

HUD-approved procedure. The notice shall state:

(i) The reason for the applicant's rejection (including a nonrecommendation by the recommending committee unless the applicant has previously been so notified by the committee);

(ii) That the applicant will be given an information hearing on such determination, regardless of the reason for the rejection, if the applicant makes a request for such a hearing within a reasonable time (to be specified in the notice) from the date of the notice; and

(iii) For denial of assistance for failure to establish citizenship or eligible immigration status, the applicant may request, in addition to the informal hearing, an appeal to the INS, in accordance with 24 CFR part 5.

(h) *Eligibility for continued occupancy.*

(1) A homebuyer shall cease to be eligible for continued occupancy with the aid of HUD annual contributions when the LHA determines that the homebuyer's adjusted monthly income has reached, and is likely to continue at, a level at which the current amount of the homebuyer's Total Tenant Payment, determined in accordance with part 913 of this chapter, equals or exceeds the monthly housing cost (see paragraph (h)(2) of this section). In such event, if the LHA determines, with HUD approval, that suitable financing is available, the LHA shall notify the homebuyer that he or she must either: (1) Purchase the home or (ii) move from the development. If, however, the LHA determines that, because of special circumstances, the family is unable to find decent, safe, and sanitary housing within the family's financial reach although making every reasonable effort to do so, the family may be permitted to remain for the duration of such a situation if it pays as rent an amount equal to Tenant Rent, as determined in accordance with part 913 of this chapter. Such a monthly payment shall also be payable by the family if it continues in occupancy without purchasing the home because suitable financing is not available.

(2) The term "monthly housing cost," as used in this paragraph, means the sum of:

(i) The monthly debt service amount shown on the Purchase Price Schedule

(except where the homebuyer can purchase the home by the method described in §904.113(c)(1) of this part);

(ii) One-twelfth of the annual real property taxes which the homebuyer will be required to pay as a homeowner;

(iii) One-twelfth of the annual premium attributable to fire and extended coverage insurance carried by the LHA with respect to the home;

(iv) The current monthly per unit amount budgeted for routine maintenance (EHPA), and for routine maintenance-common property; and

(v) The current LHA and HUD approved monthly allowance for utilities paid for directly by the homebuyer plus the monthly cost of utilities supplied by the LHA.

(Approved by the Office of Management and Budget under control number 2577-0083)

[39 FR 10966, Mar. 22, 1974. Redesignated at 40 FR 15580, Apr. 7, 1975, and at 49 FR 6714, Feb. 23, 1984, and amended at 49 FR 21490, May 21, 1984; 53 FR 1172, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39710, Sept. 27, 1989; 56 FR 7544, Feb. 22, 1991; 60 FR 14848, Mar. 20, 1995; 61 FR 13626, Mar. 27, 1996]

#### § 904.105 Counseling of homebuyers.

The LHA shall provide counseling and training as provided in subpart C of this part, with funding as provided in §904.206 of this part. Applicants for admission shall be advised of the nature of the counseling and training program available to them and the application for admission shall include a statement that the family agrees to participate and cooperate fully in all official pre-occupancy and post-occupancy training and counseling activities. Failure to participate as agreed may result in the family not being selected or retained as a homebuyer.

#### § 904.106 Homebuyers Association (HBA).

An HBA is an incorporated organization composed of all the families who are entitled to occupancy pursuant to a Homebuyers Ownership Opportunity Agreement or who are homeowners. It is formed and organized for the purposes set forth in §904.304 of this part. The HBA shall be funded as provided in §904.305 of this part. In the absence of a duly organized HBA, the LHA shall be