

**RULES  
OF  
TENNESSEE HOUSING DEVELOPMENT AGENCY**

**CHAPTER 0770-3-2  
DEVELOPMENT AND OPERATION**

**TABLE OF CONTENTS**

0770-3-2-.01	Applicability	0770-3-2-.09	Adjustment of Allowance for Utilities and Other Services
0770-3-2-.02	Obtaining and Screening Proposals from Owners	0770-3-2-.10	Termination of Tenancy
0770-3-2-.03	Assistance to Owners and Selection of Units	0770-3-2-.11	Reduction of Number of Units Covered by Contract
0770-3-2-.04	Agreement to Enter Into Housing Assistance Payments Contract	0770-3-2-.12	Public Notice to Lower Income Families: Waiting List
0770-3-2-.05	Rehabilitation Period	0770-3-2-.13	Family Participation
0770-3-2-.06	Completion of Rehabilitation	0770-3-2-.14	Reexamination of Family Income and Composition
0770-3-2-.07	Execution of Housing Assistance Payments Contract	0770-3-2-.15	Maintenance, Operation and Inspections
0770-3-2-.08	Overcrowded and Under Occupied Units		

**0770-3-2-.01 APPLICABILITY.**

- (1) The Rules in this section which apply to tenant eligibility and tenant rights apply when the Agency is administering the rental assistance paid to or on behalf of tenants. These rules do not apply when the Agency is financing units for which another entity is administering the rental assistance program except for those rules which govern the underwriting of the financial feasibility and the monitoring of rehabilitation work.

**Authority:** T.C.A. §13-23-115 (18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

**0770-3-2-.02 OBTAINING AND SCREENING PROPOSALS FROM OWNERS.**

- (1) Public Notice to Owners.
  - (a) Promptly after receiving the contract authority from HUD, and thereafter as may be necessary, the Agency must make known to the public through publication in a newspaper of general circulation as well as through minority media and other suitable means, the availability and nature of the Program. The notice must inform Owners where they may apply for the Program and must be made in accordance with the Agency's HUD-approved equal opportunity housing plan and with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement and slogan.
- (2) Owner Proposals.
  - (a) The Agency must develop a proposal format for Owners wishing to apply for participation in the Program which will require, at a minimum, the following information:
    1. Name, address and phone number of Owner,
    2. Address of building to be rehabilitated and date of construction,
    3. Number, type (elevator/nonelevator) and bedroom size of unit(s) to be rehabilitated,
    4. Rent(s) charged by bedroom size during 18 months,
    5. Number and size of vacant unit(s),

(Rule 0770-3-2-.02, continued)

6. Number of units the Owner proposes to be assisted after rehabilitation by bedroom size and family characteristics (size and household type) of present tenants,
  7. Whether the Owner anticipates that permanent displacement or temporary relocation of tenants will be necessary and the anticipated length of any temporary relocation. If temporary relocation is anticipated, the Owner must indicate willingness to assume the responsibilities specified in 0770-3-1-.05,
  8. A certification that no tenant has been forced to move without cause in the twelve month period preceding the submittal of the proposal,
  9. The prior participation of the Owner in HUD Programs, and
  10. The Owner's plans for managing and maintaining the unit(s) under the proposal.
- (3) Initial Screening of Proposals.
- (a) Tennessee Housing Development Agency should review all proposals submitted and make an initial determination, based on the data submitted in the proposal, of those proposals which are clearly inappropriate or unresponsive to the Agency's advertisement. For example, if the Agency has certified in its application that no permanent displacement will be allowed, any proposal which would involve displacement must be rejected at this stage. Similarly, if the Owner suggests that temporary relocation exceeding six months will be required to complete the rehabilitation proposed, that proposal must be rejected. Should the Agency reject a proposal, the Owner must be notified in writing with a statement of the reason(s).

**Authority:** T.C.A. §913-23-115 (18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

### **0770-3-2-.03 ASSISTANCE TO OWNERS AND SELECTION OF UNITS.**

- (1) Initial Inspection.
  - (a) For all proposals not rejected in the initial screening, the Public Housing Authority must inspect the property with the Owner and tenant(s) if possible. A determination must be made by the Public Housing Authority as to the specific work items which need to be accomplished to bring the unit(s) to be assisted up to the Housing Quality Standards specified in Section 882.109 and Section 882.405 (or other standards as approved in the Public Housing Authority's application) and/or to repair or replace major building systems or components in danger of failing. The Public Housing Authority, as soon as possible following the inspection, must provide the Owner with a written list of deficiencies.
- (2) Preliminary Feasibility Analysis.
  - (a) A rough cost estimate and cash flow analysis of the property following rehabilitation must be made by the Public Housing Authority. A determination of the necessity for any permanent displacement and/or temporary relocation and a preliminary estimate of the cost of any temporary relocation must be made by the Public Housing Authority. If the proposal is determined to be feasible, analysis of additional energy conserving improvements which may be cost effective and which may be accomplished within the Fair Market Rent limitations of the Program must be made. The Owner must be required to provide energy conserving improvements in accordance with Section 882.405 (a). A preliminary estimate of Gross Rents

(Rule 0770-3-2-.03, continued)

should be made based upon the estimates of rehabilitation, temporary relocation and energy conserving improvements costs.

(3) Selection of proposals.

(a) After the initial inspection and preliminary feasibility analysis, the Public Housing Authority should select among Owner proposals those proposals which it will approve. The Public Housing Authority must establish a method of selecting among Owner proposals and must make this method known to any Owner submitting or planning to submit a proposal. Proposals must be approved in accordance with criteria established by the Public Housing Authority, including any Public Housing Authority rules for preferences as approved by HUD (see Section 882.503 (b) (4) (ii) ) and in accordance with the following requirements:

1. No proposal found infeasible by the Public Housing Authority in the preliminary feasibility analysis may be approved unless the Owner can demonstrate that the allowable rent will be sufficient to rehabilitate, manage and maintain the unit(s) adequately;
2. If, during the preliminary feasibility analysis, it is determined by the Public Housing Authority that the work necessary to bring a unit(s) to the Housing Quality Standards, or other standards approved for the Program, or to repair or replace major systems is not sufficient to meet the \$1,000 per unit minimum amount of rehabilitation requirement, that unit(s) may not be assisted under the Program.
3. If a unit(s) does not meet the requirement of the preceding subdivision of this rule but the Owner is proposing to accomplish at least \$1,000 per unit of rehabilitation by including work to make the unit(s) accessible to a handicapped or disabled individual occupying the unit(s) or expected to occupy the unit(s), the Agency may approve such units not to exceed 5 percent of the units under its Program. The rehabilitation must make the Unit(s), and access and agrees to the unit(s), barrier-free with respect to the handicap or disability of the individual in residence or expected to be in residence.
4. A preference must be provided to those proposals which indicate in the preliminary feasibility analysis the greatest dollar amount of necessary rehabilitation per unit. This preference need not be adhered to strictly if the Agency is proposing to use the Program for deconcentration and the proposals indicating the greatest amount of rehabilitation are located in areas of minority concentration.
5. Prior to the approval of any unit(s) owned by a State or unit of general local government, the Agency must contact HUD and request HUD review of the site. The Agency may not enter into an Agreement on any such unit(s) until HUD approval of the site is obtained and the State or unit of general local government has sold the unit(s) to another Owner.

(4) Notification of Owners.

(a) When the Agency has selected the proposals which it plans to approve, the Agency must notify all Owners specifying:

1. Whether their proposal has been rejected or approved;
2. If the proposal was rejected, the reason(s) for rejection and the Owner's right to appeal to the Agency;
3. The tentative number of units to be assisted; and

(Rule 0770-3-2-.03, continued)

4. That the Owner should request all tenants residing in units tentatively selected for participation in the Program to contact the Agency to submit an application for rental assistance.
- (5) Selection of Units.
  - (a) Tennessee Housing Development Agency will take the applications and determine the eligibility of all tenants residing in approved units who wish to apply for the Program. After eligibility of all tenants has been determined, the Owner will be informed of any adjustment in the number of units to be assisted. In order to make the most efficient use of housing assistance funds, an Agreement may not be entered into covering any unit occupied by a family which is not eligible to receive housing assistance payments. Therefore, the number of units approved by the Agency for a particular proposal will be adjusted to exclude any unit(s) determined by the Agency to be occupied by a family not eligible to receive housing assistance payments. Eligible Families must also be briefed at this stage as to their rights and responsibilities under the Program.
- (6) Work Write-ups and Cost Estimates.
  - (a) Should the Owner agree with the assessment of the Agency as to the work that must be accomplished, the preliminary feasibility of the proposal, and the number of units to be assisted, the Owner, with the assistance of the Agency where necessary, will prepare detailed work write-ups including specifications and plans (where necessary) so that a cost estimate may be prepared. The work write-up will describe how the deficiencies specified in Rule 0770-3-2-.03(1) are to be corrected including minimum acceptable levels of workmanship and materials. From this work write-up, the Owner, with the assistance of the Agency, must prepare a cost estimate for the accomplishment of all items specified in this section. While this work write-up may include items of routine maintenance or other items which are not among the deficiencies specified in the initial inspection (0700-3-2-.03(1)) these extra items may not be included in the rehabilitation cost upon which the Contract Rent(s) is based.
- (7) Selection of Contractor.
  - (a) Tennessee Housing Development Agency should discuss with the Owner the selection of a competent contractor to undertake the rehabilitation. The Agency will provide the Owner a list of contractors, including minority contractors, and will require that these contractors be provided an opportunity to submit bids or proposals for the work. The Agency will also, to the fullest extent possible, promote opportunities for minority contractors to participate in the Program.
- (8) Feasibility Analysis.
  - (a) After a firm price has been secured from the contractor selected by the Owner, a feasibility analysis of the proposal will be conducted by the Agency. This analysis will be similar to the preliminary analysis specified in Rule 0770-3-2-.03(2). The work to be accomplished and/or rents to be specified in the Agreement may be adjusted to reflect the contractor's price.
- (9) Financing.
  - (a) Tennessee Housing Development Agency will finance the cost of rehabilitating the unit and provide the permanent mortgage. The Agency may provide the construction financing in some instances.
- (10) Lease Form.

(Rule 0770-3-2-.03, continued)

- (a) Tennessee Housing Development Agency must approve all lease forms. All forms must meet the necessary requirements of Tennessee Law and such other federal requirements as are necessary pursuant to 24 C.F.R. 882.

**Authority:** T.C.A. §13-23-115(18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

**0770-3-2-.04 AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT.**

(1) Provisions.

- (a) Prior to the commencement of any rehabilitation under this Part, the Agency must enter into an Agreement with the Owner which contains among other requirements the following:
  1. A statement that the owner agrees to bring the unit(s) into compliance with the Housing Quality Standards or other standards approved for the Program in accordance with the work write-up. The work write-up and cost estimate will be an attachment to the Agreement.
  2. A date by which rehabilitation will have commenced and a deadline date by which the rehabilitation will be completed and the unit(s) ready for occupancy.
  3. An anticipated Contract Rent which will be paid to the Owner after rehabilitation is completed and the Contract is executed.
  4. The term of the Contract.
  5. If there are units in the building which will not be assisted under the Program, a statement that the Owner agrees to bring the unassisted units into compliance with the Housing Quality Standards specified in 0700-3-1-.04 or other standards established for this program by the completion date referred to in Rule 0770-3-2-.04(b).
  6. The Form of Contract, as an exhibit.

(2) Preparation and Execution.

- (a) The Agreement must be prepared by the Agency in the form prescribed by HUD and include all required information in paragraph (a) of this section and a provision specifying the Owner's responsibility for making relocation payments to Families temporarily displaced. The Agency will provide the Owner with one executed copy of the Agreement and retain at least one copy for its records.

**Authority:** T.C.A. §13-23 -115(18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

**0770-3-2-.05 REHABILITATION PERIOD.**

(1) Timely Performance of Work.

- (a) After execution of the Agreement, the Owner must promptly proceed with the rehabilitation work as provided in the Agreement. In the event work is not so commenced, diligently continued, or completed, the Agency will have the right to rescind the Agreement, or take other appropriate action. Although extensions of time may be granted, no increases in Contract Rents may be granted for delays.

(Rule 0770-3-2-.05, continued)

- (2) Inspections.
  - (a) Tennessee Housing Development Agency will inspect, as appropriate, during rehabilitation to ensure that work is preceding on schedule and is being accomplished in accordance with the terms of the Agreement, particularly that the work meets the acceptable levels of workmanship and materials specified in the work write-up.
- (3) Changes.
  - (a) The Owner must submit to the Agency for approval any changes from the work specified in the Agreement which would alter the design or the quality of the required rehabilitation. The Agency may condition its approval of such changes on a reduction of the Contract Rents. If changes are made without prior Agency approval, the Agency may determine that Contract Rents must be reduced or that the Owner must remedy any deficiency as a condition for acceptance of the unit(s).
  - (b) Contract Rents may not be increased except in accordance with provisions of these rules.
- (4) Vacancies from Execution of Contract to Initial Occupancy.
  - (a) At the time the Contract is executed, the Owner will be required to submit a list of dwelling unit(s) leased as of the effective date of the Contract and a list of the unit(s) not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased unit(s), pursuant to 0770-3-1-.11, only if the Owner has fully complied with the requirements of that section and of this paragraph.
- (5) Initial Occupancy.
  - (a) In filling a vacant unit(s) which is being rehabilitated under the Agreement, the Owner must select from those Eligible Families on the Agency waiting list. The Agency will refer Eligible Families to the Owner for this purpose.
  - (b) In order that the unit(s) might be promptly occupied, 60 days prior to the scheduled completion of the rehabilitation, or the date the Agreement is executed, whichever is later, the Owner must notify the Agency of any unit(s) which it is anticipated will be vacant on the anticipated effective date of the Contract. The Agency will notify one or more appropriate size Families on its waiting list of the availability of the unit.
  - (c) Since the Owner is responsible for tenant selection, the Owner may refuse any Family provided that the Owner does not unlawfully discriminate. Should the Owner reject a family, and should the Family believe that the Owner's rejection was the result of unlawful discrimination, the Family may request the assistance of the Agency in resolving the issue. If the issue cannot be resolved promptly, the Family may file a complaint with HUD and the Agency may refer the Family to the next available unit.

**Authority:** T.C.A. §13-23-115(18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

#### **0770-3-2-.06 COMPLETION OF REHABILITATION.**

- (1) Notification of Completion.

(Rule 0770-3-2-.06, continued)

- (a) The Owner must notify the Agency when the work is completed and submit to the Agency the evidence of completion and certifications described in Rule 0770-3-2-.06(2) and (3).
- (2) Evidence of Completion.
- (a) Completion of the unit(s) must be evidenced by furnishing the Agency with the following:
    - 1. A certificate of occupancy and/or other official approvals as required by the locality.
    - 2. A certification by the Owner that:
      - (i) The unit(s) has been completed in accordance with the requirement of the Agreement-
      - (ii) The unit(s) is in good and tenantable conditions;
      - (iii) The unit(s) has been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials;
      - (iv) Any unit(s) built prior to 1950 is in compliance with applicable HUD Lead Based Paint regulations (24 CFR Part 35);
      - (v) If applicable, the Owner has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of the Owner's knowledge and belief there are no claims of underpayment concerning alleged violations of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner or Agency, the Owner will be required to place a sufficient amount in escrow, as determined by the Agency, to assure each payments; and
      - (vi) If there are units in the budding which will not be assisted under the Program, the units comply with the Housing Quality Standards specified in Section 0770-3-1-.04.
      - (vii) Notice of Completion has been properly filed in the appropriate county register of deeds office.
- (3) Actual Cost and Rehabilitation Loan Certifications.
- (a) The Owner must provide the Agency with a certification of the costs incurred for the rehabilitation and any temporary relocation as well as the interest rate and term (if the total cost of rehabilitation under the Agreement is less than \$15,000) of any rehabilitation loan. The Owner must certify that these are the actual costs, interest rate, and term (where applicable). The Agency must review for completeness and accuracy and accept these certifications subject to the right of post audit. The Agency must then establish the Contract Rents which will be subject to reduction based on a post audit.
- (4) Review and Inspections.
- (a) Within ten working days of the receipt of the evidence of completion, the Agency must review the evidence of completion for compliance with paragraph (b) of this section.

(Rule 0770-3-2-.06, continued)

- (b) Within the same time period, an Agency representative must inspect the unit(s) to be assisted to determine that the unit(s) has been completed in accordance with the Agreement and meets the Housing Quality Standards or other standards approved by HUD for the Program. If the inspection discloses defects or deficiencies, the inspector must report these in detail.
- (5) Acceptance.
- (a) If the Agency determines from the review and inspection that the unit(s) has been completed in accordance with the Agreement, the Unit(s) will be accepted.
  - (b) If there are any items of delayed completion which are minor items or which are incomplete because of weather conditions, and in any case which do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the unit(s) may be accepted. An escrow fund determined by the Agency to be sufficient to assure completion for items of delayed completion will be required, as well as a written agreement between the Agency and the Owner, to be included as an exhibit to the Contract, specifying the schedule for completion. If the items are not completed within the agreed time period, the Agency may terminate the Contract or exercise other rights under the Contract.
  - (c) If other deficiencies exist, the Agency must determine whether and to what extent the deficiencies are correctable, and whether the Contract Rents should be reduced. The Owner must be notified of the Agency's decision. If the corrections required by the Agency are possible, the Agency and the Owner must enter into an agreement for the correction of the deficiencies within a specified time. If the deficiencies are corrected within the agreed period of time, the Agency will accept the unit(s).
  - (d) Otherwise, the unit(s) may not be accepted, and the Owner must be notified with a statement of the reasons for nonacceptance.

**Authority:** T.C.A. §13-23-115(18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

**0770-3-2-.07 EXECUTION OF HOUSING ASSISTANCE PAYMENTS CONTRACT.**

- (1) Time of Execution.
- (a) Upon acceptance of the unit(s) by the Agency and acceptance of the certifications by the Agency the Contract will be executed by the Owner and the Agency. The effective date must be no earlier than the Agency inspection which provides the basis for acceptance.
- (2) Changes from Agreement.
- (a) The Contract Rents may be higher or lower than those specified in the Agreement in accordance with requirements of 0770-3-1-.07.
- (3) Unleased Unit(s).
- (a) At the time of execution of the Contract, the Agency will examine the lists of dwelling units leased and not leased, and will determine whether or not the Owner has met the obligations with respect to any unleased unit(s) and for which unit(s) it will make vacancy payments if the unit(s) is not leased within 15 days. The Owner must indicate in writing either concurrence with this determination or disagreement, reserving all rights to claim vacancy payments for the unleased unit(s) pursuant to the Contract, without prejudice by reason of the Owner's signing the Contract.



(Rule 0770-3-2-.07, continued)

**Authority:** T.C.A. §13-23-115(18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

#### **0770-3-2-.08 OVERCROWDED AND UNDER OCCUPIED UNITS.**

- (1) If the Agency determines that a Contract unit is not decent, safe, and sanitary by reason of increase in Family size, or that a contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to the unit will not be abated; however, the Owner must offer the Family a suitable alternative unit should one be available and the Family will be required to move. If the Owner does not have a suitable available unit, the Agency will assist the Family in finding an appropriate dwelling unit and require the Family to move to such a unit as soon as possible. In no case will a Family be forced to move unless the Family rejects without good reason the offer of a unit which the Agency judges to be acceptable.

**Authority:** T.C.A. §13-23-115(18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

#### **0770-3-2-.09 ADJUSTMENT OF ALLOWANCE FOR UTILITIES AND OTHER SERVICES.**

- (1) The Agency will determine, at least annually, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling units in the Program, on grounds of changes in utility rates or other change of general applicability, to all units in the Program. The Agency may also establish a separate schedule of allowances for each building of 20 or more assisted units, based upon at least one year's actual utility consumption data following rehabilitation under the Program. If the Agency determines that an adjustment should be made in its Schedule of Allowances or if it establishes a separate schedule for a building which will change the allowance, the Agency will then determine the amounts of adjustments to be made in the amount of rent to be paid by affected families and the amount of housing assistance payments and notify the Owners and Families accordingly. Any adjustment to the Allowance will be implemented no later than at the Family's next re-examination or at lease renewal, whichever is earlier.

**Authority:** T.C.A. §13-23-115 (18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

#### **0770-3-2-10 TERMINATION OF TENANCY.**

- (1) Applicability.
  - (a) The provisions of this section apply to all decisions by an Owner to terminate the tenancy of a Family residing in a unit under Contract during or at the end of the Family's lease term.
- (2) Entitlement of Families to Occupancy.
  - (a) General. The Owner may not terminate any tenancy except upon the following grounds:
    1. Material noncompliance with the lease;
    2. Material failure to carry out obligations under any State landlord and tenant act, or
    3. Other good cause, which may include the refusal of a Family to accept an approved modified lease form (see Rule 0770-3-2-.10(4)). No termination by an Owner will be valid to the extent it is based upon a lease or a provision of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal

(Rule 0770-3-2-.10, continued)

term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and Rule 0770-3-2-.10(3).

- (b) Notice of Good Cause. The conduct of a tenant cannot be deemed “other good cause” under Rule 0770-3-2-.10(2)(a)3 unless the Owner has given the Family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the Family in the same manner as that provided for termination notices under State and local laws.
  - (c) Material Noncompliance. The term material noncompliance with the lease includes:
    - 1. one or more substantial violations of the lease; or
    - 2. repeated minor violations of the lease which disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities, interfere with the management of the building or have an adverse financial effect on the building. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a material noncompliance with the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.
- (3) Termination Notice.
- (a) The Owner must give the Family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the Family that it has an opportunity to respond to the Owner.
  - (b) When a termination notice is issued for other good cause, the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the Family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under the Tennessee Tenant Act pursuant to Rule 0770-3-2-.10 (2) (a) 1 or 2, the time of service must be in accord with the lease and State law.
  - (c) In any judicial action instituted to evict the Family, the Owner may not rely on any grounds which are different from the reasons set forth in the notice. A copy of the notice must be furnished simultaneously to the Agency and the Agency will determine that the proposed termination is being performed in accordance with the procedures required in this section.
- (4) Modification of Lease Form.
- (a) The Owner may, with the prior approval of the Agency, modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the Family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the Family at least 30 days prior to the last date on which the Family has the right to terminate the tenancy without being bound by the modified terms and conditions. The Family may accept the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the Owner written notice in accordance with the lease that he/she intends to terminate the tenancy. Any increase in rent must in all cases be governed by 24 C.F.R. 882.41 and other applicable HUD regulations.
- (5) Continued Assistance.

(Rule 0770-3-2-.10, continued)

- (a) Should the Family be evicted in accordance with this Section, the Agency will have no obligation to continue assistance to the Family under the Moderate Rehabilitation Program.

**Authority:** T.C.A. §13-23-115(18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

**0770-3-2-.11 REDUCTION OF NUMBER OF UNITS COVERED BY CONTRACT.**

- (1) Limitation on Leasing to Ineligible Families.
  - (a) Owners may not lease any of the assisted units under Contract to ineligible families. Failure on the part of Owner to comply with prohibition is a violation of the Contract and grounds for all available legal remedies, including suspension or debarment from Agency HUD programs and reduction of the number of units under the Contract, as set forth in Rule 0770-3-2-.11(2). Once the Agency has determined that a violation exists, the Agency will notify HUD of its determination and the suggested remedy(ies).
- (2) Reduction for Failure to Lease to Eligible Families.
  - (a) If, at any time beginning six months after the effective date of the Contract, the Owner fails for a continuous period of six months to have at least 90 percent of the assisted units leased or available for leasing by Eligible Families, because families occupying units who were initially eligible have become ineligible, the Agency may, on at least 30 days' notice, reduce the number of units covered by the Contract. The Agency may reduce the number of units to the number of units actually leased or available for leasing plus 10 percent (rounded up). If the Owner has only one unit under Contract and if one year has elapsed since the date of the last housing assistance payment, the Contract may be terminated with the consent of the Owner.
- (3) Restoration.
  - (a) Tennessee Housing Development Agency will agree to an amendment of the Contract, to provide for subsequent restoration of any reduction made pursuant to Rule 0770-3-2-.11(2):
    1. The Agency determines that the restoration is justified by demand.
    2. The Owner otherwise has a record of compliance with obligations under the Contract, and
    3. Contract authority is available.

**Authority:** T.C.A. §13-23-11.5 (18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

**0770-3-2-.12 PUBLIC NOTICE TO LOWER-INCOME FAMILIES: WAITING LIST.**

- (1) Public Notice to Lower-Income Families.
  - (a) If the Agency does not maintain a waiting list for its Existing Housing Program which is sufficient to provide applicants for the units under the Moderate Rehabilitation Program the Agency will promptly after receiving the executed ACC, make known to the public the availability of the Program.
    - 1 The notice must state that assistance under this Program will be available only in specified units which have been rehabilitated under the Program.

(Rule 0770-3-2-.12, continued)

2. The notice must also state that current occupants of housing assisted under the Act and applicants on a waiting list for any such housing (except for those Families on the Section 8 Existing Housing waiting list) must apply separately if they wish to be considered for assistance under the Program. In addition, the notice must state that such applicants will not lose their place on any other waiting list.
  3. The notice must be made in accordance with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement and slogan.
- (b) If the Agency has a waiting list for its Existing Housing Program which is sufficient to provide applicants for the units under the Moderate Rehabilitation Program, the Agency need not advertise the availability of assistance under this Program, until the next time it advertises under that program, but will refer Families on the Existing Housing waiting list.
- (2) Waiting List.
- (a) Any Family on the waiting list must be allowed to refuse participation in the Moderate Rehabilitation Program without losing its place on the waiting list for Existing Housing.

**Authority:** T.C.A. §13-23-115 (18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

#### **0770-3-2-.13 FAMILY PARTICIPATION.**

- (1) Initial Determination of Family Eligibility.
  - (a) Tennessee Housing Development Agency will be responsible for determining Family eligibility for participation, in accordance with 24 CFR Part 889. The Agency is responsible for verifying the sources and amount of the Family's Income and other information necessary for determining eligibility and the amount of the assistance payments.
  - (b) Every applicant for participation must complete and sign the form of application prescribed by HUD.
  - (c) The Agency must maintain a system to assure that it will be able to assist all Families selected to participate within its ACC authorization and that it will comply, to the maximum extent feasible, with the unit distribution in the ACC.
  - (d) Tennessee Housing Development Agency records on applicants and Families selected to participate must be maintained so as to provide HUD with racial, gender, and ethnic data and must be retained for three years.
- (2) Selection of Families for Participation.
  - (a) The Agency will select Families for participation in accordance with the provisions of the Program and in accordance with the Agency's application, including any Agency requirements or preferences as approved by HUD. (The Agency will select Families eligible for housing assistance payments currently residing in units which are designated for rehabilitation under the Program without requiring that these Families be placed on the waiting list. If assistance under this Part is being concentrated in a neighborhood, the Agency may establish a preference for applicants currently residing in that neighborhood who are being directly displaced by HUD programs.

(Rule 0770-3-2-.13, continued)

- (3) Briefing of Families.
  - (a) When a Family is initially determined to be eligible for housing assistance payments or is selected for participation, the Agency must provide the Family with information as to the Gross Family Contribution and the Agency's schedule of Allowances for Utilities and Other Services. Each Family must also, either in group or individual sessions, be provided with a full explanation of the following:
    1. Family and Owner responsibilities under the Lease and Contract;
    2. Significant aspects of the applicable State and Local laws;
    3. Significant aspects of Federal, State and local fair housing laws;
    4. The fact that the subsidy is tied to the unit and the Family must occupy a unit rehabilitated under the Program;
    5. The Family's options under the Program should the Family be required to move due to an increase or decrease in Family size; and
    6. The Family's options under the Program if it decides to move from its rehabilitated unit.
  - (b) For all Families residing in units to be rehabilitated, whether or not they will be displaced, the briefing must include notices and discussions of relocation and displacement rights and policies.
- (4) Continued Participation When Assisted Family Wishes to Move.
  - (a) If an assisted Family notifies the Agency that it wishes to find another dwelling unit within the area in which the Agency has determined that it is able to enter into Contracts or that it has found another unit to which it wishes to move, the Agency, unless it determines that the Owner is entitled to payments due to the Family's vacating the unit in violation of the lease or on account of nonpayment of rent or other amount owed under the Lease and that the Family has failed to satisfy any such liability or unless it determines the Family to be ineligible, may:
    1. Give the Family a preference as a currently assisted Family wishing to move and provide it with the next available Section 8 Existing Housing Certificate of Family Participation or refer the Family to the next available unit rehabilitated under the Program, or
    2. Place the Family on its Section 8 Existing Housing Program waiting list as if they had just applied.
  - (b) If the Agency determines the Family to be ineligible, provisions of subsection 7 of this section must be followed.
  - (c) If an assisted Family wishes to move out of the area in which the Agency has determined that it is able to enter into Contracts and the Family qualifies for assistance, the Family may obtain housing assistance in the jurisdiction to which it is moving, under the procedures contained in 24 CFR 882.
- (5) Continued Participation When Assisted Family Forced to Move.
  - (a) Should an assisted Family which qualifies for continued assistance be forced to move through no fault of its own, such as an increase or decrease in Family size, the Family may continue to receive housing assistance through one of the following means, in the order stated:

(Rule 0770-3-2-.13, continued)

1. The Agency will refer the Family to the Owner of any appropriate vacant unit which has been rehabilitated under the Program if such a vacancy exists.
  2. The Agency will refer the Family to the Owner of the next vacant unit which will be rehabilitated under the Program provided that a vacancy will occur within a reasonable time after the Family is notified to vacate its present unit.
  3. If the Agency has a Section 8 Existing Housing Program in the area and Certificates are available, the Agency will offer the Family a Certificate of Family Participation and assist the Family in finding a suitable replacement unit.
  4. The Agency will offer the Family the next available, suitable unit in this area owned or managed by the Agency under another program.
  5. The Agency will assist the Family in locating other assisted or unassisted available housing in the locality within the Family's ability to pay.
- (b) In no case will a Family be forced to move nor will assistance be terminated unless the Family rejects without good reason the offer of a unit which the Agency judges to be acceptable.
- (6) Continued Participation of Family When Contract is Terminated.
- (a) Should an Owner evict an assisted Family in violation of the Contract or otherwise breach the contract and the contract for the unit is terminated, the assisted Family, if it is eligible for continued assistance, may continue to receive housing assistance through the conversion of the Moderate Rehabilitation unit allocation to an Existing Housing unit. The Family will then be treated as any certified Family and will be issued a Certificate of Family Participation and assisted by the Agency in finding a suitable replacement unit. The unit will then be considered an Existing Housing unit except that the term of any Existing Housing Contract may not extend beyond the term of the initial Moderate Rehabilitation Contract. If the family is determined ineligible for continued assistance, the Certificate may be offered to the next Family on the Agency's Existing Housing waiting list. The units will remain under the Moderate Rehabilitation ACC which provides for such a conversion of units; therefore, no amendment to the ACC will be necessary to convert to Existing Housing units. All of this only applies when the Agency operates an Existing Housing program in the same area.
- (7) Families Determined by the Agency to be Ineligible.
- (a) If a family is determined by the Agency to be ineligible, either at the application stage or after assistance has been provided on behalf of the family, the Agency will promptly notify the family by letter of the determination and the reasons for it and the letter must state that the family has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the Agency determines that the family is ineligible, it must so notify the family in writing. The procedures of this paragraph do not preclude the family from exercising its other rights if it believes it is being discriminated against on the basis of race, color, creed, religion sex, handicap, or national origin. The Agency must retain for three years a copy of the application, the notification letters, the family's response if any, the record of any informal hearings, and a statement of final disposition.

**Authority:** T.C.A. §13-23-115 (18). **Administrative History:** Original rule filed July 13, 1982; effective August 12, 1982.

**0770-3-2-.14 REEXAMINATION OF FAMILY INCOME AND COMPOSITION.**

- (a) A reexamination of Family Income, composition and redetermination of Gross Family Contribution will be conducted by the Agency. A Family's eligibility for housing assistance payments will continue until the amount payable by the Family equals the Gross Rent for the dwelling unit it occupies. However, the termination of eligibility at that point will not affect the Family's other rights under the lease. Any resumption of housing assistance payments as a result of subsequent changes in income or rents or other relevant circumstances will be contingent upon the availability of assistance under the Contract. A Family may at any time request a redetermination of its Gross Family Contribution on the basis of changes in Family Income or other relevant circumstances.

*Authority: T.C.A. §13-23-115(18). Administrative History: Original rule filed July 13, 1982; effective August 12, 1982.*

**0770-3-2-.15 MAINTENANCE, OPERATION, AND INSPECTIONS..**

- (1) Maintenance and Operation.
  - (a) The Owner must provide all the services, maintenance and utilities as agreed to under the contract, subject to abatement of housing assistance payments or other applicable remedies if the Owner fails to meet these obligations.
- (2) Periodic Inspection.
  - (a) In addition to the inspections required prior to execution of the Contract, the Agency must inspect or cause to be inspected each dwelling unit under Contract at least annually and at such other times as may be necessary to assure that the Owner is meeting the Obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services. The Agency must take into account complaints and any other information coming to its attention in scheduling inspections.
- (3) Units not Decent, Safe and Sanitary.
  - (a) If the Agency notifies the Owner that the unit(s) under contract are not being maintained in decent, safe and sanitary condition and the Owner fails to take corrective action (including corrective action with respect to the Family where the condition of the unit is the fault of the Family) within the time prescribed in the notice, the Agency may exercise any of its rights or remedies under the contract, including abatement of housing assistance payments (even if the Family continues in occupancy) and termination of the Contract on the affected unit(s). If the Family was not a fault and wishes to be rehoused in another dwelling unit with Section 8 assistance and the Agency terminates the Contract, the Agency must assist the Family in accordance with 24 CFR 882.517(f).

*Authority: T.C.A. §13-23-115(18). Administrative History: Original rule filed July 13, 1982; effective August 12, 1982.*