III, § 303, Apr. 11, 1994, 108 Stat. 357, 370; Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2315; Pub. L. 104-99, title IV, § 402(d)(1), (6)(A)(i), Jan. 26, 1996, 110 Stat. 41, 42; Pub. L. 104-120, § 9(a)-(c), Mar. 28, 1996, 110 Stat. 836, 837; Pub. L. 104-193, title IX, § 903(a)(1), Aug. 22, 1996, 110 Stat. 2348; Pub. L. 104-330, title V, § 501(b)(3), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105-276, title V, §§ 511(d), 512(b), 514(a)(1), (2)(A), 519(b), 520(b), 521, 525, 529, 530, 564, 565(a), 575, 576(d)(1), Oct. 21, 1998, 112 Stat. 2539, 2543, 2547, 2561, 2563, 2568, 2569, 2627, 2628, 2634, 2640; Pub. L. 109-162, title VI, § 607, Jan. 5, 2006, 119 Stat. 3048; Pub. L. 109-271, § 5(f), Aug. 12, 2006, 120 Stat. 761.)

## REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (b)(3)(A), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the "HOME Investments Partnership Act", is classified principally to subchapter II (§ 12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (b)(3)(B), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633. Title I of the Act is classified principally to chapter 69 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Housing and Community Development Act of 1992, referred to in subsec. (c)(5)(F), is Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3672. Subtitle C of title VI of the Act is classified generally to subchapter I (§ 13601 et seq.) of chapter 135 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of this title and Tables.

Section 1437l of this title, referred to in subsec. (j)(1)(i)(3), (2)(B)(iii), was repealed by Pub. L. 105-276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564.

Paragraph (5), referred to in the concluding provisions of subsec. (l), was redesignated as par. (6) by Pub. L. 105-276, title V, § 512(b)(1), Oct. 21, 1998, 112 Stat. 2543.

The Civil Rights Act of 1964, referred to in subsec. (r)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (r)(1), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§ 3601 et

seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Public Health Service Act, referred to in subsec. (t)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

## PRIOR PROVISIONS

A prior section 6 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, enumerated financial provisions applicable to the Authority and was classified to section 1406 of this title, prior to the general revision of this chapter by Pub. L. 93-383.

## AMENDMENTS

2006—Subsec. (c)(3) to (5). Pub. L. 109-162, § 607(1), (2), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (l)(5). Pub. L. 109-162, § 607(3), inserted “, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence” before semicolon at end.

Subsec. (l)(6). Pub. L. 109-162, § 607(4), inserted before semicolon at end “; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”

Subsec. (l)(6)(B). Pub. L. 109-271, § 5(f)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or

terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant;”.

Subsec. (u). Pub. L. 109–162, § 607(5), added subsec. (u).

Subsec. (u)(1)(A). Pub. L. 109–271, § 5(f)(2)(A), substituted “the individual receives a request for such certification from the public housing agency” for “the public housing agency requests such certification”.

Subsec. (u)(1)(B). Pub. L. 109–271, § 5(f)(2)(B), substituted “the individual has received a request in writing for such certification from the public housing agency” for “the public housing agency has requested such certification in writing”.

Subsec. (u)(3)(D)(iii). Pub. L. 109–271, § 5(f)(2)(C), substituted “blood or marriage” for “blood and marriage”.

1998—Subsec. (a). Pub. L. 105–276, § 511(d), in first sentence, inserted “, in a manner consistent with the public housing agency plan” before the period at end and struck out after first sentence “Any 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.”

Subsec. (b)(3), (4). Pub. L. 105–276, § 520(b), added pars. (3) and (4).

Subsec. (c)(4)(A). Pub. L. 105–276, § 514(a)(1), amended subpar. (A) generally. For former text of subpar. (A), see 1996 Amendment note below.

Subsec. (c)(4)(E). Pub. L. 105–276, § 529(1), substituted “for each agency that receives assistance under this subchapter” for “except in the case of agencies not receiving operating assistance under section 1437g of this title”.

Subsec. (e). Pub. L. 105–276, § 529(2), struck out subsec. (e) which read as follows: “Every contract for annual 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.”

Subsec. (f). Pub. L. 105–276, § 530, added subsec. (f).

Subsec. (j)(1)(B). Pub. L. 105–276, § 564(1)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: “The amount and percentage of funds obligated to the public housing agency under section 1437l of this title which remain unexpended after 3 years.”

Subsec. (j)(1)(D). Pub. L. 105–276, § 564(1)(B), substituted “utility” for “energy”.

Subsec. (j)(1)(E). Pub. L. 105–276, § 564(1)(C), which directed the transfer and insertion of subpar. (E) after subpar. (D), required no change in text.

Subsec. (j)(1)(H) to (K). Pub. L. 105–276, § 564(1)(D), (E), added subpars. (H), (I), relating to extent to which agency implements and coordinates strategies, and (J), and redesignated former subpar. (H) as (K).

Subsec. (j)(2)(A)(i). Pub. L. 105–276, § 564(2)(A), inserted after first sentence “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.” and, in last sentence, substituted “for assistance from the Capital Fund under section 1437g(d) of this title” for “under section 1437l of this title”.

Subsec. (j)(2)(A)(iii). Pub. L. 105–276, § 564(2)(B), substituted “for assistance from the Capital Fund under section 1437g(d) of this title” for “under section 1437l of this title”.

Subsec. (j)(2)(B)(i). Pub. L. 105–276, § 564(2)(C), inserted “with more than 250 units” after “public housing agency” and substituted “comparable and recent review”

for “review conducted under section 1437l(p) of this title”.

Subsec. (j)(2)(C). Pub. L. 105–276, § 564(2)(D), inserted “(if applicable)” after “subparagraph (B)” in first sentence.

Subsec. (j)(3)(A)(i). Pub. L. 105–276, § 565(a)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: “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;”.

Subsec. (j)(3)(A)(iii). Pub. L. 105–276, § 565(a)(1)(B), substituted “from the Capital Fund under section 1437g(d) of this title” for “under section 1437l of this title”.

Subsec. (j)(3)(A)(iv), (v). Pub. L. 105–276, § 565(a)(1)(C), added cls. (iv) and (v) and struck out former cl. (iv) which read as follows: “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.”

Subsec. (j)(3)(B) to (H). Pub. L. 105–276, § 565(a)(2), added subpars. (B) to (H) and struck out former subpars. (B) to (D) which read as follows:

“(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 chapter 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.”

Subsec. (j)(4), (5). Pub. L. 105–276, § 521, added par. (4) and redesignated former par. (4) as (5).

Subsec. (j)(5)(F). Pub. L. 105–276, § 564(3), substituted “program for assistance from the Capital Fund under section 1437g(d) of this title and specifies the amount of assistance the agency received under such program.” for “program under section 1437l of this title and specifies the amount of assistance the agency received under section 1437l of this title and any credits accumulated by the agency under section 1437l(k)(5)(D) of this title.”

Subsec. (j)(6), (7). Pub. L. 105–276, § 564(4), added pars. (6) and (7).

Subsec. (k). Pub. L. 105–276, § 575(a), in first sentence of concluding provisions, inserted “violent or” before “drug-related” and “or any activity resulting in a felony conviction,” after “on or off such premises.”

Subsec. (l)(1) to (3). Pub. L. 105–276, § 512(b)(1), (3), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (l)(4). Pub. L. 105–276, § 512(b)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (l)(4)(A). Pub. L. 105–276, § 575(b)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “a reasonable time, but not to exceed 30 days, when the health or safety of other tenants or public housing agency employees is threatened;”.

Subsec. (l)(4)(C). Pub. L. 105–276, § 575(b)(1)(B), inserted “, except that if a State or local law provides for a shorter period of time, such shorter period shall apply” before semicolon at end.

Subsec. (l)(5), (6). Pub. L. 105-276, § 512(b)(1), redesignated pars. (4) and (5) as (5) and (6), respectively. Former par. (6) redesignated (7), relating to specification that tenant be informed of opportunity to examine documents.

Subsec. (l)(7). Pub. L. 105-276, § 575(b)(4), added par. (7) relating to termination for illegal drug use and alcohol abuse. Pub. L. 105-276, § 575(b)(2), struck out “and” at end.

Pub. L. 105-276, § 512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Pub. L. 105-276, § 512(b)(1), redesignated par. (6) as (7), relating to specification that tenant be informed of opportunity to examine documents.

Subsec. (l)(9). Pub. L. 105-276, § 512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Subsec. (o). Pub. L. 105-276, § 514(a)(2)(A), substituted “In” for “Subject” and all that follows through “, in” in introductory provisions.

Subsec. (p). Pub. L. 105-276, § 519(b), struck out subsec. (p) which read as follows: “With respect to amounts available for obligation on or after October 1, 1991, the criteria established under section 1439(d)(5)(B) of this title 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 1437f of this title are experiencing significant difficulty in leasing housing meeting program and family-size requirements; or

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

Subsec. (q)(1)(A). Pub. L. 105-276, § 575(c)(1)(A)(ii), which directed the substitution of “covered housing assistance” for “public housing”, was executed by making the substitution in the second place that “public housing” appeared, to reflect the probable intent of Congress.

Pub. L. 105-276, § 575(c)(1)(A)(i), substituted “subparagraph (C)” for “subparagraph (B)”.

Subsec. (q)(1)(B), (C). Pub. L. 105-276, § 575(c)(1)(B), (C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (q)(3). Pub. L. 105-276, § 575(c)(2), substituted “Fees” for “Fee” in heading and inserted at end “In 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.”

Subsec. (q)(5) to (8). Pub. L. 105-276, § 575(c)(3), (4), added pars. (5) to (8) and struck out heading and text of former par. (5). Text read as follows: “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.”

Subsec. (r). Pub. L. 105-276, § 576(d)(1), redesignated subsec. (s) as (r) and struck out heading and text of

former subsec. (r). Text read as follows: “Any tenant evicted from housing assisted under this subchapter by reason of drug-related criminal activity (as that term is defined in section 1437f(f) of this title) shall not be eligible for housing assistance under this subchapter 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).”

Subsec. (s). Pub. L. 105-276, § 576(d)(1)(B), redesignated subsec. (t) as (s). Former subsec. (s) redesignated (r). Pub. L. 105-276, § 525, added subsec. (s).

Subsec. (t). Pub. L. 105-276, § 576(d)(1)(B), redesignated subsec. (u) as (t). Former subsec. (t) redesignated (s). Pub. L. 105-276, § 575(d), added subsec. (t).

Subsec. (u). Pub. L. 105-276, § 576(d)(1)(B), redesignated subsec. (u) as (t).

Pub. L. 105-276, § 575(e), added subsec. (u).

1996—Subsec. (b)(1). Pub. L. 104-330 struck out “and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988” after “operation of public housing”.

Subsec. (c)(4)(A). Pub. L. 104-99, § 402(d)(1), (f), temporarily amended subpar. (A) generally, substituting

“(A) 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;” for

“(A) except for projects or portions of projects designated for occupancy pursuant to section 1437e(a) of this title with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which—

“(i) for not less than 50 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z-11 of title 12) at the time they are seeking assistance under this chapter;

“(ii) for any remaining units to be made available for occupancy, give preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting families that include one or more adult members who are employed; and (VI) achieving other objectives of national housing policy as affirmed by Congress; subclause (V) shall be effective only during fiscal year 1995;

“(iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a re-

habilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and

“(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems.”

See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (k). Pub. L. 104–120, § 9(a)(1), in concluding provisions, substituted “involves any activity” for “involves any criminal activity” and “on or off such premises” for “on or near such premises”.

Subsec. (l)(5). Pub. L. 104–120, § 9(a)(2), substituted “on or off such premises” for “on or near such premises”. Subsec. (l)(7). Pub. L. 104–193 added par. (7).

Subsec. (o). Pub. L. 104–99, § 402(d)(6)(A)(i), (f), in introductory provisions, temporarily substituted “written system of preferences for selection established pursuant to” for “preference rules specified in”. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (q). Pub. L. 104–120, § 9(b), added subsec. (q).

Subsec. (r). Pub. L. 104–120, § 9(c), added subsec. (r).

1994—Subsec. (c)(4)(A)(i). Pub. L. 103–233, § 101(c)(1), inserted “(including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12)” after “displaced”.

Subsec. (c)(4)(A)(ii). Pub. L. 103–327 added subcl. (V), redesignated former subcl. (V) as (VI), and inserted “subclause (V) shall be effective only during fiscal year 1995;” after semicolon at end.

Subsec. (c)(4)(E). Pub. L. 103–233, § 303, substituted “500 units” for “250 units”.

1992—Subsec. (a). Pub. L. 102–550, § 625(a)(2), substituted “elderly or disabled families” for “the elderly” in last sentence.

Subsec. (c)(4)(A). Pub. L. 102–550, § 622(b), substituted “designated for occupancy pursuant to section 1437e(a) of this title” for “specifically designated for elderly families” in introductory provisions.

Subsec. (c)(4)(A)(i). Pub. L. 102–550, § 112, substituted “50 percent” for “70 percent” after “not less than”.

Subsec. (c)(4)(F). Pub. L. 102–550, § 682(a), added subpar. (F).

Subsec. (j)(1). Pub. L. 102–550, § 113(e)(1)(C), which directed the substitution of “indicators for public housing agencies, to the extent practicable:” for “indicators.” in fourth sentence, was executed by making the substitution for “indicators:” to reflect the probable intent of Congress.

Pub. L. 102–550, § 113(e)(1)(A), (B), in introductory provisions, inserted “and resident management corporations” before period in first sentence and after “agencies” in third sentence.

Subsec. (j)(2)(B). Pub. L. 102–550, § 113(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (j)(2)(C). Pub. L. 102–550, § 113(a)(1), (3), redesignated subpar. (B) as (C), substituted “agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency’s assessment team. Such agreement shall set forth” for “agency setting forth” in introductory provisions, and inserted “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.” before “The Secretary and the public” in concluding provisions.

Subsec. (j)(2)(D). Pub. L. 102–550, § 113(e)(2), added subpar. (D).

Subsec. (j)(3)(A). Pub. L. 102–550, § 113(b)(5), inserted concluding provisions.

Subsec. (j)(3)(A)(i). Pub. L. 102–550, § 113(b)(1), inserted “(which may be selected by existing tenants through administrative procedures established by the Secretary)” after “management agents”.

Subsec. (j)(3)(A)(iii), (iv). Pub. L. 102–550, § 113(b)(2)–(4), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (j)(3)(B) to (D). Pub. L. 102–550, § 113(c), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (j)(4)(E). Pub. L. 102–550, § 113(d), which directed the insertion of “, including an accounting of the authorized funds that have been expended to support such actions” before semicolon in par. (5)(E) of subsec. (j), was executed by making the insertion in par. (4)(E) to reflect the probable intent of Congress, because subsec. (j) does not contain a par. (5).

1991—Subsec. (j)(1)(H), (I). Pub. L. 102–139, which directed amendment of “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,” by adding “which shall not exceed the seven factors in the statute, plus an additional five” at the end of subpar. (H) and by adding subpar. (I), requiring Secretary to administer evaluation system, reflect in weights assigned indicators, and determine status, was executed to subsec. (j)(1) of this section, which is section 6 of the United States Housing Act of 1937, to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 102–139 added subsec. (p).

1990—Subsec. (c)(4)(A). Pub. L. 101–625, § 501, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families, the establishment of tenant selection criteria which gives preference to families which occupy substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of lower income and deprived families with serious social problems, but (i) this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available and shall not permit public housing agencies to select 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; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in this subparagraph are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference;”

Subsec. (c)(4)(D). Pub. L. 101–625, § 572(1), substituted “low-income families” for “lower income families”.

Subsec. (c)(4)(E). Pub. L. 101–625, § 502(c)(1), added subpar. (E).

Subsecs. (d), (e). Pub. L. 101–625, § 572(2), substituted “low-income housing” for “lower income housing” wherever appearing.

Subsec. (j). Pub. L. 101–625, § 502(a), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: “On or after October 1, 1983, in entering into commitments for the development of public housing, the Secretary shall give a priority to projects for the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupancy by families requiring three or more bedrooms.”

Subsec. (k). Pub. L. 101–625, § 503(a), added concluding provisions and struck out former concluding provisions which read as follows: “An agency may exclude from



its procedure any grievance concerning an eviction or termination of tenancy 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.”

Subsec. (l)(5). Pub. L. 101-625, § 504, amended par. (5) generally. Prior to amendment, par. (5) read as follows: “provide that a public housing tenant, any member of the tenant’s household, or a guest or other person under the tenant’s control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy.”

Subsec. (l)(6). Pub. L. 101-625, § 503(b), added par. (6). Subsecs. (n), (o). Pub. L. 101-625, §§ 505, 506, added subsecs. (n) and (o).

1989—Subsec. (b). Pub. L. 101-144 added subsec. (b).

1988—Subsec. (a). Pub. L. 100-242, § 170(d)(1), substituted “The Secretary” for “Secretary” at beginning. Pub. L. 100-242, § 112(b)(2), struck out “annual” before “contributions”.

Subsec. (c). Pub. L. 100-242, § 112(b)(2), struck out “annual” before “contributions” in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 100-628, § 1014(a)(1), inserted cl. (i) designation after “, but” and added cl. (ii) before semicolon at end.

Pub. L. 100-628, § 1001(b), inserted before semicolon at end “and shall not permit public housing agencies to select 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”.

Pub. L. 100-242, § 170(d)(2), inserted “, are paying more than 50 percent of family income for rent,” after “substandard housing”, and struck out “or are paying more than 50 per centum of family income for rent” after “under this chapter”.

Subsec. (d). Pub. L. 100-242, § 112(b)(2), struck out “annual” before “contributions” in four places and before “shelter” in two places.

Subsec. (g). Pub. L. 100-242, § 112(b)(2), struck out “annual” before “contributions” in introductory provisions.

Subsec. (h). Pub. L. 100-242, § 116, inserted “in the neighborhood where the public housing agency determines the housing is needed” after “is” and “in such neighborhood” after “rehabilitation”.

Subsec. (k)(4), (5). Pub. L. 100-242, § 170(d)(3), substituted “their” for “his”.

Subsec. (l). Pub. L. 100-690 added par. (5) and concluding provisions defining term “drug-related criminal activity” for purposes of par. (5).

1985—Subsec. (b). Pub. L. 99-160 struck out subsec. (b) which related to cost of construction and equipment of a project, and prototype costs.

1984—Subsec. (a). Pub. L. 98-479, § 204(b)(1), substituted “covenants” for “convenants”.

Subsec. (j). Pub. L. 98-479, § 102(b)(4), inserted “, acquisition, or acquisition and rehabilitation” and substituted “families requiring three or more bedrooms” for “large families”.

Subsec. (m). Pub. L. 98-479, § 102(b)(5), substituted “housing” for “hearing”.

1983—Subsec. (c)(4)(A). Pub. L. 98-181, § 203(a), inserted “or are paying more than 50 per centum of family income for rent”.

Subsec. (f). Pub. L. 98-181, § 214(b), repealed subsec. (f) which provided for modification or closeout of housing project.

Subsecs. (h) to (j). Pub. L. 98-181, § 201(c), added subsecs. (h) to (j).

Subsecs. (k), (l). Pub. L. 98-181, § 204, added subsecs. (k) and (l).

Subsec. (m). Pub. L. 98-181, § 205, added subsec. (m).

1981—Subsec. (a). Pub. L. 97-35, § 322(c), substituted reference to lower income for reference to low-income.

Subsec. (c). Pub. L. 97-35, § 322(c), (d), substituted provision in par. (2) requiring review at least annually for provision requiring review at least within two year in

tervals, or shorter where deemed desirable, in par. (4)(A) “lower income and” for “low-income and”, and in par. (4)(D) reference to lower income for reference to low-income.

Subsecs. (d), (e). Pub. L. 97-35, § 322(c), substituted references to lower income for references to low-income wherever appearing.

1980—Subsec. (b). Pub. L. 96-399, § 201(c), inserted exception relating to availability of prototype costs for projects to be located on Indian reservations or in Alaskan Native villages, and added cl. (8).

Subsec. (c)(4)(A). Pub. L. 96-399, § 201(e), inserted exception relating to application of this clause to projects specifically designated for elderly families.

Subsec. (f). Pub. L. 96-399, § 202(c), inserted “pursuant to section 1437l of this title” wherever appearing.

1979—Subsec. (c)(4)(A). Pub. L. 96-153 substituted “tenant selection criteria which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed” for “tenant selection criteria designed”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

Amendment by section 511 of Pub. L. 105-276 effective and applicable beginning upon Oct. 21, 1998, see section 511(e) of Pub. L. 105-276, set out as a note under section 1437c-1 of this title.

Amendment by section 514(a)(1), (2)(A) of Pub. L. 105-276 effective and applicable beginning upon Oct. 21, 1998, see section 514(g) of Pub. L. 105-276, set out as a note under section 1701s of Title 12, Banks and Banking.

Pub. L. 105-276, title V, § 565(b), Oct. 21, 1998, 112 Stat. 2631, provided that: “The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) [amending this section] shall apply with respect to any action taken before, on, or after the effective date of this Act [probably means the general effective date for title V of Pub. L. 105-276 included in section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title] and shall apply to any receiver appointed for a public housing agency before the date of the enactment of this Act [Oct. 21, 1998].”

Pub. L. 105-276, title V, § 565(e), Oct. 21, 1998, 112 Stat. 2632, provided that: “This section [amending this section and section 1437f of this title and enacting provisions set out as notes under 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 [Oct. 21, 1998].”

#### EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Pub. L. 104-120, § 13, Mar. 28, 1996, 110 Stat. 845, provided that:

“(a) APPLICABILITY.—This Act [enacting section 1490p-2 of this title, amending this section, sections 1437e, 1437n, 1479, 1485, 1490p-2, and 5308 of this title, and sections 1715z-20, 1715z-22, and 1721 of Title 12, Banks and Banking, and enacting provisions set out as notes under sections 1437f, 5305, and 12805 of this title and sections 1701 and 4101 of Title 12] and the amendments made by this Act shall be construed to have become effective on October 1, 1995.

“(b) IMPLEMENTATION.—The amendments made by sections 9 and 10 [amending this section and sections

1437e and 1437n of this title] shall apply as provided in subsection (a) of this section, notwithstanding the effective date of any regulations issued by the Secretary of Housing and Urban Development to implement such amendments or any failure by the Secretary to issue any such regulations.”

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

#### IMPLEMENTATION

Pub. L. 105–276, title V, § 565(d), Oct. 21, 1998, 112 Stat. 2632, provided that: “The Secretary may administer the amendments made by subsection (a) [amending this section] as necessary to ensure the efficient and effective initial implementation of this section [amending this section and section 1437f of this title and enacting provisions set out as notes under this section].”

Section 502(c)(2) of Pub. L. 101–625, as amended by Pub. L. 102–550, title I, § 130, Oct. 28, 1992, 106 Stat. 3712, provided that: “The Secretary of Housing and Urban Development shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish guidelines and timetables appropriate to implement the amendment made by paragraph (1)(C) [amending this section], taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993 for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units.”

#### REGULATIONS

For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by section 101(c) of Pub. L. 103–233, see section 101(f) of Pub. L. 103–233, set out as a note under section 1701z–11 of Title 12, Banks and Banking.

Section 104 of Pub. L. 102–550 provided that: “Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section and section 1437f of this title]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance.”

Section 503(c) of Pub. L. 101–625 provided that: “The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section [amending this section] not later than the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990] and shall issue final rules implementing the amendments not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.”

#### STUDY OF ALTERNATIVE METHODS FOR EVALUATING PUBLIC HOUSING AGENCIES

Pub. L. 105–276, title V, § 563, Oct. 21, 1998, 112 Stat. 2624, provided that:

“(a) IN GENERAL.—The Secretary of Housing and Urban Development shall provide under subsection (e) for a study to be conducted to determine the effectiveness of various alternative methods of evaluating the performance of public housing agencies and other providers of federally assisted housing.

“(b) PURPOSES.—The purposes of the study under this section shall be—

“(1) to identify and examine various methods of evaluating and improving the performance of public housing agencies in administering public housing and tenant-based rental assistance programs and of other providers of federally assisted housing, which are alternatives to oversight by the Department of Housing and Urban Development; and

“(2) to identify specific monitoring and oversight activities currently conducted by the Department of Housing and Urban Development and to evaluate whether such activities should be eliminated, expanded, modified, or transferred to other entities (including governmental and private entities) to increase accuracy and effectiveness and improve monitoring.

“(c) EVALUATION OF VARIOUS PERFORMANCE EVALUATION SYSTEMS.—To carry out the purposes under subsection (b), the study under this section shall identify, and analyze the advantages and disadvantages of various methods of regulating and evaluating the performance of public housing agencies and other providers of federally assisted housing, including the following methods:

“(1) CURRENT SYSTEM.—The system pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], including the methods and requirements under such system for reporting, auditing, reviewing, sanctioning, and monitoring of such agencies and housing providers and the public housing management assessment program pursuant to section 6(j) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)].

“(2) ACCREDITATION MODELS.—Various models that are based upon accreditation of such agencies and housing providers, subject to the following requirements:

“(A) The study shall identify and analyze various models used in other industries and professions for accreditation and determine the extent of their applicability to the programs for public housing and federally assisted housing.

“(B) If any accreditation models are determined to be applicable to the public and federally assisted housing programs, the study shall identify appropriate goals, objectives, and procedures for an accreditation program for such agencies and housing providers.

“(C) The study shall evaluate the feasibility and merit of establishing an independent accreditation and evaluation entity to assist, supplement, or replace the role of the Department of Housing and Urban Development in assessing and monitoring the performance of such agencies and housing providers.

“(D) The study shall identify the necessary and appropriate roles and responsibilities of various entities that would be involved in an accreditation program, including the Department of Housing and Urban Development, the Inspector General of the Department, an accreditation entity, independent auditors and examiners, local entities, and public housing agencies.

“(E) The study shall estimate the costs involved in developing and maintaining such an independent accreditation program.

“(3) PERFORMANCE BASED MODELS.—Various performance-based models, including systems that establish performance goals or targets, assess the compliance with such goals or targets, and provide for incentives or sanctions based on performance relative to such goals or targets.

“(4) LOCAL REVIEW AND MONITORING MODELS.—Various models providing for local, resident, and commu-

nity review and monitoring of such agencies and housing providers, including systems for review and monitoring by local and State governmental bodies and agencies.

“(5) PRIVATE MODELS.—Various models using private contractors for review and monitoring of such agencies and housing providers.

“(6) OTHER MODELS.—Various models of any other systems that may be more effective and efficient in regulating and evaluating such agencies and housing providers.

“(d) CONSULTATION.—The entity that, pursuant to subsection (e), carries out the study under this section shall, in carrying out the study, consult with individuals and organizations experienced in managing public housing, private real estate managers, representatives from State and local governments, residents of public housing, families and individuals receiving tenant-based assistance, the Secretary of Housing and Urban Development, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States.

“(e) CONTRACT TO CONDUCT STUDY.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into a contract, within 90 days of the enactment of this Act [Oct. 21, 1998], with a public or nonprofit private entity to conduct the study under this section, using amounts made available pursuant to subsection (g).

“(2) NATIONAL ACADEMY OF PUBLIC ADMINISTRATION.—The Secretary shall request the National Academy of Public Administration to enter into the contract under paragraph (1) to conduct the study under this section. If such Academy declines to conduct the study, the Secretary shall carry out such paragraph through other public or nonprofit private entities, selected through a competitive process.

“(f) REPORT.—

“(1) INTERIM REPORT.—The Secretary shall ensure that, not later than the expiration of the 6-month period beginning on the date of the execution of the contract under subsection (e)(1), the entity conducting the study under this section submits to the Congress an interim report describing the actions taken to carry out the study, the actions to be taken to complete the study, and any findings and recommendations available at the time.

“(2) FINAL REPORT.—The Secretary shall ensure that—

“(A) not later than the expiration of the 12-month period beginning on the date of the execution of the contract under subsection (e)(1), the study required under this section is completed and a report describing the findings and recommendations as a result of the study is submitted to the Congress; and

“(B) before submitting the report under this paragraph to the Congress, the report is submitted to the Secretary, national organizations for public housing agencies, and other appropriate national organizations at such time to provide the Secretary and such agencies an opportunity to review the report and provide written comments on the report, which shall be included together with the report upon submission to the Congress under subparagraph (A).

“(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].”

#### REFERENCES IN OTHER LAWS TO PREFERENCES FOR ASSISTANCE

Section 402(d)(6)(D) of Pub. L. 104–99, which provided that certain references to preferences for assistance under sections 1437d(c)(4)(A)(i) and 1437f(d)(1)(A)(i), (o)(3)(B) of this title, as such sections existed on the day before Jan. 26, 1996, were to be considered to refer to the written system of preferences for selection established pursuant to sections 1437d(c)(4)(A) and 1437f(d)(1)(A), (o)(3)(B) of this title, respectively, as amended by section 402 of Pub. L. 104–99, was repealed by Pub. L. 105–276, title V, § 514(b)(2)(D), Oct. 21, 1998, 112 Stat. 2548.

#### INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by sections 622(b) and 625(a)(2) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

#### REPORT ON TRAINING AND CERTIFICATION STANDARDS

Section 502(b) of Pub. L. 101–625 directed Secretary to submit to Congress, not later than 12 months after Nov. 28, 1990, a report regarding the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other officers and members of local, regional, and State public housing agencies.

#### APPLICABILITY

Section 503(d) of Pub. L. 101–625 provided that: “Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)], as such section existed before the date of the enactment of this Act [Nov. 28, 1990]) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment.”

#### REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON ABILITY OF PUBLIC HOUSING AGENCIES TO TAKE ACTION AGAINST TENANTS ENGAGING IN DRUG CRIMES

Section 5103 of Pub. L. 100–690 provided that: “The Secretary of Housing and Urban Development shall submit to the Congress a report on the impact of the implementation of the public housing tenancy and administrative grievance procedure regulations issued under section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). The report shall be submitted not later than 12 months after the date of the enactment of this Act [Nov. 18, 1988].”

#### INDIAN HOUSING

Section 1014(a)(2) of Pub. L. 100–628 provided that: “In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former section 1437aa(b)(2) of this title], the amendments made by paragraph (1) [amending this section] 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.”

#### STUDY OF PAYMENTS IN LIEU OF TAXES; REPORT TO CONGRESS

Pub. L. 95–128, title II, § 201(g), Oct. 12, 1977, 91 Stat. 1129, provided that the Secretary of Housing and Urban Development conduct a study of payment in lieu of taxes made under subsec. (d) of this section and report to the Congress on the status and adequacy of such payments not later than 12 months after Oct. 12, 1977.

**§ 1437e. Designated housing for elderly and disabled families**

**(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) of this section 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 1437n(e)(1)(B) <sup>1</sup> of this title, 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) of this section 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 1437f of this title, 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) of this section is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

<sup>1</sup> See References in Text note below.

(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 12705 of this title; 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 1701q(d)(8) <sup>1</sup> of title 12) 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.

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) of this section that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d) of this section. 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) of this section 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 non-compliance**

If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d) of this section, 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) of this section 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.