

## APPENDIX C

### Meeting deconcentration performance requirements

HUD regulations encourage PHAs to help Section 8 program participants to move to lower poverty, less racially segregated neighborhoods. While these regulations have not been strongly enforced by HUD in recent years, they are binding on PHAs and it is expected that they will be more strictly applied by a new HUD administration that is committed to fair housing and equal access to opportunity. These regulatory provisions are summarized below.

#### A. 24 CFR § 982 (2009). Section 8 Tenant Based Housing Assistance

At the time of enrollment in the voucher program, PHAs must provide basic information regarding the leasing process and must inform families of their ability to move outside of the PHA jurisdiction. Information must be provided, both orally and in written packets, and must include a discussion of portability procedures.

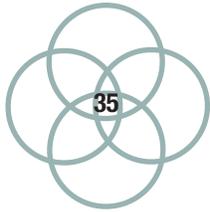
§ 982.301(a) *PHA briefing of family.*

(1) When the PHA selects a family to participate in a tenant-based program, the PHA must give the family an oral briefing. The briefing must include information on the following subjects:

(iii) Where the family may lease a unit, including renting a dwelling unit inside or outside the PHA jurisdiction.

(2) For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the briefing must include an explanation of how portability works. **The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction, or outside the PHA jurisdiction under portability procedures.**

(3) **If the family is currently living in a high poverty census tract in the PHA's jurisdiction, the briefing must also explain the advantages of moving to an area that does not have a high concentration of poor families.**



§ 982.301(b) *Information packet.* When a family is selected to participate in the program, the PHA must give the family a packet that includes information on the following subjects:

- (4) Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information packet must include an explanation of how portability works;
- (11) A list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or help the family find a unit;

By regulation, although Housing Choice voucher holders can use their vouchers nationwide, HUD may restrict families’ ability to choose where they will live within a particular jurisdiction if doing so is required to meet the goals set by court order or consent decree, but HUD is not otherwise able to outright restrict the voucher holders’ choice (except through the enforcement of Housing Quality Standards - see below).

§ 982.353 *Where family can lease a unit with tenant-based assistance.*

(a) Assistance in the initial PHA jurisdiction. *The family may receive tenant-based assistance to lease a unit located anywhere in the jurisdiction (as determined by State and local law) of the initial PHA. HUD may nevertheless restrict the family’s right to lease such a unit anywhere in such jurisdiction if HUD determines that limitations on a family’s opportunity to select among available units in that jurisdiction are appropriate to achieve desegregation goals in accordance with obligations generated by a court order or consent decree.*

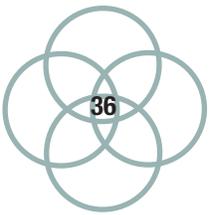
(b) *Portability: Assistance outside the initial PHA jurisdiction.* Subject to paragraph (c) of this section, and to §982.552 and §982.553, a voucher-holder or participant family has the right to receive tenant-based voucher assistance in accordance with requirements of this part to lease a unit outside the initial PHA jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program under this part.

(f) *Freedom of choice.* The PHA may not directly or indirectly reduce the family’s opportunity to select among available units except as provided in paragraph (a) of this section, or elsewhere in this part 982 (e.g. prohibition on use of ineligible housing, housing not meeting HQS, or housing for which the rent to owner exceeds a reasonable rent).

Receiving PHAs must provide assistance to the families porting into their jurisdictions. Initial PHAs, however, retain the responsibility of providing families with the preliminary information needed to establish a relationship with the receiving PHA. See below:

§ 982.355 *Portability: Administration by receiving PHA.*

(a) When a family moves under portability (in accordance with §982.353(b)) to an area outside the initial PHA jurisdiction, another PHA (the “receiving PHA”) must administer assistance for the family if a PHA with a tenant-based program has jurisdiction in the area where the unit is located.



(c) *Portability procedures.* (1) The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program (either the PHA voucher program or certificate program). However, for a portable family that was not already receiving assistance in the PHA tenant-based program, the initial PHA must determine whether the family is eligible for admission to the receiving PHA voucher program.

(2) The initial PHA must advise the family how to contact and request assistance from the receiving PHA. The initial PHA must promptly notify the receiving PHA to expect the family.

(3) The family must promptly contact the receiving PHA, and comply with receiving PHA procedures for incoming portable families.

(f) *Portability funding.* (1) HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA ACC.

(2) HUD may provide additional funding (e.g., funds for incremental units) to the initial PHA for funds transferred to a receiving PHA for portability purposes.

(3) HUD may provide additional funding (e.g., funds for incremental units) to the receiving PHA for absorption of portable families.

(4) HUD may require the receiving PHA to absorb portable families.

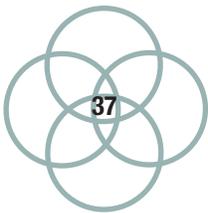
Housing rented by voucher holders must meet minimum housing quality and habitability standards, as defined by HUD regulation. In addition, any rental units approved by a PHA must pass basic levels of environmental safety—both for the unit itself and for its surrounding neighborhood. Assisted housing thus should carry the imprimatur of being healthy, safe, and decent places to live. See below:

§ 982.401 Housing quality standards (HQS).

(1) *Site and Neighborhood* —

(1) *Performance requirement.* The site and neighborhood **must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.**

(2) *Acceptability criteria.* The site and neighborhood **may not be subject to serious adverse environmental conditions**, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, **smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation;** or fire hazards.



HUD is tasked with approving exceptions to the FMR payment standards in order to aid families in locating housing outside of areas of concentrated poverty. See below:

§ 982.503 Voucher tenancy: Payment standard amount and schedule.

(c)(4) *Program justification.* (i) HUD will only approve an exception payment standard amount (pursuant to paragraph (c)(2) or paragraph (c)(3) of this section) if HUD determines that approval of such higher amount is needed either:

(A) **To help families find housing outside areas of high poverty**, or

(B) Because voucher holders have trouble finding housing for lease under the program within the term of the voucher.

**B. 42 CFR § 985 (2009). Section 8 Management Assessment Program (SEMAP)**

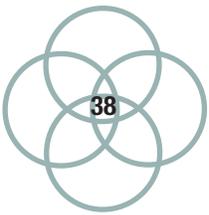
The Section 8 Management Assessment Program is meant to evaluate whether the Section 8 tenant-based assistance programs achieve the goal of helping families lease rental units at the appropriate cost. SEMAP also establishes a system for HUD to measure PHA performance in key Section 8 program areas and to assign performance ratings. Using SEMAP performance indicators, HUD is able to create a profile for each evaluated PHA.

SEMAP draws on 16 indicators, which may assign an estimated possible total of 231 points. PHAs with at least a 90% score are given a “high performer rating” while PHAs with scores of 60-89% are considered “standard.” *See* 24 § 985.103(a)-(b). PHAs scoring less than 60% are rated as “troubled.” *Id.* at § 985.1039(c). **A total of five points** are awarded to those PHAs which have policies to recruit owners in low-minority/low-poverty areas, provide written information and maps to encourage the rental of units outside of high poverty areas, and have systems in place to make requests for payment exceptions to HUD when necessary. (g) *Expanding housing opportunities.* (1) This indicator applies only to PHAs with jurisdiction in metropolitan FMR areas. The indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs rental voucher holders of the full range of areas where they may lease units both inside and outside the PHA’s jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration. (24 CFR 982.54(d)(5), 982.301(a) and 982.301(b)(4) and 982.301(b)(12))

(3) Rating: (i) The PHA’s SEMAP certification states that:

(A) The PHA has a written policy in its administrative plan which includes actions the PHA will take to encourage participation by owners of units located outside areas of poverty or minority concentration, and which clearly delineates areas in its jurisdiction that the PHA considers areas of poverty or minority concentration;

(B) PHA documentation shows that the PHA has taken actions indicated in its written policy to encourage participation by



owners of units located outside areas of poverty or minority concentration;

(C) The PHA has prepared maps that show various areas with housing opportunities outside areas of poverty or minority concentration both within its jurisdiction and neighboring its jurisdiction; has assembled information about the characteristics of those areas which may include information about job opportunities, schools, transportation and other services in these areas; and can demonstrate that it uses the maps and area characteristics information when briefing rental voucher holders about the full range of areas where they may look for housing;

(D) The PHA's information packet for rental voucher holders contains either a list of owners who are willing to lease (or properties available for lease) under the rental voucher program; or a current list of other organizations that will help families find units and the PHA can demonstrate that the list(s) includes properties or organizations that operate outside areas of poverty or minority concentration;

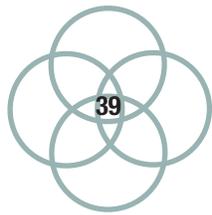
(E) The PHA's information packet includes an explanation of how portability works and includes a list of portability contact persons for neighboring housing agencies, with the name, address and telephone number of each, for use by families who move under portability; and

(F) PHA documentation shows that the PHA has analyzed whether rental voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration and, if such difficulties have been found, PHA documentation shows that the PHA has analyzed whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval of exception payment standard amounts when necessary. 5 points.

(ii) The PHA's SEMAP certification does not support the statement in paragraph (g)(3)(i) of this section. 0 points.

PHAs may choose to seek up to 5 optional bonus points if the PHA meets specified goals for increasing the number of assisted families within its jurisdiction who live in low poverty areas.

(h) *Deconcentration bonus.* (1) Submission of deconcentration data in the HUD-prescribed format for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent to provide access to a broad range of housing opportunities throughout a metropolitan area in accordance with §888.113(c) of this title, starting with the second full PHA fiscal year following initial use of payment standard amounts based on



the FMR set at the 50th percentile rent. Submission of deconcentration data for this indicator is optional for all other PHAs. Additional SEMAP points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit with their SEMAP certifications certain data, in a HUD-prescribed format, on the percent of their tenant-based Section 8 families with children who live in, and who have moved during the PHA fiscal year to, low poverty census tracts in the PHA's principal operating area. For purposes of this indicator, the PHA's principal operating area is the geographic entity for which the Census tabulates data that most closely matches the PHA's geographic jurisdiction under State or local law (e.g., city, county, metropolitan statistical area) as determined by the PHA, subject to HUD review. A low poverty census tract is defined as a census tract where the poverty rate of the tract is at or below 10 percent, or at or below the overall poverty rate for the principal operating area of the PHA, whichever is greater. The PHA determines the overall poverty rate for its principal operating area using the most recent available decennial Census data. Family data used for the PHA's analysis must be the same information as reported to MTCS for the PHA's tenant-based Section 8 families with children. If HUD determines that the quantity of MTCS data is insufficient for adequate analysis, HUD will not award points under this bonus indicator. Bonus points will be awarded if:

- (i) Half or more of all Section 8 families with children assisted by the PHA in its principal operating area at the end of the last completed PHA fiscal year reside in low poverty census tracts;
- (ii) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area during the last completed PHA fiscal year is at least 2 percentage points higher than the percent of all Section 8 families with children who reside in low poverty census tracts at the end of the last completed PHA fiscal year; or
- (iii) The percent of Section 8 families with children who moved to low-poverty census tracts in the PHA's principal operating area over the last two completed PHA fiscal years is at least 2 percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the second to last completed PHA fiscal year.
- (iv) State and regional PHAs that provide Section 8 rental assistance in more than one metropolitan area within a State or region make these determinations separately for each metropolitan area or portion of a metropolitan area where the PHA has assisted at least 20 Section 8 families with children in the last completed PHA fiscal year.

