

***Town of Huntington Housing Authority***

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### **NOTICE OF ADOPTED WAIVERS**

The following waivers were adopted by the Town of Huntington Housing Authority on the date noted:

Delayed annual reexamination (PHandHCV5/4/2021); Annual reexam income verification (PHAandHCV5/4/2021); Initial HQS Inspection (6/30/2021); Non-life threatening Initial HQS Inspection (6/30/2021); Alternative HQS Inspection (6/30/2021); HQS Interim Inspections (6/30/2021); HQS QC Inspections (6/30/2021); HQS Space and Security (5/4/2021); Administrative Plan (5/4/2021); PHA Oral Briefing (6/30/2021); HCV Extension of Voucher Term (6/30/2021); HCV Approval of Assisted Tenancy (6/30/2021); HCV Absence of Unit (6/30/2021); HCV Automatic Termination of the HAP Contract (6/30/2021); HCV Increase Payment Standard (6/30/2021); HCV Utility Allowance Schedule (6/30/2021); PHAs retain prior year score (6/30/2021); Financial reporting (6/30/2021); and Form HUD 50058 submission (6/30/2021).

## **1. Introduction**

**It is the goal of the Huntington Housing Authority (“HHA” or “the Authority”) to make rental subsidies accessible so interested and eligible families can afford safe, decent, and sanitary housing; to provide these housing services with integrity and mutual accountability; and create housing situations which will serve as catalysts for the transformation from dependence to economic self-sufficiency.**

This Administrative Plan describes Admission, Participation, and Termination policies by which the HHA determines eligibility, selects prospective Participants, approves Apartments and Owners, determines rents, and terminates subsidies in a fair and non-discriminatory manner.

This Administrative Plan applies to all programs funded by the Housing Choice Voucher Program Annual Contributions Contract.

## **1.2 Statement of Nondiscrimination**

### **1.2.1 Compliance with Federal and State Laws**

It is the policy of the HHA to comply fully with existing federal and State laws<sup>1</sup> protecting the individual rights of Applicants, Participants, or staff, as well as any laws subsequently enacted.

### **1.2.2 Civil Rights and Fair Housing**

The HHA does not discriminate because of race, color, sex, sexual orientation, religion, age, handicap, disability, national origin, ethnicity, familial status or marital status, in the leasing of Apartments in connection with the HCVP.

The HHA shall not, because of race, color, sex, sexual orientation, religion, ethnicity, age, handicap, disability, national origin, familial status, or marital status:

- (a) Deny to any Family the opportunity to apply for housing, or deny to any qualified Applicant the opportunity to lease housing suitable to his/her needs;

- (b) Provide housing which is different from that provided to others except as required or permitted by law and in accordance with this Administrative Plan;
- (c) Subject any person to segregation or disparate treatment;
- (d) Restrict a person's access to any benefit enjoyed by others in connection with a program covered by this Administrative Plan;
- (e) Treat a person differently in determining eligibility or other requirements for Admission except in accordance with this plan;
- (f) Deny a person access to the same level of services available to other similarly situated individuals

### **1.2.3 Fair Admissions**

The HHA shall not automatically deny Admission to a particular group or category of otherwise eligible Applicants (e.g., Households that have a Head of Household or Co-Head of Household who is a Disabled Person).

Each Applicant in a particular group or category must be treated on an individual basis in the eligibility procedure set forth in this plan.

## **1.3 Accessibility and Plain Language**

### **1.3.1 Accessible Facilities and Programs**

Except as otherwise provided, no Disabled Person shall be denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because the HHA's facilities or programs are inaccessible to a person with a disability.

### **1.3.2 Plain Language Paperwork**

Documents intended for use by Applicants/Participants will be presented in accessible formats for those with vision or hearing impairments and they will be written simply and clearly to enable Applicants/Participants with learning or cognitive disabilities to understand as much as possible. Requests for accommodation with respect to HHA documents that may be required in an alternative format should be made to the Authority's Telecommunications Device for the Deaf (TDD) phone number, Teletypewriter (TTY) phone number, Office of Civil Rights, Occupancy Department, Leased Housing Division, or the Housing Service Center.



### **1.3.3 Forms of Communication other than Plain Language Paperwork**

At the point of initial contact, HHA staff shall ask all Applicants/Participants whether they need some form of communication other than plain language paperwork. Some alternatives might include: sign language interpretation, having materials explained orally by staff, either in person or by phone, large type materials, information on tape, and having someone (friend, relative or advocate) accompany the Applicant/Participant to receive, interpret and explain housing materials. The HHA will pay for sign language interpreters for the hearing impaired. The HHA is not required to provide individually prescribed devices or readers for personal use or study.

### **1.3.4 English Language Ability**

If an Applicant/Participant cannot read (or cannot read English), HHA staff will read and explain documents that they would normally hand to the Applicant/Participant to be read or filled out. An Applicant/Participant who cannot read or understand English may need to be provided with an interpreter who can explain any policies or procedures. The HHA will take reasonable steps to assure meaningful access by persons with limited English ability. Such steps will include translation of common written materials into those languages frequently spoken by Applicants/Participants.

## **CHAPTER 2: ADVERTISING AND OUTREACH**

### **2.1 Advertising and Outreach**

#### **2.1.1 Marketing Policy**

It is the policy of the HHA to conduct advertising and outreach as needed to maintain an adequate application pool. As necessary, the HHA will inform present and potential Owners about the various programs through appropriate media channels. In its marketing efforts, it is the policy of the HHA to comply fully with existing Federal and State laws protecting the individual rights of Applicants, Participants, or staff as well as any laws subsequently enacted.<sup>5</sup>

The HHA will undertake marketing efforts whenever there is a need to do so in order to address: changes required as a result of legislative or regulatory requirements; fair housing needs; deconcentration; an insufficient pool of Applicants; or any other factor which may require

marketing efforts to further HCVP and HHA goals. The HHA shall assess these factors at least annually as part of its Agency Plan in order to determine the need and scope of the marketing effort.

### **2.1.2 Marketing Purposes.**

- (a) To encourage participation and educate Owners of suitable units, especially those located outside of areas of low income or Minority concentration.
- (b) To inform real estate organizations and groups of interested property Owners about the Section 8 Program and its many benefits.
- (c) To maintain an adequate pool of Applicants.

### **2.1.3 Marketing Requirements**

The following requirements apply to HHA marketing efforts:

- (a) *Fair Housing.* Materials must comply with the Fair Housing Act requirements with respect to wording, logo, size of type, etc.
- (b) *Accurate Descriptions.* Materials shall accurately describe each program, its application process, waiting list, estimated wait time, and Priority & Preference structure.
- (c) *Plain Language.* Marketing materials shall be in “plain language”. The HHA shall make an effort to use print media, videos and multi-media in a variety of languages.
- (d) *Eligibility.* Marketing materials will be clear to Applicants and Applicant families, including those with physical and/or mental disabilities.
- (e) *Reasonable Accommodations.* Marketing materials will include notice of the HHA responsibility to provide Reasonable Accommodations for Disabled Persons if required because of disability.

### **2.1.4 Affirmative Marketing**

The HHA shall undertake appropriate affirmative fair marketing efforts whenever the Authority identifies a need to augment the number of Applicants on any of its waiting lists.

- (a) *Print Media.* As necessary, the HHA will utilize regional publications

to conduct outreach to accomplish goals and to facilitate outreach to those groups identified under section

2.1.2. The publications that the HHA will use include, but are not limited to:

**Newspaper**  
Newsday

**Street Town Zip**  
235 Pinelawn Rd. Melville, NY 11747

### **2.1.5 Encouraging Participation in Areas of Low Poverty**

The HHA has prepared maps that show various areas with housing opportunities outside areas of poverty or Minority concentration. The HHA has also assembled information about the characteristics of those areas that may include information about job opportunities, schools, transportation and other services in these areas. The HHA will use the maps and area characteristics information when briefing Voucher Holders about the full range of areas where they may look for housing.

## **CHAPTER 3: APPLICATIONS AND ADMISSION**

### **3.1 Applications and Processing**

#### **3.1.1 Application Forms**

Families wishing to apply for HCVP will be required to complete an application. When the waiting list is open, applications will be accepted during regular business hours at the HHA'S Main Office. Applications shall also be available by mail and persons with disabilities who require a reasonable accommodation in completing an application may call the HHA to make arrangements to complete their application. The HHA will only accept applications by mail or hand delivery. The HHA will not accept applications by fax or email.

#### **3.1.2 Processing and Maintenance**

It is the HHA's policy to accept, process, and maintain applications in accordance with applicable HHA policy and Federal regulations. The HHA will notify the Applicant upon receipt of an application. See section 3.2.4. An Applicant shall be informed of receipt of their application along with notice that informs the applicant of hi(s)her responsibility to notify HHA of any change in address or Family Composition. Failure to update the HHA may result in removal of the application from the waiting list. See section 3.2.5

#### **3.1.3 Assignment of Application Client Number**

Each Application will be assigned a number when received and processed by the HHA.

## **3.2 Waiting List Administration**

### **3.2.1 Program Based Waiting List**

The HHA must select applicants from a HHA waiting list. The HHA will maintain a single waiting list for its Section 8 tenant-based assistance program.

### **3.2.2 Opening and Closing the Waiting List**

- (a) ***Opening the Waiting List.*** The HHA will give at least two weeks advance public notice that a Family may apply for housing assistance before opening the waiting list. The notice must state where and when a Family should apply. The notice shall also state any limitations on the criteria for the type of Family that may apply. The notice shall be circulated in a local newspaper of general circulation, by minority media, and any other suitable means that the HHA finds suitable. The notice shall also state the time limitation of the application period. Once a waiting list is open, the HHA must accept applications from a Family for whom the waiting list is open. Any opening of the waiting list will be publicized in accordance with the Marketing and Outreach requirements described in Chapter 2 of this Administrative Plan.
- (b) ***Closing a Waiting List.*** The HHA may close a waiting list anytime that the HHA determines that the Applicant pool is large enough to fill the estimated amount of available Vouchers for the next twelve (12) months. During the period when the waiting list is closed, the HHA will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

### **3.2.3 Updating the Waiting List**

The HHA will update its waiting list periodically. The HHA will perform waiting list updates by removing, in accordance with section 3.2.5, the name of any Applicant:

- (a) Who is no longer interested; OR
- (b) No longer qualifies for housing; OR
- (c) Cannot be reached by mail sent to address provided by the Applicant (i.e., mail is returned to the HHA by the post office).

### **3.2.4 Selection Methods**

Regardless of the selection method that the HHA uses, each application will be assigned an application client number as described in section 3.1.3.

- (a) ***Chronological Selection Approach.*** The HHA may order a waiting list based on the date and time the application is received. The HHA will assign a chronological application client number and date and time stamp the application when the Applicant completes the application at a HHA application-taking location.

### **3.2.5 Removal of an Application from Waiting Lists**

An Applicant may appeal the HHA's decision to remove their application from a waiting list by requesting an informal review. A request for an appeal must be made **in writing** and must be received by the HHA within ten (10) calendar days of the date of the notice removing the Applicant from the waiting list. The HHA will hold the files of Applicants removed from any waiting list for three (3) years.

An Applicant will be removed from the waiting lists of all programs they have selected by using the following procedure:

- (a) ***Withdrawal of an Application.*** The circumstances that result in the withdrawal of an Applicant's name from any or all waiting lists include:
  - (1) The Applicant requests **in writing** that hi(s)her name be removed; **OR**
  - (2) The HHA has made reasonable efforts to contact the Applicant to determine continued interest or to schedule an interview, but has been unsuccessful in reaching the Applicant. Properly addressed correspondence mailed (or sent by other methods designated by an Applicant who is a Disabled Person) to the latest address provided by the Applicant in writing that is returned by the U.S. Postal Service shall constitute documentation of a reasonable effort to contact the Applicant; **OR**
  - (3) If an Applicant fails to keep an appointment and fails to notify the HHA within ten (10) days after the date of the appointment, of hi(s)her inability to keep an appointment, or the Applicant fails to supply documentation to the HHA in accordance with section 5.3.2(d); **OR**
  - (4) Being Denied Assistance (see Chapter 5: Denial of A Voucher).

- (b) **Consideration of Circumstances Leading to Withdrawal** The HHA will consider a Mitigating Circumstance such as a health problem or lack of transportation in determining whether the Application should be withdrawn as described above in section 3.2.5(a). The Authority will also consider a Reasonable Accommodation that may be necessary for an Applicant who is a Disabled Person to keep an appointment or provide information. Consideration of a Mitigating Circumstance does not relieve the Applicant of the responsibility to provide required information or notify the HHA in writing.
- (c) **Notice of Withdrawal or Ineligibility.** The HHA will send a written notice to an Applicant who is removed from a waiting list. The notice will:
  - (1) Inform the Applicant of the reasons for being withdrawn from the waiting list or being determined Ineligible;
  - (2) Advise the Applicant of the right to dispute the HHA determination of ineligibility or withdrawal by requesting an informal review within ten (10) calendar days of the date of the notice. A request for an informal review must be in writing and must state the reason(s) for the request;
  - (3) Advise the Applicant that if (s)he has a Disability, not previously disclosed, that the disclosure of such condition would initiate the consideration of Mitigating Circumstances and/or Reasonable Accommodation;
  - (4) Advise the Applicant of the right to contest criminal record information in accordance with federal law if that is a basis for determination of ineligibility;
  - (5) Provide a description of HHA's informal review process and advise the Applicant that (s)he has a right to be represented by an attorney or other individual at the informal review, to review the contents of their file in advance of the hearing, to submit additional documentation and evidence at the hearing, and to request a Reasonable Accommodation.

### 3.3 Admissions Preferences

The following system of Preferences will be used for new admissions.

### **Process Overview:**

ALL requests for Preference Status must have third party verification. Information shall be submitted on certificates of Preference Status and/or another form of written verification from a reliable third party as determined by the HHA. All requests for Preference status will be reviewed prior to the determination of Eligibility.

During the review of documents submitted for Preference status, it may be necessary to obtain additional documentation in order to complete the review.

#### **3.3.1 Definition of Preference**

Preference is a housing-related situation that affects an Applicant's present residential status. The HHA gives points to an Applicant with a Preference that ranks an Applicant higher on each waiting list than an Applicant without Preference. Certain Preferences are given more points than others are.

#### **3.3.2 Verification of Preference Status**

The HHA will provide to each potential Applicant a description of all Preferences that may be available. HHA will verify the Preference during the application process as part of the determination of eligibility (See section 5.2).

#### **3.3.3 Granting of Preferences**

It is HHA policy that a Preference, as well as date and time of the application, establish placement position on a waiting list. The HHA will grant Preference to Applicants who are Eligible, Qualified, and meet the definitions of the Preferences (see section 3.3.5) at the time they are certified for Admission.<sup>7</sup> Applicants can apply for Preference status at anytime

#### **3.3.4 Preference Categories**

**a) Preference.** The HHA will admit an Applicant to the Section 8 program before all other Applicants on the waiting list if:

- (1) The Applicant resides and/or works in the HHA's jurisdiction, (5 Points)  
AND;
  - (i) The Applicant is being temporarily displaced due to HHA rehabilitation and modernization programs; or governmental action. (3 Points)
  - (ii) The Applicant is a veteran or legal spouse of a veteran (2 Points)
  - (iii) The Applicant is deemed disabled and can provide Social Security Administration proof. (1 point )
  - (iv) The Applicant is elderly. (62 years of age or older) (1 point)

The HHA grants greater preference than those stated above to an Applicant whose verified circumstances during the final eligibility interview (see section 5.3) and prior to execution of the Lease, through no fault of the applicant, fall within one of the following categories:

- (1) **Displacement due to a disaster**, such as flood or fire, that results in the un-inhabitability of an Applicant's Apartment or dwelling unit not due to the fault of the Applicant and/or Household Member or beyond the Applicant's control;

Verification must include:

- (i) a copy of the incident report from the local Fire Department or other appropriate agency who deals with disasters; **and**



- (ii) a copy of hi(s)her Lease, or a statement from the property Owner, verifying that (s)he is/was the participant of record at the affected address; **and**
- (iii) verification from the Fire department, the Inspectional Services Department, the Health Department or another appropriate agency that the dwelling unit is now un-inhabitable; **and**
- (iv) the cause of the disaster if known (**Note:** If the Applicant or a Household Member or guest was the cause of the disaster, approval for Preference status will be denied unless Mitigating Circumstances are established to the satisfaction of the HHA).

(2) **Court-ordered no-fault eviction:** An eviction pursuant to an Order for Judgment (or Agreement for Judgment) issued by a court because of:

- Landlord action beyond the Applicant's ability to control to prevent; **and**
- The action occurred despite the Applicant having met all lawfully imposed lease conditions; **and**
- Displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and Overcrowded units or failure to accept a transfer to another unit in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

Verification Requirements (**ALL** documents are required and failure to establish any one of the following elements will result in denial of Preference status):

- (i) A copy of the Notice to Quit issued by the landlord or property manager; **and**
- (ii) A copy of the Summons and Complaint available from the court; **and**
- (iii) A copy of the Answer or other response(s) filed by the Applicant in court in response to the Complaint, if any; **and**
- (iv) A copy of the Judgment of the Court (or an Agreement for Judgment, Order for Judgment and Findings of Fact, or Default Judgment); **and**
- (v) If applicable, a copy of the execution issued by the court.
- (vi) The information contained in the above-referenced documents must clearly establish to the satisfaction of the HHA that:
  - the action taken by the landlord or property manager was beyond the Applicant's ability to control or prevent;
  - the action by the landlord or property manager occurred despite the Applicant having met all previously imposed conditions of occupancy;
  - displacement was not the result of failure to comply with HUD or State policies in its housing programs with respect to occupancy of under-occupied and overcrowded Apartments or failure to accept a Transfer to another Apartment in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

- (3) **Condemnation of House/Apartment:** The Applicant's housing has been declared unfit for habitation by an agency of government through no fault of the Applicant.

Verification Requirements:

- (i) third-party, written verification from the appropriate unit or agency of government certifying that the Applicant has been displaced or will be displaced in the next ninety days (90), as a result of action by that agency; **and**
- (ii) the precise reason(s) for such displacement

- (4) **Other No-Fault Government Action:** An Applicant is required to permanently move from their residence by a Federal, State or local governmental action such as code enforcement, public improvements or a development program.

Verification Requirements:

- (i) third-party, written verification from the appropriate unit or agency of government certifying that the APPLICANT has been displaced or will be displaced in the next ninety days, as a result of action by that agency; **and**
- (ii) the precise reason(s) for such displacement

- (5) **For Disabled Persons only, inaccessibility of a critical element of their current dwelling unit:** A Household Member has a mobility or other impairment that makes the person unable to use a critical element of the current Apartment or development AND the Owner is not legally obligated under laws pertaining to Reasonable Accommodation to make changes to the Apartment or dwelling unit that would make these critical elements accessible to the Family member with the disability.

Verification Requirements:

- (i) The name of the Family member who is unable to use the critical element;
  - (ii) a written statement from a Qualified Healthcare Provider verifying that a Family member has a Disability (but not necessarily the nature of the Disability) and identifying the critical element of the dwelling which is not accessible and the reasons why it is not accessible; and
  - (iii) a statement from the landlord or official of a government or other agency providing service to such Disabled Person explaining the reason(s) that the landlord is not required to make changes which would render the dwelling accessible to the individual as a Reasonable Accommodation.
- (9) **Homelessness:** A Household lacks a fixed, regular and adequate nighttime habitation OR the primary nighttime dwelling is one of the following:
- A supervised public or private shelter designed to provide temporary living accommodations (includes welfare hotels, congregate shelters and transitional housing); **or**
  - A public or private place not designed for, or ordinarily used as, a regular sleeping place for human beings.

**Note:** Persons living with current HHA Participants or living with tenants in private or subsidized housing DO NOT qualify as homeless.

#### Verification Requirements:

- (i) Submission of the Applicant's signed statement that he/she lacks a fixed, regular and adequate nighttime residence; or hi(s)her primary nighttime residence is:
  - (A) A supervised public or private shelter designed to provide temporary housing accommodations (i.e., welfare hotels, congregate shelters and transitional housing); or
  - (B) A public or private place not designed or used as a regular sleeping place for human beings.
- (ii) A third-party written verification from a public or private facility that provides shelter for homeless individuals, the local police department, or a social services agency, certifying the Applicant's homeless status in accordance with the definition in this policy.

### **3.4 Special Admissions**

Applicants may be admitted to the Housing Choice Voucher program even though they are not on the HHA's waiting list if they are part of a group targeted by HUD for special assistance. Applicants admitted as "Special Admissions" according to this section will not be counted against the income targeting requirement that a minimum of 75% of new Admissions to the HHA's Section 8 program have Family income that is thirty percent (30%) or below the Area Median Income as established by HUD. (See 24 CFR 982.203(b) for examples of assistance targeted by HUD).

## **CHAPTER 4: Communications and Verification**

"Communication" includes both standard forms used by the HHA to obtain information from an Applicant/Participant or an Owner and information provided to an Applicant/Participant or an Owner about the program. It is the goal of the HHA to communicate well with Owners and Applicant/Participants because they are less likely to commit errors, fraud, or abuse when they have a much better understanding of program requirements and HHA expectations.

The following chapter describes the standards of communication and verification required and expected of the HHA, an Applicant or Participant, and an Owner.

## **4.1 Communication Preference**

The HHA prefers that all communication between Families and the HHA and between Owners and the HHA be in writing. The HHA will attempt to create well designed forms to effectuate proper communication to Families and Owners and to collect all required information. The HHA will communicate with persons who have limited English ability in accordance with Section 1.3.4 of this Administrative Plan.

### **4.1.1 Communication between Applicants and the HHA**

It is the responsibility of each Applicant to inform the HHA in writing of any change in address, telephone number, or other information, which may affect the status of the application while on the waiting lists. For an Applicant with no fixed address, such as a Homeless Applicant, the address of a social service agency may be used for HHA contacts; however, if the Applicant finds housing, the address must be reported to the HHA. Failure to report a change may result in withdrawal from the waiting list.

HHA will communicate with an Applicant by first class mail, except when an Applicant who is a Disabled Person requests some other form of communication (e.g., a telephone call, communication with a designated third party, etc.). A person who is Homeless and an Applicant may request that the HHA communicate with a designated third party. Failure to respond to HHA communication in the required time period may result in withdrawal of an Applicant from all waiting lists.

### **4.1.2 Communication between a Participant and the HHA**

A Participant should communicate with the HHA in writing. It is the responsibility of the Participant to report a change in income or Family Composition in accordance with this Administrative Plan. A Participant also has an obligation to supply all required documentation for eligibility and Recertification purposes. It is in the best interest of the Participant to retain copies of any communication with HHA. Failure to respond to HHA communication in the required time period may result in termination of the Participant's subsidy in accordance with Chapter 13 of this Administrative Plan.

## **4.2 Misrepresentation of Information or Fraud**

The HHA considers falsification, misrepresentation, or failure to disclose information related to Admission, initial eligibility, participation, or Recertification grounds for denying Admission or terminating assistance from the HCVP. If the HHA determines that an Applicant has acted as described above, the Applicant will be precluded from re-applying for assistance with the HHA for three years from the date of the falsification, misrepresentation, or failure to disclose.

## **4.3 Verification Requirements**

The HHA must verify and document all information concerning an Applicant/Participant's Family Composition, Annual Income, Preference Status.

### **4.3.1 Verification Documentation**

The HHA will maintain all documents related to eligibility/Recertification in the Applicant/Participant's file folder. Documentation used as part of the verification process may include but is not limited to:

- (a) Copies of documents, where law or regulation does not require the original.
- (b) Verification forms completed and signed by third parties and/or Applicant/Participant.
- (c) Enterprise Income Verification  
EIV is the verification of a Family's income, before or during a Recertification, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals. The HHA will maintain data according to applicable Federal, State, and local law and HHA policy.
- (d) Reports of all relevant interviews, telephone conversations or personal contact with or regarding the Applicant/Participant including date of the conversation, source of the information, name and position of the individual contacted, name and position of staff member receiving information and a written summary of the information received.
- (e) All correspondence received for or on behalf of the Applicant.

#### **4.3.2 Hierarchy of Order:**

EIV only for SS & SSI benefits unless tenant disputes EIV

EIV + current pay stubs (wages only)

EIV + employer letters

Tenant provided documents from a 3<sup>rd</sup> party are acceptable

PHA would pursue 3<sup>rd</sup> party (verification form) if tenant is unable to provide documents requested by PHA, tenant provided documents are not acceptable to PHA

EIV should not be used to calculate anticipated annual income

EIV is used to validate tenant reported income & supplement tenant provided documents

#### **Foster Children**

Foster care agency might not want foster parent to have information. PHA needs to reach out to agency to get SSN to determine eligibility & they are required to provide.

24CFR960.259 & 982.551: family must supply any information the PHA or HUD determines is necessary to the administration of the program, family must provide any information the PHA or HUD requests for use in a regularly scheduled re-exam or interim exam

EIV reduces administrative burden of postage costs, telephone costs, fees charged by some 3<sup>rd</sup> parties for verification, ambiguity of written 3<sup>rd</sup> party verification, & occurrence of not receiving written 3<sup>rd</sup> party verification

EIV may be disclosed only to the individual to which the information pertains to

EVI information for a minor may be disclosed to the parent or guardian

PHA hired auditors may view EIV information but may not be granted access to EIV

Individuals who will not access EIV but will view information are required to sign the EIV Access Authorization form, Rules of Behavior & User Agreement & PHA must maintain on file

Portability: administration by initial PHA

#### **4.3.3 Validity of Eligibility Documentation**

General procedures applicable to eligibility/Recertification documentation are as follows:



- (a) **Information Supplied by Applicant/Participant.** Documents supplied by an Applicant/Participant should be dated within sixty (60) days of the eligibility/Recertification interview.
- (b) **Information subject to change.** Verifications are valid for ninety (90) days from the date received by the HHA.
- (c) **Information not subject to change.** HHA will verify this information (e.g., verification of age or place of birth) only once during the eligibility/Recertification process.

#### **4.3.4 Third Party Verifications**

HHA will send third party verifications directly to the third party. The HHA may fax a verification form to a third party and request a return fax to the HHA after the form is completed. Each HHA verification request sent to a third party will include the following:

- (a) Authorization from the Applicant to release the information on the HHA's General Release Form (HUD 9886) or Income Verification Form, and
- (b) HHA Third-Party Verification request.

#### **4.4 Missed Appointments**

The HHA considers it a failure to attend an appointment and is not required to hold the scheduled meeting if an individual is more than one-half (1/2) an hour late for a scheduled appointment.

The HHA does not consider it a failure to keep an appointment if an individual contacts the HHA prior to the appointment to reschedule or has a valid excuse for missing the appointment. The HHA may ask the Family to supply documentation to verify their inability to attend the appointment.

### **CHAPTER 5: DETERMINATION OF ELIGIBILITY**

#### **5.1 Number of Vouchers Issued**

At its discretion, the HHA will consider the Annual Contributions Contract (ACC) commitment, funding availability, leasing schedule, turnover rate, historical leasing success rates, and similar factors to determine how many Vouchers should be issued.

#### **5.2 Threshold Eligibility Requirements (Sections 5.2.1- 5.2.3)**

The Applicant will be denied assistance and withdrawn from the waiting list based on information on the preliminary application if the Applicant does not meet all of the following requirements. The Applicant must be:

### **5.2.1 A Family as defined by the HHA**

#### **(a) *Definition of a Family***

- (1) Two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together;
- (2) This definition includes single persons.
- (3) Other persons, including foster children, Personal Care Attendant, and members temporarily absent (including children temporarily assigned to foster care<sup>11</sup>), may be considered a part of the household if they are living or will live regularly with the Household.

### **5.2.2 Income eligible as defined by HUD**

Persons meeting HHA income qualifications are those whose Annual Income at the time of Admission, does not exceed the income limits for occupancy established by the U.S. Department of Housing and Urban Development (HUD). Income limits are posted separately in HHA offices (see sections 5.5 – 5.6). These income limits do not apply to families who are Continuously Assisted. See also section 5.5.1 for further explanation of income eligibility.

### **5.2.3 Past Balances Due to any Publicly Assisted Housing Program**

The Applicant must not owe uncollected rent, debts owed and/or miscellaneous charges, such as court costs, constable fees, or other related fees arising during the Applicant's receipt of benefits from any program administered by the HHA or Other Publicly Assisted Housing Program<sup>12</sup>.

- (a) The HHA will check for past balances upon receipt of the **Preliminary Application**. An Applicant who applies owing a

balance consisting of uncollected rent, debts owed and/or miscellaneous charges (for any program administered by the HHA or Other Publicly Assisted Housing Program) will be entered into the HHA database as an ineligible Applicant and will not be considered for assistance until that balance is paid or a determination is made by HHA that no balance is due.

### 5.3 Eligibility Interview (Final Eligibility)

#### 5.3.1 Purpose

The purpose of the eligibility interview is to determine the Applicant's anticipated gross income, Family Composition, and appropriate Voucher Unit Size. The same standards to determine the Applicant's income and Family Composition in the initial eligibility interview will be used to determine the Participant's income and Family Composition for any subsequent eligibility determination or Recertification. (See Chapter 8: Renewal).

#### 5.3.2 Scheduling Eligibility Interview Appointment

The Applicant must attend the eligibility interview and bring the requested information to the HHA.

- (a) **Letter of Interest.** The HHA will send a letter to an Applicant selected from the waiting list. The letter will tell the Applicant to report to the HHA for an eligibility interview with the HHA. The letter also informs the Applicant of the verified information that must be provided to the HHA in order to determine eligibility.
- (b) **Failure to respond to the Letter of Interest** The HHA will withdraw (See section 3.2.5(c) an Applicant who does not respond to the letter of interest. If the Applicant responds to the Withdrawal letter within 10 days after failing to respond to the initial letter of interest, the HHA will schedule a final eligibility interview with the Participant. Failure to attend the final eligibility interview will result in being withdrawn from the waiting list. (See section 3.2.5(c)).
- (c) **Failure to Attend the Eligibility Interview.** If the Applicant misses the interview without contacting the HHA, the HHA will send the Applicant a letter of withdrawal, except in cases where the HHA receives notification from USPS that the original notice was

returned undeliverable. If the Applicant notifies the HHA in advance of the need to reschedule the appointment or contacts the HHA within 10 days of the missed appointment, the HHA will reschedule. The rescheduled eligibility interview will be considered a second and final appointment. If the Applicant misses the second and final interview, the Applicant will be sent a letter of withdrawal. (See section 3.2.3(c)).

- (d) ***Deadline to supply documents.*** If the Applicant does not supply all the necessary documentation at the eligibility interview, the HHA will give the Applicant up to twenty (20) days to supply all documentation to the HHA. The HHA may grant an Applicant a ten (10) day extension for good cause to supply information to the HHA. If the Applicant fails to meet the deadline to supply documents, they will be withdrawn from the HCV waiting lists (see section 3.2.5).
- (e) ***Reasonable Accommodation.*** If the Applicant fails to Respond to the Letter of Interest, fails to attend the eligibility interview, or fails to supply information to the HHA, and the failure is due to a documented disability the HHA may decide not to withdraw the Applicant from the waiting list (see also RARAPP). The HHA will accept a request for Reasonable Accommodation within a reasonable time after an Applicant is withdrawn. A reasonable time will depend on the individual circumstances of the case.

### **5.3.3 Misrepresentation of Information or Fraud**

The HHA considers falsification, misrepresentation, or failure to disclose information related to Admission, initial eligibility, participation, or Recertification grounds for denying Admission to or terminating assistance from the HCVP. If the HHA determines that the Applicant has acted as described above, the Applicant will be precluded from re-applying for assistance with the HHA for three years from the date of the discovery by the HHA, the falsification, misrepresentation, or failure to disclose information.

## **5.4 Family Composition**

The HHA will verify Family Composition at the eligibility interview appointment.

### **5.4.1 Verification of Family Composition**

The HHA must obtain the following information for all Applicants as

applicable:

- (a) **Photo Identification for the Head of Household and the Co-Head of Household** (One of the following forms of photo identification for the Head of Household and the Co-Head of Household only):
  - (1) Driver's License
  - (2) Registry of Motor Vehicles picture ID
  - (3) Passport
  - (4) Student or Employer ID
  - (5) Other Photo ID acceptable to the HHA
- (b) **Proof of Birth.** All Applicant Family member's (One of the following proof of birth documents in order of preferred documentation):
  - (1) Original and copies of Birth certificates;
  - (2) Passports;
  - (3) Original INS documents for eligible Non-Citizens;
  - (4) Other records deemed appropriate by HHA (DDG214, Statement from Social Security Administration, Original Baptismal Records);
  - (5) A medical letter documenting pregnancy as well as anticipated date of birth will be required for all unborn children listed on the application.
- (c) **Proof of Relationships** – applies to Minor children or the care of adults in guardianship situations. The following types of documents will be accepted:
  - (1) Birth certificates;

- (2) Court records of adoption;
  - (3) Court records of guardianship;
  - (4) Other written documentation such as written designation from the Minor Child's parent.
- (d) **Social Security Numbers.** One of the following documents may be accepted to verify a Social Security Numbers (SSN):
- (1) Original Social Security Card;
  - (2) Original Report from the Social Security Administration documenting the availability/non-assignment of a SSN (HHA will make a copy for the file);
  - (3) A written statement from the Social Security Administration documenting the assigned SSN.
  - (4) No SSN or verification needs to be provided for individuals who certify that they have not been assigned a SSN. However, proof must be provided to show that no SSN was assigned.
- (e) **Status as an Elderly Person.** Proof of Birth (see paragraph (b) above) of Head and/or Co-Head of Household indicating an age of 62 years or older.
- (f) **Status as a Disabled Person.** In general, the HHA shall not inquire as to the existence or nature of a disability or ask for information related to a disability or the medical history of an Applicant or a Participant. However, the HHA can require verification where it is claimed that a Family member is a Disabled Person for two purposes:
- (1) For the purposes of applying for Admissions (see section 3.3.6); and
  - (2) For the purposes of calculating Household income and rent.

In addition, when an Applicant or Participant requests a Reasonable Accommodation on account of a disability, the HHA may require documentation as to the disability and the need to be served by an accommodation or modification. An Applicant or Participant may choose not to disclose the fact of a disability and request an accommodation; however, in this case, the HHA is not

obligated to provide any such accommodation.

The following documentation will be accepted for purposes of verifying the status of a Family member as a Disabled Person:

- (1) The sole source of income is SSI benefits, SSD benefits or disability retirement income (see income verification below);
- (2) A certification from a Qualified Health Care Provider verifying that the Applicant or Participant meets the criteria of a Disabled Person for the Federal Housing Program. (See Definitions for eligibility of Disabled Persons)

#### Reasonable Accommodation policy (24 CFR 100.202)

It is the policy of this PHA to be service directed in the administration of our housing programs, and to exercise and demonstrate a higher level of professionalism while providing housing services to families

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the PHA will address the matter. A person with disabilities will be given a reasonable accommodation upon request, so they fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on PHA forms and letters. This policy is intended to afford persons with disabilities the same benefit or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a participant initiates a contract with the PHA, when the PHA schedules or reschedules appointments if any kind.

To be eligible to request a reasonable accommodation, the requester must first certify or verify that they are a person with a disability under the following ADA definition.

A physical or mental impairment that substantially limits one or more of the Major life activities of an individual

A record of such impairment or

Being regarded as having such an impairment

Rehabilitated former drug users and alcoholics are covered under the ADA.

However, a current drug user is not covered. In accordance with 540.3, individuals are not considered disabled for eligibility purposes solely the basis of any drug or alcohol dependence, Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitation would persist if drug or alcohol abuse discontinued

Once the person's disability status is confirmed, the PHA will require that a professional third party competent to make the assessment, provides written verification that the persons needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the PHA finds that the requested accommodation creates an undue administrative or financial burden, the PHA will either deny the request and /or present an alternate accommodation that will still meet the person's need.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the PHA (i.e., waiving a family obligation)

An undue financial burden is one that poses a severe financial hardship on the PHA's resources.

The PHA will provide a written decision to the person requesting the accommodation within ten (10) calendar days. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, the person may request an informal review.

#### **5.4.2 Determining Family Unit Size (HHA Subsidy Standards)**

The following HHA Subsidy Standards have been established to determine the number of bedrooms needed for Families of different sizes and compositions. For each Family the HHA will determine the appropriate number of bedrooms under the HHA Subsidy Standards. The Family Unit Size number is entered on the Voucher issued to the Family.

The following factors are used to determine the Family Unit Size:

- (a) The Head of Household (and spouse or domestic partner, if applicable), shall be entitled to one bedroom.
- (b) Two persons under the age of eighteen, who have different genders shall be entitled to separate bedrooms.
- (c) Two persons, eighteen years of age or older, who are of the same sex shall be entitled to separate bedrooms.



- (d) The HHA may assign an additional bedroom as a Reasonable Accommodation to a Disabled Family member- with a verified health/medical need.
- (e) A single pregnant woman, as documented by a physician, with no other persons will be treated as a two-person Family. A pregnant woman whose family includes other children will not be assigned an additional bedroom until the sex of the Child is determined and documented by a physician (either before or after birth). Once the sex of the Child is documented the HHA will assign the Family an additional bedroom if they are eligible.
- (f) A Child who is temporarily away from the home because of placement in foster care (as documented by the Department of Social Services) is considered a member of the Family in determining Family Unit Size.
- (g) Personal Care Attendant

(1) **Definition:**

A Personal Care Attendant ("PCA") is defined as a person who:

- (i) is determined by HHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and wellbeing of an Elderly or Disabled Person or persons; **AND**
- (ii) may or may not reside with the Elderly or Disabled Person or persons; **AND**
- (iii) is not obligated to support the Elderly or Disabled Person or persons; **AND**
- (iv) in the case of a live-in PCA, would not be living in the Apartment except to provide the necessary supportive care; **AND**
- (v) has no right to the Apartment as a Residual Participant except as provided in section 11.8, **AND**

- (vi) does not have hi(s)her income included in the Elderly or Disabled Participant's Household for the purposes of determining total Family income and rent except as provided in section 11.8.

**(2) Personal Care Attendant Policy**

- (i) Any PCA must meet the definition of a PCA as stated above.
- (ii) A PCA can be a Single Person or a person with a Household (*Example*: a PCA may have hi(s)her own children that reside with them).
- (iii) No addition of a PCA and hi(s)her Household, if applicable, shall result in overcrowding of the Apartment.
- (iv) No PCA and hi(s)her Household, if applicable, has the right to the Apartment as a Residual Participant except as provided in Section (vii)(B) below.
- (v) Any PCA and hi(s)her Household, if applicable, must sign a waiver of residual residency status except as provided in (vii)(B) below.
- (vi) Any PCA and hi(s)her Household, if applicable, must meet the HHA's Eligibility Requirements.
- (vii) Any PCA and hi(s)her Household, if applicable, will be counted as a member of the Participant's Household composition for the purposes of determining the appropriate Apartment size ONLY.
- (viii) A relative who satisfies the definition above will be notified in writing that (s)he may be qualified as a PCA and may choose one of the following two options:
  - (A) (s)he can qualify as a PCA, choose not to

include hi(s)her income as part of the total Household income and sign a waiver of residual residency status.

**OR**

- (B) (s)he can qualify as a PCA, have hi(s)her income included as part of the total Household income and retain rights as a remaining member of the Household.

- (ix) Unless a PCA resides with the Family, the Family Unit Size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the HHA Subsidy Standards.

- (h) When a Family may Rent an Apartment Larger than the Voucher Size

The Family may select a larger Apartment if the Family is willing to pay the difference between the rent and the approved subsidy and doing so would not require the Family to pay more than 40% of the Family's Monthly Adjusted Income for rent and utilities. The requested rent must be reasonable in comparison to similar unassisted units.

- (i) When a Family may Rent an Apartment Smaller than the Voucher Size

The Family may select a smaller unit than that which is listed on the Voucher in the following instances:

- (i) The Head of Household, if single, chooses to share a bedroom with another member of the Family of the same sex or with a child of the opposite sex of less than three years of age; or
- (ii) There is at a least one bedroom or living/sleeping room of appropriate size for each of the two persons;  
**and**
- (iii) One member of the Family is using or will use the living area as a sleeping area instead of a bedroom.

- (j) Changes in an Applicant's Family Composition.

If the Family's composition has changed since their initial

application, the Family must provide verification of the change. Changes in Family Composition must be reported within thirty (30) days from the date of the change. (See also sections 11.1.1(a), 10.1.3 and 10.1.4 for more regarding changes in Family Composition). The HHA will issue a Voucher of the appropriate bedroom size based upon the Family's current composition except in cases where the relationship, age, sex, health, disability or handicap of the Family members warrants the assignment of a larger Voucher Size than that which would result from a strict application of the above criteria. These exceptions must be documented and approved by Administrator or his/her designee.

## **5.5 Income Eligibility and Targeting**

Persons meeting HHA income qualifications are those whose Annual Income at the time of Admission, does not exceed the income limits for occupancy established by the U.S. Department of Housing and Urban Development (HUD).

### **5.5.1 Income Eligible Family**

To be income eligible the Family must be a Family in any of the following categories:

- (a) A Family with an annual gross income equal to or less than 50% of Area Median Income (which is also known as “very low-income”);
- (b) A low-income Family that is “Continuously Assisted” under the 1937 Housing Act;
- (c) A Family residing in “expiring use” developments where the Family’s household income does not exceed 80% of Area Median Income (or “low- income”);
- (d) A Family residing in developments which are eligible for the receipt of enhanced Vouchers according to applicable law, may be eligible for the Section 8 program as long as the Applicant’s household gross income does not exceed 95% of area median income.

### **5.5.2 Targeting Requirements**

The HHA will conduct “income targeting” as required by applicable law<sup>13</sup> to

ensure that 75% of all Section 8 participant-based program waiting list Admissions go to Extremely Low-Income Families (those with incomes at or below 30% of the area median income). Income targeting requirements do not apply to Special Admissions (See section 3.4).

- (a) **“Continuously Assisted” families** are not subject to the aforementioned targeting requirements and need not be at 50% of Area Median Income or below to be eligible, as long as their income is low enough to qualify for some level of subsidy assistance.

The HHA considers a Family to be Continuously Assisted under the 1937 Housing Act if the Family is already receiving assistance under any 1937 Housing Act program when the Family is admitted to the Certificate or Voucher program.

A brief interruption between assistance under one of these programs and Admission to the Certificate or Voucher program shall not be considered a break in the continuity of assistance as long as:

- (1) The Family was qualified to enter the subsequent program at the time participation in the prior program was terminated; and
- (2) The interruption of assistance was not caused by the Family's violation of program regulations; or
- (3) The termination of assistance under the earlier program was not due to the Family's violation of program regulations.

### 5.5.3 Determining and Verifying Family Income

During the eligibility interview and/or Recertification interview, the Applicant/Participant must certify any income, Assets, income deductions and income exclusions pertaining to an Applicant/Participant's Household. In conjunction with Applicant/Participant reported income, **Enterprise Income Verification (EIVEIV)** or **third party verification** is required to determine income eligibility and amount of the subsidy.

**Income eligibility.** The HHA bases Income eligibility for the program on annual gross Family income without taking into account any deductions.

**Subsidy and monthly rent calculation.** The monthly rent is determined

by adding together gross income from all sources for all Family members, including income from Assets, and reducing that income by allowable deductions and income exclusions, in accordance with Federal (HUD) regulations.

In the event that the income information used to calculate rent is more than sixty (60) days old at the time of signing the Lease, the information shall be updated, re-verified, and the rent will be recalculated.

Projections of Annual Income shall be based on the best available information, with due consideration to the past year's income of all Family members, current income and effective date, and shall include projections for each income recipient in the household.

All forms of income, deductions, exclusions and Assets must be verified in accordance with HHA policy and HUD requirements. The following is a non-exhaustive list of information that may be accepted to verify income:

**(a) Income from Employment**

- (1) *Enterprise Income Verification (EIV) (See section 4.3.2(a))*
- (2) A completed employment verification form (third party verification) stating the gross wages of the employee, including history or anticipated amounts of overtime or bonus to be earned by the employee, or
- (3) Pay stubs showing gross income for each pay period and all deductions taken for four consecutive weeks;
- (4) The income of workers employed on an irregular basis will be estimated based on verification of the best information available, with due consideration to earning ability and work history.
- (5) Up to \$480 of earned income of an 18-year-old or an older Full-time student will be counted. The student must verify full time status with a statement on the letterhead of an accredited educational institution stating that the student is enrolled as a Full-time student at that institution
- (6) The HHA may also require the participant to produce additional information from the Internal Revenue Service (IRS) when annual income cannot be determined from the previous sources listed in this section. The HHA may request that the tax information be sent directly to the HHA using tax

form 4506-T.

- (b) **Income from Governmental Agencies.** A statement from the appropriate agency (Social Security, Department of Transitional Assistance, Employment Security, etc.), stating the amount of annual or Monthly Income provided, including the gross amount and any deductions taken.
- (c) **Income from Retirement Accounts.** A statement from the source stating the amount of annual or Monthly Income provided, including the gross amount and any deductions taken
- (d) **Income from operation of a business or profession**
  - (1) Most recent audited financial statement of income and loss;
  - (2) Most recent tax return showing income and/or loss from the operation of a business or profession.
- (e) **Child Support, alimony, regular gifts and gambling proceeds**
  - (1) A notarized statement from the individual, business or agency providing the income and the frequency and amount of income provided; and/or
  - (2) Signed release form allowing the HHA to obtain information from the State Division of Child Support.
- (f) **Income from Assets**
  - (1) *Definition of Assets.* Assets consist of bank accounts, trust funds, investments in stocks, bonds, certificates of deposit or money market funds, individual retirement accounts, and Keough accounts, life insurance, real property (buildings or land), or capital investments.
  - (2) *Actual vs. Imputed Income.* Income from Assets shall be based on either the actual income received, or Imputed Income based upon current passbook savings rates in accordance with federal and state regulations as applicable. For instance, actual interest received shall be used for interest bearing bank accounts, money market funds, rented property, etc. Imputed Income will be used for real property, which is not rented, jewelry, coin collections, works of art

and other non-income bearing Assets. If the value of the asset is more than \$5,000 the higher of Imputed Income or actual income received will be used.

- (3) Common household items such as furniture, clothing, and vehicles used for day-to-day transportation shall not be considered Assets for the purposes of calculating income.
- (4) Estimated bank withdrawal penalties, fees, and settlement costs used to determine cash value will be determined in accordance with the Code of Federal Regulations.
- (5) In the case of tenants who own real estate, the property tax assessment will be used to determine the fair market value of real estate.
- (6) If the Family claims to have inaccessible Assets or a trust that is not revocable or under the control of any Family member, it is up to the Family to prove such inaccessibility with reasonable, sufficient, valid documentation. Any income distributed from the trust, or any other inaccessible asset will be considered when determining the Family's annual income.
- (7) Types of verification that will be accepted for purposes of determining the value and income received from an asset include:
  - (i) Third Party Income Verification form filled out by a financial institution;
  - (ii) Original passbook for passbook savings accounts;
  - (iii) Most recent (no older than one year) appraised value of real property owned provided it is reflective of fair market value, in the form of property tax bill or appraisal from a Real Estate Appraiser; and
  - (iv) Appraised valuations of any non-essential personal Assets such as jewelry, coin collections, antiques or classic cars.
- (g) **Verification of childcare expenses or care of Disabled Family Member deductions.** This deduction is available for any **reasonable** childcare expenses to enable a Family member to be employed or to further his or her education. Such expenses are



amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to actively seek employment, be gainfully employed, or to further his or her education. The deduction will not be granted for any amount that is reimbursed.

The HHA does not consider Child Care Expenses to be reasonable if the expense exceeds 50% of the gross income derived from the job enabled by the childcare.

The HHA does not consider Child Care Expenses to be reasonable if another Adult capable of providing childcare, who resides in the household, is not working or is not in school (Legally separated spouses or spouses who have abandoned their families will be considered permanently, not temporarily absent).

Verification required:

- (1) Completion of the HHA's Child Care Form, which must be notarized by the provider of childcare or care of Disabled Person who is a Household Member of the amount of payment made on a periodic basis by the Applicant and proof of payment (e.g., cancelled check, money order receipt, IRS-1099 Form, etc.).

(h) **Verification of Medical Deductions.** This deduction is available to an Elderly or Disabled Family (i.e., in which the Head of Household or spouse is 62 years of age or older or is a Disabled Person). The HHA requires third party verification of the following un-reimbursed medical expenses for any Family member paid within the last twelve months:

- (1) Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;
- (2) Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items

(including non-prescription medications, wheelchairs or other disability related aids, etc.);

- (3) A printout of prescription costs from a pharmacy accompanied by proof of payment by a Family member;
- (4) Medical or dental bills for a Family member paid and proof of payment by a Family member.

(i) **Verification of Disability Assistance Expenses**

This deduction is available for ***un-reimbursed*** attendant care and auxiliary apparatus expenses for each member of the Family who is a Disabled Person, to the extent necessary to enable any member of the Family (including but limited to the member who is a Disabled Person) to be employed. This deduction may not exceed the earned income received by Family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus.

(j) **Verification of Permanent Residence at a Hospital**

The income of a Family member confined to a long-term health care facility, as well as the deductions for their care may be excluded from consideration.

(k) **Disallowance of an Increase in Annual Income for Participant Families with Disabled Members (EID)**

If a Family's income increases as a result of employment of a Participant Family member who is a Disabled Person, who has not been employed for one or more years prior to employment, the HHA will not count the increase in income due to the employment for a 12-month period. During the second 12-month period after the new employment the HHA will only count 50% of the income.

The earned income disallowance is limited to a lifetime total of 48 months for each Disabled Family member; that is, the disallowance applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting on the date of the initial exclusion.

If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and

continued until the disallowance has been applied for a total of 12 months after the

No earned income disallowance will be applied after the total 48 months following the initial date the exclusion was applied.

#### **5.5.4 Zero Income**

When an Adult Family member reports zero income, the HHA will require the Household to complete a budget and notarized statement of financial responsibility. An investigation may also include ordering a credit report on the Family member. If the Family member owns a motor vehicle, a telephone, or has other evidence of some form of expenditures reflecting income, the Family member will be asked to explain the source of funds supporting such cash expenditures

In addition, the Family member will be required to sign releases allowing the HHA to obtain verification of no-income from sources such as Internal Revenue Service, Department of Revenue, Social Security Administration, Employment Security and Veterans Affairs.

##### **(a) Frequency of Zero Income Recertification**

The HHA may require a zero income Participant to recertify every month, but at a minimum will require quarterly Recertifications, until an Annual Income is determined.

#### **5.6 Review of Citizenship and Eligible Immigration Status**

Each Applicant/Participant's status as a U.S. Citizen, Eligible Non-Citizen or ineligible non-Citizen must be verified except as indicated below. Determination of eligibility or partial eligibility for subsidized housing is affected by Citizen or Non-Citizen Status. At least one Household Member must be a Citizen or Eligible Non-Citizen.

##### **5.6.1 What Evidence Will Be Required**

Evidence of U.S. Citizenship or "Eligible Immigration Status" will be required to be submitted for all Family members regardless of their age, except as indicated below. **If you choose not to contend that you are a Citizen or have eligible immigration status you must** complete a form electing not to contend to such status

(a) **If you are a U.S. Citizen:**

A signed Declaration of U.S. Citizenship

(b) **If you are a non-Citizen who is age 62 or over:**

A signed Declaration of "Eligible Immigration Status". You will also need to provide a "proof of age" document.

(c) If you are a non-Citizen who does not fall into one of the categories above:

A signed Declaration of "Eligible Immigration Status," a signed Verification Consent Form **and** you must provide **the original** of one of the documents listed below:

(1) Registered Alien Card (U.S. Immigration and Naturalization Service (INS) I-551 Form)

(2) Arrival /Departure Record (U.S. Immigration and Naturalization Service (INS) I-94 Form); with one of the following annotations:

(i) "Admitted as Refugee pursuant to Section 207";

(ii) "Section 208" or "Asylum";

(iii) "Section 243(h)" or "Deportation stayed by Attorney General";

(iv) "Paroled pursuant to Section 2112(d)(5) of the INAA";

(3) Arrival /Departure Record (U.S. Immigration and Naturalization Service (INS) I-94 Form) not annotated, accompanied by one of the following documents:

- (i) A final court decision granting asylum to which no appeal was taken.
  - (ii) A letter from a U.S. Immigration and Naturalization Service (INS) Asylum Officer granting asylum (if application was filed on or after October 1, 1990) or from a U.S. Immigration and Naturalization Service (INS) District Director (if application filed before October 1, 1990).
  - (iii) A court decision granting the withholding of deportation.
  - (iv) A letter from a U.S. Immigration and Naturalization Service (INS) Asylum Officer granting withholding of deportation (if application was filed on or after October 1, 1990).
- (4) *Temporary Participant Card* (U.S. Immigration and Naturalization Service (INS) I-688 Form which must be annotated with the notation either: "Section 245A" or "Section 210")
  - (5) *Employment Authorization Card* (U.S. Immigration and Naturalization Service (INS) Employment Authorization Card I-688B Form which must be annotated with the notation either: "Provision of Law 274a.12(11)" or "Provision of Law 274a.12")
  - (6) Receipt from the U.S. Immigration and Naturalization Service (INS) Indicating Application for Issuance of a Replacement Document
- (d) Eligible Immigration Status for all Non-Citizen Family members must be verified through the U.S. Department of Immigration and Naturalization Service unless there is an election not to contend or all Family members are 62 years of age or older and have submitted proof of age and a declaration of eligible non-Citizen status.

## **5.7 Review of Criminal Offender Record Information (CORI)**

The HHA uses criminal conviction records obtained from law enforcement agencies to screen Applicants for eligibility to the HCVP. All Applicants are advised in writing that criminal activity by any Applicant may be a cause for denial to the Section 8 Program. To determine eligibility the HHA reviews a Criminal Offender Record Information (CORI) report from the Participant P.I.

System. The HHA will pay costs associated with obtaining criminal record reports.

The HHA will request CORI for all Applicants and family members who are eighteen (18) years of age or older. In order to obtain criminal conviction records the HHA requires every Applicant and family member to submit a Consent form signed by each Applicant and family member over the age of eighteen (18).

For the purposes of CORI certification, the HHA must verify the identity of the Applicant with a form of government-issued photographic identification (if photographic identification is unavailable the HHA may accept proof of birth). The HHA will obtain the following information on the CORI request form to ensure the correct identity of the Applicant:

- . • Full Name
- . • Date of Birth
- . • Social Security Number
- . • Former addresses

If the HHA obtains criminal record information showing that an Applicant Family member has been convicted of a crime relevant to eligibility, the HHA will notify the Applicant of the proposed denial and provide the subject of the record and the Applicant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information. The HHA will send the Applicant a letter offering the Applicant the opportunity to provide information by mail to dispute, resolve, or mitigate the criminal record information. The HHA will also provide the Applicant and the subject of the criminal record with a copy of the criminal record and let the Applicant know which portion of the record appears to make the Family ineligible. Upon receipt of additional information from the Applicant, the HHA will review the information and inform the Applicant of the decision.

#### **5.7.1 Use and Maintenance of CORI**

The HHA will use, maintain, and destroy CORI in accordance with 803 CFR 5.00

No HHA employee shall disseminate or retain CORI for any purpose other than that expressly permitted by law. No HHA

employee shall disseminate CORI to any individual other than an individual involved in the Applicant Certification process who is expressly authorized to have access to CORI.

CORI shall be destroyed when the Applicant to whom it pertains has been housed or has received a subsidy. If an Applicant has been determined ineligible for housing or subsidy, the Applicant's CORI shall be destroyed three (3) years from the date of the application's rejection, or after all administrative and judicial proceedings concerning the rejection are exhausted, whichever is later. An Applicant shall be determined eligible on the basis of all other HCVP criteria before eligibility is determined on the basis of CORI.

## 5.8 Required Release Forms

All Adult Family members will be required to execute the following releases of information or sign information forms as appropriate:

- The single standard **Release of Information** form that is to be signed by the Applicant and each adult Family member;
- Non-Citizen Rule– Verification of Consent for all Family members;
- One copy of the **CORI Release of Information** form advising the Family member that CORI will be used on all persons eighteen (18) and over; and
- The **Privacy Act Notice**.

**Note:** Refusal to sign these forms or other documents required to process the application, complete Recertification, or conduct screening will result in the withdrawal of the application or termination of the subsidy. The HHA has discretion to determine what constitutes adequate and credible documentation. If staff has doubts about the veracity or reliability of information received, they may examine alternative methods of verification with the Applicant or third parties until they are satisfied that the documentation is reliable or that reliable documentation is unattainable. The HHA will not offer housing to an Applicant who has failed to provide requested documentation or to identify sources who can provide documentation which demonstrates the ability of the Family to comply with the essential obligations of the Lease or meet other eligibility requirements.

## 5.9 Briefing Session

If the Applicant is determined eligible for the HCVP, the HHA will provide a letter inviting them to a briefing session.

If the Applicant is ineligible, the HHA will give them a letter stating the reason for ineligibility and informing the Family of their right to request an informal review of the determination or a reasonable accommodation. The letter will also include a description of the process for obtaining such a review. Failure to attend the briefing session will result in withdrawal from the waiting list.

### 5.9.1 Issuing Vouchers

At the briefing session, the HHA will issue the Family a Voucher. The size of the Voucher will be in accordance with the HHA Subsidy Standards.

### 5.9.2 Conducting Briefing Sessions

The HHA will provide remote oral briefing sessions via telephone, website, or video conference when necessary. Applicants may supply their own interpreter, but the HHA will take reasonable steps to assure meaningful access by Disabled Persons and persons with limited English ability in accordance with section 1.3.4 of this Administrative Plan. The instructor will orally brief the Family on the video or information packet supplied prior to the briefing session, regarding the rules of the program. After the briefing session, the Voucher will be issued to the Family.

- (a) **Oral Briefing.** When the HHA selects a Family to participate in a tenant-based program, the HHA will give the Family an oral briefing. The briefing must include information on the following subjects:
  - (1) A description of how the program works;
  - (2) Family and Owner responsibilities; and



- (3) Where the Family may Lease a unit, including renting a dwelling unit inside or outside the HHA Jurisdiction;
  - (4) For a Family that qualifies to Lease a unit outside the HHA Jurisdiction under Portability procedures, the briefing must include an explanation of how Portability works. The HHA may not discourage the Family from choosing to live anywhere in the HHA Jurisdiction, or outside the HHA Jurisdiction under Portability procedures;
  - (5) If the Family is currently living in a high poverty census tract in the HHA's Jurisdiction, the briefing must also explain the advantages of moving to an area that does not have a high concentration of poor families;
  - (6) In briefing a Family that includes any Disabled person, the HHA must take appropriate steps to ensure effective communication in accordance with 24 CFR Part 8.6.
- (b) **Information packet.** When a Family is selected to participate in the program, the HHA will give the Family a packet that includes information on the following subjects:
- (1) The term of the Voucher, and HHA policy on any extensions or suspensions of the term. If the HHA allows extensions, the packet must explain how the Family can request an extension;
  - (2) How the PHA determines the amount of the Housing Assistance Payment for a Family, including:
    - (i) How the PHA determines the Payment Standard for a Family; and
    - (ii) How the PHA determines the Total Participant Payment for a Family.
  - (3) How the HHA determines the maximum rent for an assisted unit;
  - (4) Where the Family may lease a unit. For a Family that qualifies to lease a unit outside the HHA Jurisdiction under Portability procedures, the information packet will also include an explanation of how Portability works and the list of

city of towns that the HHA services;

- (5) The HUD-required ``tenancy addendum" that must be included in the Lease;
- (6) The form that the Family uses to request HHA approval of the assisted tenancy, and an explanation of how to request such approval;
- (7) A statement of the HHA policy on providing information about a Family to prospective Owners;
- (8) HHA Subsidy Standards, including when the HHA will consider granting exceptions to the standards;
- (9) The HUD brochure on how to select a unit;
- (10) Information on federal, State and local fair housing and equal opportunity laws, and a copy of the housing discrimination complaint form;
- (11) A list of landlords or other parties known to the HHA who may be willing to lease a unit to the Family, or help the Family find a unit;
- (12) Notice that if the Family includes a Disabled Person, the Family may request a current listing of accessible units known to the HHA that may be available;
- (13) HHA informal hearing procedures. This information must describe when the HHA is required to give a Participant the opportunity for an informal hearing;

## **CHAPTER 6: Denial of Voucher and Applicant Appeals**

### **6.1 Denial of a Voucher**

#### **6.1.1 Definitions**

- (a) **Denial** means a HHA action which denies listing on the HHA waiting list, denying or withdrawing a Voucher, refusing to enter into a HAP contract or approve a Lease, and refusing to process or provide assistance under Portability procedures.
- (b) **Drug Related Criminal Activity** means:

- (i) The manufacture, sale, distribution, or use, or the possession with intent to manufacture, sell or distribute a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);
- (ii) The use or possession (other than with intent to manufacture, sell or distribute) of a controlled substance, except that such use or possession must have occurred within 5 years before the date that any PHA provides notice to an Applicant to deny Admission pursuant to 24 CFR 982.553.
- (c) **Violent Criminal Activity** means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or to be reasonably likely to cause, serious bodily injury or property damage.
- (d) **Denial Due to Domestic Violence.** The HHA will not deny the assistance of a Family solely for the reason of being a victim of Domestic Violence, Stalking, Dating Violence, or Sexual Assault, unless there is an imminent threat to other tenants or those employed at or providing service to the property if that participant is not denied the assistance.

### 6.1.2 Mandatory Denial

The Family must be denied a Voucher, even if they are otherwise eligible:

- (a) If any Family Member fails to sign and submit Consent forms for obtaining information in accordance with this Administrative Plan and 24 CFR part 5, subpart B and F.
- (b) If any Family Member fails to submit required evidence of citizenship or eligible immigration status (or non-contending forms) in accordance with 24 CFR part 5, subpart F and Section 5.6 of this Administrative Plan.
- (c) If any Family Member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine

on the Premises of federally assisted housing, the HHA will permanently prohibit Admission to the Section 8 program.

- (d) If any Family Member is subject to a lifetime registration requirement under a state sex offender registration program in New York or any other State.
- (e) If any Family Member has been evicted from federally assisted housing within the last five years for Drug Related Criminal Activity. However, the HHA may admit the Family if the HHA determines:
  - (1) That the evicted Family Member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program.
  - (2) That the circumstances for leading to eviction no longer exist (for example, the criminal Family Member has died or is serving a lengthy prison term)
- (f) If the Family member is currently engaged in illegal use of a drug.
- (g) If the HHA determines that there is reasonable cause to believe that a Family member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents.
- (h) If the HHA determines that it has reasonable cause to believe that a Family member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents.

### 6.1.3 Discretionary Denial

The HHA may deny a Family a Voucher, even if they are otherwise eligible, if any Family member:

- (a) **Owes uncollected rent and/or miscellaneous charges**, such as, court costs, constable fees, or other related fees arising during the Applicant's receipt of benefits from any program administered by the HHA or Other Publicly Assisted Housing Program.
- (b) Has failed to reimburse the HHA or another PHA for rent or any other amount paid to an Owner under a contract or Lease provision;
- (c) Has committed fraud, bribery, or any other corrupt or criminal act in connection with any state or federal housing assistance program;

- (d) Has violated any Family obligation under the Section 8 Program as stated in 24 CFR 982.551 or listed in section 13.4.2;
- (e) Has breached an agreement to repay a debt to the HHA, or other public assisted housing program provider
- (f) Any Family member is currently engaged in, or has engaged in during a five (5) year period before the HHA conducts the eligibility screening:
  - (1) Drug Related Criminal Activity
    - (i) The HHA may not deny assistance due to use or possession of a controlled substance by a Family member if the Family member can demonstrate that (s)he has an addiction, has a record of an addiction, or is regarded as having an addiction to a controlled substance, and is recovering or has recovered from such addiction and does not currently use or possess a controlled substance. The HHA may require a Family member who has engaged in the illegal use of a controlled substance to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit (see also section 6.1.5(c)).
  - (2) Violent Criminal Activity
  - (3) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents or persons residing in the immediate vicinity; or
  - (4) Other criminal activity which may threaten the health or safety of the Owner, property management staff, or persons performing a contract administration function on behalf of the HHA (including a HHA employee or a HHA contractor, subcontractor, or agent).
- (g) Has engaged in or directed abusive, threatening or violent behavior toward HHA personnel;
- (h) Has been evicted from publically assisted housing in the last five years;
- (i) If a PHA has ever terminated assistance under the program for any member of the Family.

#### 6.1.4 Denial of Eligibility and Notice to Applicant

- (a) *Opportunity to Mitigate criminal record prior to denial of eligibility.* If the HHA would otherwise deny Admission based upon information contained in an accessed criminal record, the HHA will give the Applicant Family an opportunity to mitigate or dispute the accuracy and relevance of that record in accordance with 24 CFR 982.553(d).

If the HHA obtains criminal record information showing that an Applicant Family member has been convicted of a crime relevant to eligibility, the HHA will notify the Applicant of the proposed denial and provide the subject of the record and the Applicant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information. The HHA will send the Applicant a letter offering the Applicant the opportunity to provide information by mail to dispute, resolve, or mitigate the criminal record information.

The HHA will also provide the Applicant and the subject of the criminal record with a copy of the criminal record and let the Applicant know which portion of the record appears to make the Family ineligible. Upon receipt of additional information from the Applicant, the HHA will review the information and inform the Applicant of the decision. (See also section 5.7 for more information on criminal record reports)

- (b) *Notice of Denial to Applicant.* When the HHA determines, based on a preponderance of the evidence, that an Applicant Family is ineligible for one of the reasons stated above, the HHA will notify the Applicant in writing that the HHA is denying assistance for the program. The HHA will notify the Applicant of the reason for the decision and the information relied upon in reaching the decision. The notice will include:

- (1) The ground(s) for denial;
- (2) That the Applicant has ten (10) days, or thirty (30) days for action taken under HUD non-citizen rule cases, to request in writing an informal review with the HHA to review denial;
- (3) That the Applicant shall have a right at the informal review (see section 6.2) to review their file at the review or prior to the review, to present a defense to the adverse information,

present evidence or information which might warrant an approval for Section 8 Assistance;

- (4) That if an Applicant believes the adverse information is incorrect and wishes to pursue modification or correction of the criminal record, s/he can request that the HHA keep the Applicant's application open for ninety 90 days for such purpose;
  - (5) That the Applicant has a right to request that the HHA consider Reasonable Accommodation in evaluating said Applicant's eligibility if s/he is disabled or handicapped as defined in 29 U.S.C.706(8)(B) or other applicable law.
- (c) *Withdrawal.* If an Applicant is deemed ineligible for the Section 8 Program, they will be withdrawn from all Section 8 waiting lists.

#### **6.1.5 Consideration in Certain Denials**

- (a) *Consideration of circumstances generally.* The HHA has the discretion to consider all of the circumstances in each case including, but not limited to, the seriousness of the offense, the extent of the criminal history, the extent of participation by Family members, and the effects that denial will have on Family members not involved in the alleged activity.
- (b) *Reasonable Accommodation.* The HHA shall consider a request for Reasonable Accommodation by an Applicant who has a disability or handicap, has a record of a disability or handicap, or is perceived as having a disability or handicap. The HHA will follow its Reasonable Accommodation Policy to determine whether or not an Accommodation should be made for an Applicant who is a Disabled Person.
- (c) *Mitigating Circumstances.* The HHA shall consider mitigating circumstances such as active participation in, or completion of, a supervised drug treatment program.
- (d) *Admission of a portion of the Family.* The HHA may, in its discretion, admit only a portion or certain members of the Family to

the HCVP, if there is sufficient evidence that the Family member who engaged in the alleged activity will not reside in the unit and if the Head of Household certifies that the Family Member who engaged in the alleged activity will not reside in the unit.

## **6.2 Informal Reviews for Applicants**

### **6.2.1 Right to an Informal Hearing/Informal Review.**

Applicants who are determined Ineligible for Admission, issued a Notice of Withdrawal, or denied Priority status or Preference(s) by the HHA will be sent a notice that:

- (a) Informs the Applicant of the reason(s) for Ineligibility, withdrawal or denial of Priority status;
- (b) Advises the Applicant of his/her right to contest the decision in an informal hearing/informal review provided a written request for a hearing is received within ten (10) calendar days of the date the Notice of Denial is issued. The request must be in writing and must state clearly the basis for requesting the informal hearing/ informal review and be sent to the address provided on the notice;
- (c) Advises the Applicant of his/her right to contest the CORI information in accordance with Federal and/or State law if that is the basis for determination of Ineligibility;
- (d) Advises the Applicant that if (s)he has a disability, not previously disclosed, that the disclosure of such condition would lead to the consideration of Mitigating Circumstances and/or a Reasonable Accommodation, if related to the disability. Advises the Applicant that if (s)he requests a Reasonable Accommodation at the time of or after requesting an informal hearing/informal review, the hearing officer/review officer will make the decision regarding the accommodation;
- (e) Provides a description of HHA's informal review/informal hearing process and advises Applicants that they have the right to be represented by an attorney or other individual at the informal review/informal hearing, review the contents of their file in advance of the hearing, and the right to submit additional documents and evidence and to testify at the review;
- (f) The hearing officer may consider mitigating circumstances, or a reasonable accommodation presented at the hearing when determining whether or not to deny the assistance of an applicant.



### **6.2.2 Time to Request an Informal Review**

The time to request an informal review shall be ten (10) days from the date of notice of withdrawal, denial of assistance to the Family, or denial of issuance of a Voucher, except in Non-Citizen Rule cases where the time period shall be thirty (30) days from the date of the notice of denial of assistance for any Family member. The HHA will grant a request for a hearing if an Applicant submits a late request but submits evidence of compelling circumstances that prevented the Applicant from requesting a hearing within ten (10) days.

### **6.2.3 Scheduling the Informal Hearing/Informal Review**

When the HHA receives the Applicant's written request the HHA Rights will schedule an informal review.

- (a) *Notice of Informal Review.* The HHA will notify the Applicant in writing of the date, time and place of the review. The HHA will send the notice to the Applicant's address of record. The notice shall also restate the Applicant's rights to present evidence and testify, review their file, request a Reasonable Accommodation or an interpreter, and the right to be represented by an attorney or other individual at the hearing. The review shall be held at a convenient time and at an accessible location for the Applicant and the HHA. If an Applicant requests a Reasonable Accommodation at the time of or after requesting an informal review, the hearing officer will make the decision regarding the accommodation.
- (b) *Default.* The HHA will withdraw an Applicant from the waiting list if the Applicant does not attend the informal review and did not attempt to reschedule twenty-four (24) hours prior to the review. The HHA will reschedule an informal review when a Participant submits evidence of compelling circumstances that prevented the Participant attending the hearing on the scheduled date.

### **6.2.4 Applicant Rights during the Informal Review**

During the hearing, the HHA will put forth its evidence in support of a determination of Ineligibility or Withdrawal, The Applicant will have an opportunity to present written or oral objections to the HHA's determination.

### **6.2.5 Due Process Requirements**

The informal hearing/informal review will conform to the following due process requirements:

- (a) An employee of the HHA who did not participate in the original decision may conduct the review, nor was a subordinate of the person who made an approval of the decision.
- (b) The hearing officer/review officer or person conducting the hearing/review must base the decision solely on information presented at the hearing/review as well as any information previously received by the HHA.
- (c) The Applicant and/or his/her representative has a right to inspect the file prior to the review, provided the Applicant provides HHA with written authorizations permitting the representative to have access to the contents of the Applicant's file and any other supporting documentation.
- (d) Either the Applicant or the HHA may request after close of the review that the record remain open for a reasonable time for submission of new evidence. At the discretion of the hearing officer, the date may be only extended for good cause (such as the inability of the Applicant for reasons outside his/her control to provide a particular document by the requested date). Written notice of the record being held open, the cause for an extension if any, and the date the record will close will be given to the Applicant and kept in the HHA case file.

#### **6.2.6 Informal Review Decisions**

After the informal review, all Applicants will be sent an “**Informal Review Decision**” from the HHA hearing officer. This notice shall:

- (a) Provide a summary of the review;
- (b) Provide the decision of the hearing officer/review officer, together with findings and determination;

#### **6.2.7 Reversal of HHA's Determination of Ineligibility**

If the HHA **reverses** the determination to deny the Applicant assistance, the application will return to its appropriate place on the waiting list(s) for all programs previously selected by the Applicant. The HHA will restore the status or position in accordance with the determination.

#### **6.2.8 Confirmation of the HHA's Determination of Ineligibility**

If the decision **upholds** the determination of Ineligibility, the Applicant may submit a new application for Admission only at a time when a waiting list is open except as prohibited by this Administrative Plan.

### **CHAPTER 7: FINDING AND LEASING APPROVABLE HOUSING**

#### **7.1 Searching for Housing**

The Housing Choice Voucher (Voucher) is the Family's authorization to search for housing. The Family receives the Voucher after the HHA selects the Family from the waiting list, determines the Family's eligibility for assistance, and conducts the program briefing. Upon issuance of a Voucher, the housing search process begins. Once the Family selects a potential Apartment, the HHA begins its process of approving or denying the assisted tenancy.

##### **7.1.1 Assisting the Family in Responding to Suspected Discrimination**

When the Family believes it may have been discriminated against while attempting to find or lease a unit, the HHA will instruct the Family to complete the HUD Discrimination Complaint Form and also file a complaint. The HHA will provide this form to all Applicants at their briefing session. If necessary, the HHA may refer the Family to the New York State Office of Division of Human Rights or the appropriate government agency for assistance in filing a discrimination complaint. Finally, the Family will be provided with the address and phone numbers of agencies which may be able to provide legal assistance.

#### **7.2 Voucher Term Length, Tolling, Extension, Expiration and Withdrawal**

##### **7.2.1 Term Length**

A Voucher has an initial term of one hundred and twenty (120) days. The term of the Voucher is the amount of time that a Family has to find approvable housing. Vouchers will expire one hundred and twenty (120) days from the date of the issuance unless the HHA suspends or extends the term of the Voucher. See sections 7.2.4 and 7.2.5. The Voucher will

state the expiration date.

### **7.2.2 Expiration**

The Voucher expires automatically on the date indicated on the Voucher unless the Voucher term changes due to an extension or suspension. See section 7.2.4. The initial Voucher states the expiration date

### **7.2.3 Withdrawal**

The HHA may withdraw the Family's Voucher at any time if the HHA finds that the Family violated any of the Family obligations as listed in 24 CFR 982.551 or termination due to lack of adequate funding.

### **7.2.4 Voucher Suspension Policy**

For the purposes of this section Suspension or Tolling means that the term of a Voucher will not continue to run when a Family submits the Request for Tenancy Approval (RTA) until the time the HHA approves or denies the request, or the RTA expires.

The RTA will expire if the Owner does not schedule an inspection appointment within sixty (60) days from the date the RTA is received by the HHA. The Suspension time will accrue until the RTA is no longer valid. The HHA will process one RTA per Family at a time. A Family may withdraw an RTA at any time.

#### ***Suspension Example:***

- i. Voucher issued: May 1; Expiration date: August 31
  - ii. Family submits the RTA: May 15
  - iii. HHA denies the RTA: May 24 (Tolling/Suspension Time: 9 days)
  - iv. New Voucher expiration date: September 9
- (a) *Additional suspension time for repairs to the unit*, If a Family submits a RTA, but the Apartment fails inspection and the Owner needs more time to bring it up to acceptable condition, or if the Apartment cannot be inspected immediately (e.g.; if the Apartment is being rehabilitated), the Inspections Department will give the Owner 30 days to make repairs. The HHA has sole discretion to decide if such additional time shall be granted.

### 7.2.5 Extension of Search Time

- (a) *Generally.* A Family may apply for an extension by notifying the HHA in writing that they require more time to search for an Apartment. The HHA shall use its discretion to grant a Family requesting an extension of their Voucher term. The HHA will not grant a Voucher extension after the initial Voucher term expires.
- (b) *Circumstances for extension.* The HHA may grant extensions under each of the following non-exhaustive list of categories as circumstances warrant:
  - (1) The Voucher Holder was not able to actively search for housing due to extenuating circumstances beyond the control of the Voucher Holder (such as fire, flood, or other natural disaster, or death in the Family that required that the Voucher Holder travel out of the state). If these circumstances are verified, the HHA will extend the Voucher term for the number of days that the Voucher Holder was unable to actively search for housing;
  - (2) A Voucher Holder suffered from severe medical difficulties, an unexpected illness or hospitalization (including entering a rehabilitation program). Under these circumstances, the HHA will extend the Voucher term for as many days as an Applicant was hospitalized, in a rehabilitation center, or incapacitated due to illness;
  - (3) If the Family needs and requests an extension of the initial Voucher term as a Reasonable Accommodation for an individual with a disability or handicap as defined under applicable federal or state law.
- (c) *Pending discrimination action.* In cases of alleged discrimination where the Family has filed a complaint with either the United States Department of Housing and Urban Development (HUD), a municipality's Fair Housing Commission, or filing a discrimination complaint in court, the HHA will extend the Family's Voucher for an additional one hundred and eighty (180) days pending resolution of the matter or a finding of probable cause.

### 7.3 Requests for Tenancy Approval

### **7.3.1 Intake of Requests.**

The Family must submit the Request for Tenancy Approval (RTA) form to their Leasing Officer. The Head of Household and the Apartment Owner or the Owner's authorized agent must sign these documents. The HHA will only accept and process one RTA per Voucher Holder at a time.

### **7.3.2 Providing Information to Prospective Owners**

Upon request, the HHA will provide the prospective HCVP Owner with the following information provided that the Family signs an authorization of release of information form:

- (a) the Family's current and prior address as shown in HHA records; and
- (b) the name and address (if known to the HHA) of the Owner at the Family's current and prior address;

This information will only be provided when an authorization for the release of information is completed and signed by the Participant. Requests for this information are submitted together with the Request for Tenancy Approval. This request will indicate the Owner's name and the address to which the HHA must send the information. This information will not be given over the telephone.

The HHA does not screen tenants with respect to their Family history or suitability for tenancy. Screening is the responsibility of the Owner.

### **7.3.3 Disapproval of Owners**

- (a) The HHA must not approve an assisted tenancy if the HHA has been informed that the Owner has been debarred, suspended or subject to limited denial of participation under 24 CFR Part 24.
- (b) When directed by HUD, the HHA must not approve an assisted tenancy if:
  - (1) The Federal Government has initiated an administrative or judicial action against the Owner for violation of the Fair Housing Act or other Federal equal opportunity requirements or if such action is pending.
  - (2) A court or administrative agency has determined that the

Owner has violated the Fair Housing Act or other federal equal opportunity requirements.

- (c) The HHA may use its discretion to deny approval of an assisted tenancy for any of the following reasons:
- (1) The Owner has violated obligations under a HAP contract; **or**
  - (2) The Owner has committed fraud, bribery, or any other corrupt criminal act in connection with any federal housing program; **or**
  - (3) The Owner has engaged in any Drug Related Criminal Activity or any Violent Criminal Activity; **or**
  - (4) The Owner has a history of non-compliance with HQS (chronic sub-standard conditions) for units Leased under the tenant-based programs, or Leased under any other federal housing program; **or**
  - (5) The Owner has failed to terminate the tenancy or notify the HHA of the termination of a tenant's units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the Household, a guest or another person under the control of any member of the Household that:
    - (i) Threatens the right to peaceful enjoyment of the Premises by other residents; or
    - (ii) Threatens the health or safety of other residents, of employees of the HHA, or of Owner employees or other persons engaged in management of the housing; or
    - (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the Premises; or
    - (iv) Is Drug-Related Criminal Activity or Violent Criminal Activity; or
  - (6) The Owner has a history or practice of renting units that fail to meet State or local housing codes, or;

- (7) The Owner has not paid State or local real estate taxes, fines or assessments.
- (d) The HHA must not approve a unit if the Owner is the parent, child, grand-parent, grandchild, sister, brother, of any member of the Family, unless the HHA determines that approving the unit would provide a Reasonable Accommodation for a Family member who is a Disabled Person. This restriction applies at the time a Family initially receives tenant-based assistance for occupancy of a particular unit but does not apply to HHA approval of a new tenancy with continued participant based assistance in the same unit.
  - (i) In cases where the Owner and a prospective participant Family member bear the same last name, the HHA may, at its discretion, require the Family and or Owner to verify (i.e., birth certificates, marriage license etc.) that they are not related to each other in any way.
- (e) Nothing in this section is intended to give any Owner any right to participate in the program.
- (f) For the purposes of this section an Owner includes the principal business entity owner or other party with ownership interest with respect to the unit.

## **7.4 Preparing the Housing Assistance Payments (HAP) Contract and Lease**

### **7.4.1 Determinations and Verification**

- (a) Upon inspection approval and acceptance of the negotiated rent amount, the Leasing Officer will do the following:



- (i) Designate the Lease initiation date in accordance with the HHA Leasing Schedule

***For example:*** For a Lease initiation date of February <sup>set</sup> the HHA must receive an Inspection approval on or before January 3<sup>rd</sup>. If the inspection approval is received after January 3<sup>rd</sup>, then the Lease initiation date will be March 1<sup>st</sup>.

- (ii) Make sure the correct "Utility Allowance" was provided on the Rent Approval Form and the Family's share of the rent and utilities;

#### **7.4.2 Variations from the HHA Model Lease**

- (a) *Amendments to the Model Lease.* Variations from the HHA Model Lease must be in a written, standard form used by the Owner in the locality, must comply with state and local law (unit Owners will certify to this by signing the required HAP contract), and apply to the unassisted tenants in the same property. Amendments are subject to the approval of the HHA.
- (b) *Private Market Leases.* If an Owner chooses to use his or her own Lease or to include additional Lease terms, the Administrator or his or her designee may review the documents to ensure they are in accordance with state and local laws. Use of a private market lease is subject to HHA approval. A Private Market Lease must comply with the Attorney General's landlord-participant regulations.

The Participant or the Owner must provide Private Market Lease to the HHA at the time the Participant gives the HHA the "Request for Tenancy Approval."

The HUD Tenancy Addendum must be executed and attached to all Leases.

In accordance with federal regulations, the Owner's standard form Lease must include:

- (1) the names of the parties;
- (2) the term of the Lease;
- (3) the amount the monthly rent to owner;
- (4) which utilities and appliances are supplied by the Owner, and which are supplied by the Family;

- (5) if any security deposit is collected and the amount of any such security deposit; and
  - (6) any additional document(s) required by the HHA, if applicable
- (c) Request For Tenancy Packet must be fully completed and all necessary paperwork returned no later than (2) weeks prior to the lease date to assure a timely lease with the landlord. If the tenant is responsible for some or all the utilities, then the rental amount will change accordingly.

#### **7.4.3 Signing the HCVP Contracts**

- (a) *Lease and Contract.* The Head and Co-Head of Household and the Owner must sign the Lease and a HUD Tenancy Addendum. The Owner must sign a HAP contract with the HHA. The participant must have legal capacity to enter a lease under State and local law. "Legal capacity" means that the participant is bound by the terms of the lease and may enforce the terms of the lease against the owner. See also, Chapter 18 for the Definition of an Emancipated Minor.
- (b) *Proof of ownership.* The Owner must provide proof of ownership of the assisted unit. Any Owner who has recently purchased the property must provide a certificate or letter prepared by and from an attorney present at the closing, certifying the date, time and instrument number of filing at the applicable Registry of Deeds. The Owner must also execute the HAP contract and the Owner/Agent Data Form.
  - (1) The HHA may use its discretion to accept other legal documents as proof of ownership.
- (c) The HHA must request from the Owner, a copy of the Owner's IRS Form W-9, Request for Taxpayer Identification Number and certification, for IRS reporting purposes. IRS Form W-9 asks for the Owner's name, the business name and address, and the taxpayer identification number. The HHA uses the information obtained from the Form W-9 to report to the IRS the amount of income it has paid to Owners (in the form of Housing Assistance Payments). The HHA uses the IRS Form 1099 for this purpose.
- (d) Owner must provide certified copy of a certificate of occupancy or letter of lieu of certificate of occupancy of the property.

## Chapter 8: Rent

### 8.1 Commonly Used Rent Terms

**Adjusted Annual Income** - Annual Income of all Family members, as verified by the HHA, after deductions, exceptions and exclusions are made with respect to each of the members of the Family to determine initial and continued program eligibility.

**Contract Rent** - The monthly rent payable to the Owner under the Lease and any amendments. The Rent to Owner also covers payment for any housing services, maintenance, and utilities that the Owner is required to provide and pay for.

**Gross rent** - The sum of the rent to the Owner plus any utility allowances.

**HAP Contract** – The contract that governs the monthly assistance paid by the HHA to the Owner.

**Monthly Adjusted Income** - One twelfth of Adjusted Annual Income.

**Payment Standard** – In terms of the maximum monthly assistance payment for a Family before deducting the Total Participant Payment by a Family for a Voucher tenancy, the housing authority sets a Payment Standard in the range from 90% to 110% of the current HUD FMR or at any exception Payment Standard amount approved by HUD.

**Reasonable Rent** - A Rent to Owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

**Participant Share of Rent (Household Rent to Owner)** - In the Voucher program, the portion of the monthly Rent to Owner paid by the Household. For calculation of Rent to Owner see 24 CFR 982.515(b).

**Total Participant Payment (TTP)** - Total Participant Payment is the amount calculated under Section 3(a)(1) of the 1937 Act, which is the higher of: 30% of the Family's Monthly Adjusted Income, 10% of the Family's Monthly Income, the minimum rent, or if the Family is receiving payments for Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the

Family's actual housing costs, is specifically designated by such an agency to meet the Family's housing cost, the portion of such payments which is so designated.

**Utility Allowance** - An amount equal to the estimate made or approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other such services for the unit by an energy-conservative Family of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment, if the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the participant rent but is the responsibility of the Family occupying the unit.

**Utility Reimbursement** - The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Participant Payment for the Family occupying the unit.

## **8.2 Determination of Contract Rents**

Contract rent is the total rent to the owner specified by the Lease and any amendments. The HHA may not approve a Lease until the HHA determines that the initial rent to the Owner is a Reasonable Rent. At all times during the assisted tenancy, the Rent to Owner may not exceed the Reasonable Rent as most recently determined or redetermined by the HHA in accordance with section 8.3 of this Administrative Plan.

### **8.2.1 Mandatory Redetermination**

The HHA must redetermine the Reasonable Rent:

- (a) Before any increase in the rent to the Owner; or
- (b) If there is a five percent (5%) decrease in the published Fair Market Rent (FMR) in effect sixty (60) days before the anniversary of the HAP contract (for the unit size rented by the Family) as compared with the FMR in effect one year before the HAP contract anniversary; or
- (c) As directed HUD.

### **8.2.2 Permitted Redetermination**

The HHA may redetermine the Reasonable Rent at any other time, in accordance with the language in the HAP contract.

### 8.3 Reasonable Rent

**The Reasonable Rent** is a Rent to Owner that is not more than rent charged for comparable units in the private unassisted market and for comparable unassisted units in the premises.

The Reasonable Rent is the maximum amount the HHA may approve for the Contract Rent, even if the Family and the Owner agree to a higher rental amount.

The HHA determines Reasonable Rent by comparing the subject Apartment to similar Apartments in the private rental market

#### 8.3.1 Assessment of Private Market Value Rents (Comparables)

The HHA determines a Reasonable Rent for the subject unit by comparing it to the market information gathered in a similar area.

- (a) In the private sector, market lease rents are typically based on location, bedroom size, and quality. However, the HHA gathers additional data when available. The data that the HHA collects includes:
  - (1) **Location:** The geographical area or neighborhood of the subject unit.
  - (2) **Number of Bedrooms:** The number of bedrooms and the size of the overall unit. A three-bedroom unit would be compared to other similarly sized three bedroom units.
  - (3) **Quality:** The HHA rewards those units that are higher quality by setting higher Reasonable Rent.
  - (4) **Other relevant data upon availability:** The HHA will also use any other relevant data, including but not limited to: amenities, housing services, age of structure, on-site maintenance, if available.
- (b) The HHA collects data on the four factors listed above to compare the subsidized unit to a private market unit. The informational databases that the HHA keeps are updated regularly and keep data for at least two (2) years. The following, is a non-exhaustive list of some of the types of data that the HHA may use to assess the above listed factors:
  - (1) Newspaper Advertisement database,

- (2) Certification supplied either by the Owner or manager including a rent roll of similar unassisted units in the building,
- (3) Copies of existing Leases of similar unassisted units either in the building or the surrounding neighborhood, affidavits from realtors in the neighborhood providing the current rents,
- (4) Internet resources.

**(c) Weight of Comparison Data**

When determining the Reasonable Rent, Private Market comparison data is used in the following preferential order:

- (1) Data on the units located in the same building or developments as the assisted unit.
- (2) Data from the Newspaper Database

**8.3.2 Owner certification of comparability**

By accepting each monthly housing assistance payment from the HHA, the owner certifies that the Contract Rent is not more than rent charged by the owner for comparable unassisted units on the premises. The owner must give the HHA information requested by the HHA on rents charged by the owner for other units on the premises or elsewhere.

**8.4 Maximum Initial Rent Burden**

At the time the HHA approves a tenancy for initial occupancy of an Apartment by a Family with HCVP assistance, and where the Gross rent of the unit exceeds the applicable Payment Standard for the Family, the Family Share may not exceed forty percent (40%) of the Family's Adjusted Monthly Income. See also 24 CFR section 982.508.

**8.5 Rent Exceptions**

The HHA may approve an exception of up to 110% of the HUD FMR as a Reasonable Accommodation.

The HHA will request the HUD field office to approve an exception Payment Standard of up to 120% of the Fair Market Rent (FMR) if the exception is needed as a Reasonable Accommodation so that the HCVP is readily accessible to a Disabled Person in accordance with 24 CFR Part 8 and Part 982. The HHA will apply to HUD for higher Payment Standards for neighborhoods when the HHA

determines that exception Payment Standards are necessary to effectively administer its HCVP, and where such exception Payment Standard can assist Participants in leasing units outside areas of low income or Minority concentrations. Such rents must meet Reasonable Rent standards for comparable units. Any request for a Payment Standard exception over 120% of the HUD FMR must be made to the HUD central office located in Washington D.C.

## **8.6 Rent Increases**

### **8.6.1 General Procedure and Policy**

The Lease governs rent increases. To receive a rent increase, the Owner must send the request for a rent increase to the Participant and send copy of the request to the HHA sixty (60) days prior to the anniversary of the Housing Assistance Payment (HAP) contract and must include the new rent amount the owner is proposing. **For example**, if the HAP contract anniversary date is May 1, the owner must submit their request for a rent increase by March 1 to be effective for May 1.

The Owner will send the initial rent increase requests to the Leasing Officer, who will advise the Owner of the effects of the increase. The Leasing Officer and the Owner will discuss any difference between the current Contract Rent and the Payment Standard for the particular Family size and unit size and how the increase in rent may affect the Participant or the HHA's portion of the rent. If the Owner wishes to proceed with the request after discussing the increase with the Leasing Officer, the rent increase request will be filed in the Participant's folder.

If the HHA grants a rent increase the adjusted rent will be the lesser of:

- (a) The Reasonable Rent as most recently determined by the HHA, or
- (b) The amount requested by the Owner

### **8.6.2 Participant Approval required after HHA Approval**

If the HHA grants the Owner, the ability to increase the rent the Leasing Officer will discuss the effects of the proposed increased rent with the Participant. The Leasing Officer will advise the Participant of his or her share of the rent and their option to approve or disapprove of the rent increase. The Participant may negotiate the terms and the amount of the increase with the Owner and the Leasing Officer may assist the negotiation.

- (a) ***Participant Approval of Rent Increase.*** If the Participant agrees to the increased rent the Leasing Officer will assist the Owner and the

Participant in signing a Lease amendment to adjust the Contract Rent.

**(b) *Participant Disapproval of Rent Increase.*** If the Participant does not accept the increase in rent or negotiate a rent that is acceptable to both parties, one of the following may occur:

- (1) The Owner may start an eviction proceeding against the Participant by citing a refusal to enter into a Lease amendment as a business or economic reason at the end of the initial one-year Lease term or after a year has elapsed from the last rent increase.
- (2) The Owner and the Participant continue under the current terms of the Lease and contract, moving forward without an increase in rent.
- (3) The Participant may request a Voucher to move to another unit. The Participant must give thirty (30) days notice to the Owner and a copy of the notice to the HHA if the Participant intends to vacate the unit.

#### **8.6.3 The rent will not be increased unless:**

- (a) The Owner requests the increase in writing sixty (60) days prior to the date of the requested increase,
- (b) The Owner has complied with all obligations of the HAP contract and the HQS in the preceding year,
- (c) The Participant approves the increase in rent to the Owner,

#### **8.6.4 Date of Contract Rent Increase.**

After all other conditions of this policy are met, the Contract Rent will only be increased for housing assistance payments commencing on the later of:

- (a) The first day of the first month commencing on or after the initial Lease term, or
- (b) At least sixty (60) days after the HHA and the Participant receives the Owner's request for a rent increase.

### **8.7 Written Notice of Rent Share Change**

Before the HHA makes a change in the Contract Rent, the HHA will notify the Participant and the Owner in writing. The notice to the Owner and Participant will contain the new rent and the date that it will be effective.



### 8.7.1 Effective Dates of Rent Participant Increases and Decreases

- (a) **Rent decreases** will be effective as of the first day of the next month after the change in circumstances is reported *in writing*. HHA may delay processing the rent decrease until Participant provides adequate verification of such change in circumstances justifying the decrease, but once verifications have been provided, the rent change will be made effective retroactively if the failure to verify the decrease was not the fault of the Participant.
- (b) **Rent increases** will be effective the first day of the second month after HHA sends Participant a Notice of Rent Change. If a Participant fails to report a change requiring a rent increase, rent shall be increased retroactively to the second month following the change had the reporting of income been timely.

## 8.8 Participant Share of Rent

### 8.8.1 HHA determination

- (a) The Participant Share of Rent is the portion of the rent to owner paid by the Family. The HHA determines the Participant Share of Rent in accordance with HUD requirements and HHA procedures.
- (b) (INSERT 8.7.1)

### 8.8.2 Total Participant Payment

The Total Participant Payment (TTP) represents the minimum amount a family must contribute toward rent and utilities regardless of the unit selected. The TTP is calculated using a statutory formula and individual income information. To calculate TTP, annual adjusted income and annual (gross) income must be converted to monthly adjusted income and monthly gross income by dividing the annual figures by 12 months. The TTP is the greater of:

- (a) 30 percent (30%) of monthly adjusted income, or
- (b) 10 percent (10%) of monthly gross income.

### 8.8.3 Maximum Subsidy

The maximum subsidy the HHA can pay in the HCVP is the Payment Standard minus the Utility Allowance. The HHA sets a Payment Standard in the range from 90% to 110% of the current HUD Fair Market Rent or at any exception Payment Standard amount approved by HUD. The maximum subsidy calculation is done at the time the Family is issued a

Voucher. It is important for the Family to know the maximum the HHA will pay while searching for a unit. The actual HHA subsidy can be calculated only after the family has selected an Apartment.

#### **8.8.4 Participant payment to owner.**

- (a) The Family is responsible for paying the Participant Share of Rent (Total Participant Payment minus the Utility Allowance).
- (b) The amount of the participant rent as determined by the HHA is the maximum amount the owner may accept as payment from the Family. The Contract Rent is payment for all housing services, maintenance, equipment, and utilities to be provided by the Owner without additional charge to the tenant, in accordance with the HAP contract and lease.
- (c) The Owner may not demand or accept any rent payment from the participant in excess of the Participant Share of Rent as determined by the HHA. The Owner must immediately return any excess payment to the tenant.
- (d) The Family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the HAP contract. The Owner may not terminate the tenancy of an assisted Family for non-payment of the HHA housing assistance payment.

#### **8.8.5 Limit of HHA responsibility.**

- (a) The HHA is responsible only for making housing assistance payments to the owner on behalf of a Family in accordance with the HAP contract. The HHA is not responsible for paying the Participant Share of Rent, or for paying any other claim by the Owner.
- (b) The HHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the Participant Share of Rent or to pay any other claim by the Owner. The HHA may not make any payment to the Owner for any damage to the unit, or for any other amount owed by a Family under the Family's Lease or otherwise.

#### **8.8.6 Utility reimbursement**

- (a) If the amount of the Utility Allowance exceeds the Total Participant

Payment, the HHA shall pay the amount of such excess as a reimbursement for tenant-paid utilities (Utility Reimbursement) and the Participant Share of Rent shall be zero.

- (b) The HHA either may pay the Utility Reimbursement to the Family or may pay the utility bill directly to the utility supplier on behalf of the Family.
- (c) If the HHA chooses to pay the utility supplier directly, the HHA must notify the Family of the amount paid to the utility supplier.

## **8.9 Error Correction**

### **8.9.1 Mistake discovered after Lease signed.**

If the HHA or the Participant discovers a mistake in the rent calculation after the Lease is effective and a correction will cause the Family an increase in rent, the Leasing Officer will notify the Family in writing thirty (30) days before making the adjustment. If the HHA or the Participant discovers the mistake after the Lease is effective and the correction reduces the Participant Share of the Rent, the Leasing Officer will make the necessary correction effective retroactively. The Leasing Officer will notify the Family and Owner in writing of the error and the correction.

### **8.9.2 Retroactive only when HHA is at fault.**

The HHA will only make a retroactive payment when the HHA is responsible for making a mistake. The HHA will not make retroactive payments when the Owner or the Family is responsible for intentionally or unintentionally withholding information or providing incorrect information.

## **Chapter 9: INSPECTIONS (Initial, Interim, and Annual)**

### **OVERVIEW**

HUD requires that all units occupied by families receiving Housing choice voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. Effective July 1, 2014, PHAs must establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually.

The HHA must inspect an Apartment leased to a Family prior to the initial term of the Lease, and at least annually during assisted occupancy, and at other times as needed, to determine if the Apartment meets the Housing Quality Standards (HQS).

A thorough unit inspection is required for the HHA to determine compliance with HQS and determine the Rent Reasonableness. See also Chapter 8.

HQS regulations include requirements for all housing types including single and multi-Family dwelling units, as well as specific requirements for Special Housing Types such as Single Room Occupancy (SROs) and Shared Housing.

## **9.1 Inspection Performance Requirements**

### **9.1.1 Generally**

The HHA will perform inspections in accordance with the Housing Quality Standards (HQS) prescribed by HUD. The inspector will also check for compliance regarding things including but not limited to: compliance with the Town Of Huntington Ordinance requiring smoke detectors, verification that the type of structure and utilities are accurately described on the RTA (if applicable), rate the quality of the unit, measure the square footage of each room where necessary, and a list of all amenities and services as noted on the Housing Quality Addendum. HQS consists of the following thirteen performance requirements:

- (a) Sanitary facilities;
- (b) Food preparation and disposal;
- (c) Space and security;
- (d) Thermal environment;
- (e) Illumination and electricity;
- (f) Structure and Materials;
- (g) Interior air quality;
- (h) Water supply;
- (i) Lead-based paint;
- (j) Access;
- (k) Site and neighborhood;

- (l) Sanitary conditions; and
- (m) Smoke detectors.

### **9.1.2 Quality Control**

The HHA will re-inspect a sample number of units to verify accuracy and consistency. The re-inspected sample will be selected from inspections that were completed in the previous three months and represent a cross section of neighborhoods and HHA inspectors. The HHA re-inspects 30 units plus 1 unit for every 200 inspections (or part of 200) over 2000 inspections. Tenants and/or Landlords selected to participate in quality control inspections must participate or they are in violation of program obligations See also 24 CFR 985.2-3.

## **9.2 Initial Inspections**

When a Family submits an RTA to the HHA an initial inspection is triggered.

In cases of initial inspections, the HHA has an obligation to schedule the inspection once an RTA is submitted. The RTA will expire within sixty (60) days of submission if no action is taken by the Owner to schedule the inspection for the Apartment.

The unit must pass the HQS inspection before the execution of the Assisted Lease and Housing Assistance Payments (HAP) contract and the initiation of payments.

The HHA must conduct the inspection within a reasonable time after the Family submits an RTA. If possible, the inspection should be completed within fifteen (15) days.

### **9.2.1 Apartment cannot be inspected.**

If for any reason the Apartment cannot be inspected (the Apartment is occupied or inaccessible), the Inspections Department will immediately notify the HHA, who will notify the family regarding the results of the inspection. (The HHA will not inspect occupied Apartments)

### **9.2.2 Deny Request for Tenancy Approval**

- (a) The HHA may deny a request to inspect an Apartment of behalf of a Family because an Owner has a repeated history of violations of program rules and regulations including repeated violations of HQS; **or**
- (b) records indicate that the Owner did not make corrections after he was notified of deficiencies related to lead-based paint; **or**
- (c) the property is not in conformation with the town code; **or**
- (d) rent exceeds rent reasonableness standards; **or**
- (e) exceeds FMR; **or**
- (f) ineligible housing as determined by HUD

### **9.2.3 Length of Validity (Initial Inspection)**

If an Apartment passes initial inspection, the results are valid for a maximum of thirty (30) calendar days. The start date of the Assisted Lease must fall within this period. If the Lease term will start later than thirty first (31<sup>st</sup>) day after the unit passed inspection, the unit must be re-inspected and must pass inspection prior to the start of the HAP contract.

### **9.2.4 Time Provided for Repairs**

If the unit does not comply with HQS requirements within the HHA specified time frame, the HHA may cancel the tenancy approval process and instruct the Family to search for another Apartment.

In cases of ***initial inspections***, the HHA will re-inspect the unit on the scheduled date granted to make the repairs if the request is made by Owner and provided that adequate staffing exists to perform such an inspection.

### **9.2.5 Inspection Notice Requirements**

The HHA will notify the Family and Owner of the inspection results.

The Owner must receive detailed information for all failed and inconclusive inspection items so that he or she is fully aware of the work

necessary to pass the HQS inspection.

### **9.2.6 Initial Inspection Failure**

If the Apartment fails inspection for any reason, the Leasing Officer will notify the Family and Owner by sending them an Agency Determination Form. If the Owner is unwilling to perform the requested repairs, computation of the term of the Voucher will resume (see section 6.2.2 for more information on tolling). The Voucher holder must then submit another "Request for Tenancy Approval" before his/her Voucher, or any Voucher expires. If the Owner indicates that (s)he is willing to make the requisite repairs, the HHA shall exercise discretion with respect to the period within which the Owner must make repairs in order for the Voucher holder to execute a Lease for the Apartment.

## **9.3 Annual/Biennial HQS Inspections [24 CFR 982.405; 982.406]**

### **9.3.1 Scheduling Inspections (Annual/Biennial)**

#### HHH Policy

Each unit under HAP contract must be inspected biennially within 24 months of the last full HQS inspection. The HHA may perform additional inspections at any time.

The HHA schedules all inspections. The Inspections Department will inform the Owner and the Participant of the date of the inspection in writing.

The HHA will ask the Participant to contact the Inspections Department to make other arrangements if the Apartment cannot be inspected at the assigned time.

The HHA will notify the Participant of the appointment in writing and mail a copy of the inspection report to the Owner on the first business day after the inspection. The Inspections Department will also forward a copy of the inspection report to the Family's Leasing Officer.

### **9.3.2 Denial of Inspector's Access to Unit**

Unexcused failure by a Participant to grant access to HHA inspectors is grounds for termination of HCVP assistance. Notices of inspections or notices sent because of failure to provide access will include the

following information.

- (a) *Excuse for denied access.* If the Family denies the inspector access to the unit after reasonable notice, the HHA will reschedule the inspection appointment if the participant has a reasonable excuse for denying access to the unit.
- (b) *No Excuse for denied access.* If the Family denies the inspector access to the unit after reasonable notice and the participant does not give a reasonable excuse, the HHA will terminate the tenant's subsidy.
- (c) *Denied access for a rescheduled appointment.* If the Family denies the inspector access to the unit after reasonable notice for a second/rescheduled appointment without a reasonable excuse, the HHA will terminate the Family's subsidy.

### **9.3.3 Length of Validity**

Once the Apartment has been inspected and approved, the approval shall be valid for a twelve (12) month period from the date of the annual inspection unless the HHA conducts an interim re-inspection during the twelve (12) month period.

## **9.4 Interim Inspections/Special Inspections**

The HHA may order an interim inspection/special inspection of any Apartment upon the request of the Family, Owner, or if complaint is made by another party to determine that:

- the Apartment is still in acceptable condition; or
- the Owner or Family is meeting contractual and regulatory obligations to provide utilities and other services; or
- if an Owner or Family is violating program rules.; **or**
- the HHA becomes aware of a conduct deemed to endanger or impair the health of the participant.

## **9.5 Inspection Failure (Annual and Interim)**

### **9.5.1 Time Parameters for Corrections of Inspections Violations**

- (a) The HHA requires that a landlord correct any conditions deemed to endanger or impair health or safety within 24 hours. Serious



violations of this nature include but are not limited to: lack of heat, lack of water, lack of electricity, lack of gas (where applicable), lack of carbon monoxide and smoke detectors, exposed wiring or other hazardous defects in the electrical system, and dangerous structural defects.

- (b) All other violations must be corrected within thirty (30) days unless the HHA approves an extension.
- (c) Owners may self-certify to non-life-threatening minor repairs. The executed certification form must be completed and received by the PHA within thirty (30) days of failed inspection date. Failure to submit the fully executed self-certification form within the correction period will result in abatement of the Housing Assistance Payment for the following month.

#### **9.5.2 Abatement of Payment after Interim, Special, or Annual Inspection**

If an Apartment fails any inspection, the HHA will notify the Owner of the violations in writing. The HHA will schedule the re-inspection within the appropriate time it becomes aware of the conditions.

- (a) *Serious Violations and "Stop Payment"*. If a serious violation exists, the HHA will notify the Owner by telephone that the violations must be corrected within 24 hours. The HHA may also issue the Owner a written letter detailing the serious violations. The HHA will inform the Owner of a re-inspection date that is at least twenty-four (24) hours after the inspector identified the violation(s). If the Owner fails to correct the violations within the twenty-four (24) hour period, or if the owner fails to permit reinspection within the timeframe specified by the HHA, the HHA will place the unit on Stop Payment. The HHA reserves the right to terminate a HAP contract for a unit that is placed on Stop Payment. An abatement will remain in effect until the unit receives inspection approval or within thirty (30) days of the last payment. A notice will be sent to the owner, and the abatement will be effective from the day after the failed re-inspection or the day after the HQS inspector is denied access for re-inspection

***Examples of serious violations*** include but are not limited to the following: lack of heat, lack of water, lack of electricity, lack of gas (where applicable), lack of carbon monoxide and smoke detectors, exposed wiring or other hazardous defects in the

electrical system, and dangerous structural defects.

### **9.5.3 Annual, Special or Complaint Inspection**

HHA staff will abide by the following procedures in processing re-inspections.

- (a) *Incomplete Repairs.* When the Owner is in the process of correcting cited violations resulting from the annual or special inspection, or complaint, inspection; the inspector will reject the unit and grant the Owner a period of up to thirty (30) days to complete the repairs. The HHA will then reschedule a re-inspection date and notify the Owner in writing. The HHA will send a copy of the re-inspection notice to the Family.

If upon the re-inspection the Owner has not completed and repaired all cited items set forth in the initial inspection the inspector will note the remaining cited items on the inspection report and recommend that the HHA suspend subsidy payments. If the Director approves the recommendation, the Owner will be informed in writing that the HHA has abated subsidy payments on the unit.

- (b) *No Effort to Make Repairs.* If the inspector determines that the Owner made no effort to repair the previously cited item(s) within thirty (30) days, the inspector will note this on his report and recommend to the Director of the HHA that the HHA suspend subsidy payments to the Owner. If the Director approves the recommendation to abate the subsidy, the HHA will notify the Owner of the "Abatement" by mailing a letter.
- (c) *Cited Items Repaired, New Violations Discovered.* If the Inspector determines that the Owner has repaired all cited items but discovers new violations during the re-inspection, the inspector will reject the unit. The inspector will note on the inspection report that the Owner repaired the previously cited items. The Inspector will also specify and separately list the new violations in a new inspection report.

The HHA will then schedule a re-inspection date and notify the Owner in writing. The re-inspection will be within thirty (30) days of the notice to the Owner date. The HHA will send a copy of this letter to the tenant.

New violations in such a unit, for purposes of scheduling re-inspection and imposing suspensions of subsidy payments, will be considered first time violations, unless the violations are deemed “serious” as examples in section 9.5.1(a)

#### **9.5.4 HAP Contract Termination Criteria**

The HHA may terminate the HAP Contract for the following causes:

- (a) The HHA has suspended the subsidy and found the unit to be uninhabitable due to fire or other natural disaster;
- (b) The unit has been without one or more of the following for a period of thirty (30) days: heat, hot water, electricity, or other utilities (this does not apply to conditions resulting from participant neglect);
- (c) If the Owner does not complete the necessary repairs within the specified time granted by the HHA, the HHA may terminate the HAP Contract for the Apartment. If the HHA terminates the HAP contract due to Owner non-compliance, the HHA will issue the Family a new Voucher.
- (d) If after thirty (30) consecutive days of Stop Payment, the HHA determines that the Owner will not make repairs, or the Owner notifies the HHA that they will not make the necessary repairs to bring the unit into compliance with the Housing Quality Standards, the HHA will terminate the HAP Contract for the unit and offer the Family a new Voucher.
- (e) The HHA shall terminate the HAP Contract with an Owner who, after notification that a child under the age of six (6) residing in the unit has an elevated level of lead (EBL) in his/her blood, fails to have the unit (including the exterior and common areas) tested within fourteen (14) days by a licensed lead-based paint inspection company using an X-ray fluorescence analyzer (XRF machine). The HHA will also terminate the HAP Contract with an Owner of a unit where a child under six (6) lives, after notification that the unit common areas, or exterior of the building contains lead-based paint, fails to have the unit, common areas and/or exterior lead paint removed or abated within thirty (30) days.

### **9.5.5 Notice of Subsidy Termination**

The HHA will notify the Owner in writing of the HAP contract termination. The HHA will give the Participant a new Voucher if the HHA terminated the HAP contract due to Owner non-compliance.

### **9.5.6 HQS Violations**

See Chapter 13 for information on HQS violations by the Participant Family.

## **9.6 Lead Paint Policy**

The HHA Leased Housing Division has established the following policies and procedures to comply with federal regulations pertaining to the identification and treatment of lead-based paint hazards in Section 8 units. The following policy is in two sections: Part I- New and Relocating Tenants, and Part II- Annual and Interim Recertification.

As used in this document, the term "EBL" shall mean Elevated Blood Lead Level, defined as a condition in which the amount of lead detected in a child's system is at or exceeds 25 micrograms per deciliter of whole blood.

### **9.6.1 Part I – New and Relocating Tenants**

- (a) *Child Under Six -- No EBL.* If a child under the age of six without an EBL will live in the unit, the HHA will require the Owner to:
  - (1) Provide proof that the building was constructed after 1978. Gut rehabilitation does not qualify as new construction, or:
  - (2) Provide the HHA with a certificate indicating compliance with the New York lead-based paint law. The certificate must be issued by a registered lead paint inspection company and must indicate that the unit's interior, common areas, and exterior are in compliance with the New York lead paint law.

Certificates dated prior to 7/1/88 will be accepted unless previously intact paint in the interior, common areas, or exterior of the unit is now cracking, scaling, chipping, peeling, or loose; or the building has undergone renovation since a certificate was issued.

- (3) The HHA will reject any unit that has any cracking, scaling, chipping, peeling, or loose paint on the interior, common areas, or exterior of the building.

**Note on HAP effective dates in buildings constructed before 1978:**

The HHA will not execute a HAP Contract for a unit in a building constructed before 1978 without first receiving a Certificate of Compliance. The HAP Contract in such a unit may then be made effective no earlier than the later of these two dates: the inspection approval date; or the date indicated on the Certificate of Compliance.

**Note on HAP effective dates in buildings constructed after 1978:**

HAP Contracts in units constructed after 1978 shall be made effective no earlier than the date of inspection approval.

- (b) *Child Under Six - EBL History.* For all buildings constructed before 1978 and has or will have a child under the age of six, the HHA will require the owner to:
  - (1) Provide proof that the building was constructed after 1978. Gut rehabilitation does not qualify as new construction; or
  - (2) Provide the HHA with a certificate indicating compliance with the New York lead-based paint law. The certificate must be issued by a registered lead paint inspection company using an X-ray Fluorescence Analyzer (XRF) and must indicate that the unit's interior, common areas, and exterior are in compliance with the local New York and Federal HA lead paint law and regulations. HUD will accept only XRF results. Certificates dated prior to 7/1/95 will not be accepted.

(c) Lead-Based Paint Disclosure

Regardless of the receipt of a certificate of compliance, the HHA will reject any unit for leasing that has any cracking,

scaling, chipping, peeling, or loose paint on the interior, common areas, or exterior of the building.

#### **9.6.2 Part II - Annual and Interim Recertification**

- (a) *Child Under Six - EBL History.* When a Leased Housing staff member becomes aware during the annual or Interim Recertification process that a child under six living in a unit has or has ever had an EBL, the staff member shall so inform the Director of Inspections. The HHA shall send a letter to the Apartment Owner informing him/her that (s)he must:
  - (1) Provide proof that the building was constructed after 1978. Gut rehabilitation does not qualify as new construction; or
  - (2) Have the Apartment, its common areas, and exterior, tested in accordance with local New York and Federal HA lead law and regulations by a registered lead paint inspection company using an XRF analyzer or legally required instruments. The letter from the Director of Inspections shall also inform the Owner that he must send a copy of the XRF test results to the HHA within fourteen (14) days or the HHA will terminate the unit's HAP Contract. If the XRF test results indicate unacceptable lead levels in the unit, its common areas, or exterior, the Director of Inspections will notify the Owner in writing that he must abate and remove the lead paint the unit and affected areas within 30 days and provide the HHA with a certificate from a registered lead paint testing company verifying that abatement has been completed. Failure to do so will result in the HHA's termination of the HAP.
- (b) *Rejection regardless of Certificate.* Regardless of the receipt of a certificate of compliance, if the building was constructed before 1978, the HHA will reject any unit for leasing that has any cracking, scaling, -chipping, peeling, or loose paint on the interior, common areas, or exterior of the building.
- (c) *No child under six.* There are no lead paint requirements for units where no child under six (6) resides.

## **CHAPTER 10: RENEWAL**

## 10.1 Annual Recertification

### 10.1 Annual Recertification

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

#### 10.1.1 Notification of and Participation in the Annual Reexamination Process

##### THHA Policy

The Leasing Officer will contact the Head of Household in writing three (3) months before the anniversary of their last annual recertification. Annual reexaminations will be conducted by mail. Notification of the annual reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the PHA, and the deadline for providing it. Documents will be accepted by mail, email, fax, or on-site at the Administration Building.

If the notice is returned by the post office with no forwarding address, a notice of termination will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

An interview will be scheduled only if the family requests assistance in providing information or documentation, or meeting is requested by the PHA.

If an interview is needed an appointment letter will be sent. The appointment letter will request that the Head of Household bring the necessary verification of Annual Income and Family Composition (see Chapter 5: Determination of Eligibility). The appointment letter will also list the required documentation and information and states that a failure to comply with the obligation to supply information may result in the termination of the Family's HCVP assistance.

- (a) *Failure to Keep the requested interview.* If the Family fails to keep the scheduled Recertification interview, the Leasing Officer will reschedule the appointment. The HHA considers it a failure to attend an appointment if the Participant is more than half (1/2) an hour late for a scheduled appointment.

If the Family fails to attend a second Recertification interview, the Leasing Officer may terminate the Family's assistance in accordance with Chapter 13. The HHA may recertify the Family and rescind the proposed termination if the Family provides the Leasing Officer with all the documentation required to recertify within twenty days (20) of the date of the proposed termination letter.

If the Participant contacts the Leasing Officer prior to the interview to reschedule or has a valid excuse for missing the appointment, the HHA will excuse the missed appointment. The Leasing Officer may ask the Family to supply documentation to verify their inability to attend the appointment.

(b) *Failure to provide complete information.* If the Family attends the annual Recertification appointment but fails to provide the HHA with the documentation necessary to recertify the Family, the Leasing Officer will schedule an additional appointment and notify the Participant what documentation the HHA still requires to complete the Recertification. If the Participant does not supply the required information or does not attend the rescheduled appointment, the Leasing Officer may send the Family a notice of proposed termination of assistance that also contains a list of the documentation required to complete Recertification. The HHA may recertify the Family and rescind the proposed termination if the Family provides the Leasing Officer with all of the required documentation no later than twenty days (20) of the date of the proposed termination letter. Submission of incomplete information within the twenty (20) days will result in the HHA rescinding the proposed termination.

## ANNUAL RECERTIFICATION PROCESS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

### THHA Policy

Families will be asked to supply all required information (as described in the reexamination notice) before the deadline specified in the notice. The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

The PHA will notify the family in writing if any required documentation or information is missing. The missing information or documentation must be provided within 10 business days of the date the PHA notifies the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination.

If the family requests or the PHA schedules an in-person interview, families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of



termination.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

### **THHA Policy**

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)].

The information provided by the family generally must be verified in accordance with THHA policies. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

#### **10.1.2 Determining Family's Appropriate Unit Size and Subsidy.**

At the appointment, the Leasing Officer will verify the Family's anticipated income, verify Family Composition, determine the appropriate Apartment size, and establish the Family's subsidy in accordance with Chapter 5 of this Administrative Plan. The Leasing Officer will also ask for verification of any changes in Family Composition.

- (a) *Change of Voucher Size.* The appropriate unit size will be determined, and exceptions made as previously described. See section 5.1.2. If the Family requires a smaller or larger Apartment, the Leasing Officer will notify them in writing of the change in bedroom size, the conditions under which the HHA might allow an exception to the Subsidy Standards, and the right to an informal hearing to dispute the determination.

- (b) *Unit too small.* If the Apartment is too small for the Family according to HHA Subsidy Standards and the Family has not obtained an exception to the Subsidy Standards or requested a hearing, the Leasing Officer will issue the Family a Voucher and the Family must find an acceptable Apartment before the Voucher expires. The HHA will provide the Family with information on any available units.
- (c) *Unit too large.* If a unit is too large for the Family according to HHA Subsidy Standards and the Family has not obtained an exception to the Subsidy Standards or requested a hearing, the Payment Standard will be reduced accordingly at the effective date of the Family's annual Recertification. The Family may either remain in the unit and pay the difference or move to a smaller unit.

### **10.1.3 Additions to Family Composition**

- (a) Owner and HHA Approval. At the initial briefing session and at each Recertification, the HHA will advise the Family that additions will be made to the Family Composition only in the instances of birth, adoption, or the court-awarded custody of a child. However, a family must notify the HHA in writing within thirty (30) days when a new Family member begins living in the unit due to a birth, adoption or court-awarded custody of a Minor. The HHA will begin the eligibility determination of the additional Family member regardless of the Owner's approval or disapproval.
  - (i) *Owner Denial.* If the Owner does not give written approval to add the Family member to the Lease, the Family may move if the Lease is no longer in its initial term. If the Lease is in its initial term, the Family must request permission from the Owner to break the Lease. If the Family moves in order to add the additional member to their Family Composition, the HHA will begin to determine eligibility for the additional member when the Family submits an RTA. If the Family vacates the Apartment in violation of the Lease, their Section 8 assistance may be terminated in accordance with Chapter 13 of this Administrative Plan.
- (b) *No severe overcrowding.* Regardless of landlord approval or eligibility for the program, the HHA will not allow additions to the Family Composition that result in severe overcrowding in the existing Apartment. If the approved additional Family member(s) will cause severe overcrowding, the HHA will issue the Family a new Voucher so the Family can relocate to an appropriately sized

unit.

- (c) *Addition to Family Composition is subject to HHA and HUD eligibility.* Any person(s) must be determined eligible for the HHA HCV before the HHA will permit the addition of the person to the Family Composition. Additional person(s) must first be determined to be eligible by HHA and HUD standards before being added to the Family Composition. The new Family member must: complete all HHA and/or HUD required eligibility forms, provide authorization to conduct a criminal background check (if the person is eighteen (18) years or older), provide evidence of citizenship or Eligible Non-Citizen Status or sign a non-contending status form, and provide information required to verify income and program eligibility in accordance with program requirements. Additions to the Family in instances of birth, adoption, or court awarded custody of a Minor, do not require advance approval to live in the unit. However, any addition to the Family may be denied eligibility for the HCVP. If they are denied eligibility and a hearing is requested, the Minor may remain in the unit until the review is final.
- (d) *HHA Approval.* If the HHA approves the addition of such person to the Family Composition and Lease, the HHA will re-calculate the Family's Rent to Owner and the HHA's Housing Assistance Payment paid on the Family's behalf to the Owner including the provided information. The HHA reserves the right to deny addition of any person to a Family Composition and/or Lease for good cause.
- (e) *Denial.* If a proposed addition to the Family is denied, a hearing may be requested to dispute the HHA decision.

#### **10.1.4 Removal of Members from Family Composition**

The Family must notify the HHA within thirty (30) days that a Family member no longer resides in the unit and will no longer be a member of the Family Composition.

- (a) A child, under the age of eighteen, who is temporarily away from the home because of placement in foster care, will be considered a member of the Family Composition.
- (b) A student who is away from the unit during the school year will be considered a member of the Family Composition.
- (c) The HHA requires documentation to show that a Family member no longer resides with the Household in the subsidized Apartment i.e.,

### 10.1.5 Change the Head of Household / Co-Head of Household

A Family may request to change which Family member is designated the Head of Household. The Family may also decide to designate or change a Co-Head of Household. The HHA will approve the change if the Family member is able to take on the responsibilities of being the Head of Household/Co-Head of Household, including, but not limited to, communicating with the HHA and the Owner.

## Chapter 11: Continued Participation

### 11.1 Interim Recertification

#### 11.1.1 Circumstances Requiring an Interim Recertification

- (a) Change in Family Composition
  - (1) A Family is required to inform and supply any necessary verification to the HHA within thirty (30) days of a birth, adoption, or court awarded custody.
    - (i) The HHA must approve the eligibility for any addition to the Family that does not result from a birth, court-awarded custody, or adoption in accordance with section 10.1.3.
  - (2) A Family must notify the HHA in **writing** within 30 days of any departure of a Family member due to death, permanent institutionalization, or other reason, and provide the HHA with reasonable verification of this fact (including, where applicable, the verification of the new address of the departed Family member – see also section 10.1.4).
- (b) If a Family has a decrease in income.
- (c) If a Family's income is too unstable to project for 12 months or if a Family temporarily has no income (a "zero-income Family") or if a Family has a temporary decrease in income, the HHA may schedule special Recertification with the Family's Leasing Officer every month, or at least quarterly, until the income stabilizes and/or an Annual Income can be determined.

- (d) The HHA will recertify a Family before they relocate to a new Apartment or move to a new Apartment as an incoming portable Family. The relocation Recertification will become the Family's annual Recertification date.

#### **11.1.2 Family Request for Interim Recertification**

A Family may request in writing an interim determination of Family Share at any time because of a change in the Family's income, Adjusted Income, size, or composition. However, the HHA will continue to use the existing Payment Standard and Voucher size for the Family and will not alter these based on changes in Family Composition until the annual Recertification or when the Family relocates to a new unit, unless otherwise permitted by regulation or HUD, or this policy.

### **11.2 Termination of HAP Contract**

#### **11.2.1 Grounds for Termination**

If the HHA finds that the Owner or Family has failed to meet the program or contractual obligations, the HHA may suspend the subsidy payments, terminate the HAP Contract, or terminate the subsidy accordingly.

#### **11.2.2 Owner breach of obligations**

If the HHA terminates the HAP Contract because the Owner has breached the terms of the HAP contract or Owner responsibilities as provided in 24 CFR 982.404, the Leasing Officer will issue the Family a new Voucher. However, the Family does not have to wait for the HHA to terminate the HAP Contract if a serious breach or serious violations occur.

### **11.3 Restriction on Number of Relocates**

For the tenant-based programs, whether the Participant is residing in the Jurisdiction of the HHA or has exercised Portability, the following limitation applies:

#### **11.3.1 Initial Lease Term**

The HHA prohibits a Family from moving during the initial Lease term. If the Family vacates the Apartment in violation of the Lease, their Section 8 assistance may be terminated in accordance with Chapter 13 of this

Administrative Plan.

### **11.3.2 Exceptions to the Restriction**

- (a) The unit has been on Stop Payment for more than 30 days.
- (b) An HQS breach not caused by the Family is determined to be life-threatening.
- (c) The move is required as a Reasonable Accommodation for a Disabled Person.
- (d) There is mutual consent between the Owner and the Participant.
- (e) Other exceptions which the HHA deems it necessary for the Family to relocate.

### **11.3.3 Issuance of a Voucher**

The HHA will not issue a Voucher anytime that a Participant requests one, unless they have given the landlord the required thirty (30) days' notice, or the move is relative to owner Breach of Obligation.

## **11.4 Change of Ownership**

Upon notification in writing that ownership of an assisted unit has changed, the HHA will Stop Payment to the former Owner. In order for the HHA to begin payment to the new Owner, the former Owner must assign the HAP Contract and Lease to the new Owner. The new Owner must complete and sign an Owner/Agent Data Form and a W-9 form to verify tax reporting. The new Owner must also provide the HHA with a certified copy of the deed or attorney's letter documenting ownership along with a photo ID.

## **11.5 Eviction**

The Owner must notify the Family's Leasing Officer in writing when commencing eviction procedures against the Family. A copy of the eviction notice served on the Family to the Leasing Officer is sufficient notice. If the Family contests the Owner's decision to evict and refuses to leave the Apartment, the Owner must commence an eviction proceeding in a court of law.

## **11.6 Family Absence from a Unit**

Absence means that no member of the Family is residing in the unit.

### **11.6.1 Absence of up to Thirty (30) Days**

A Family may be absent from the unit for any reason for up to thirty (30) consecutive days.

### **11.6.2 Absence Greater Than Thirty (30) Days**

The Family may not be absent from the dwelling unit for more than thirty (30) days without HHA written approval. If the Family plans to be absent from the unit for more than thirty (30) days, the Family must request approval from the HHA in writing and provide documentation indicating the reason for the extended absence from the unit. An absence for greater than thirty (30) days may be approved by the HHA for reasons of health, rehabilitation, convalescence, incarceration or the personal needs of the Family. Failure to request and receive approval to be absent from the unit for more than thirty (30) days may result in termination of assistance.

### **11.6.3 Absence may not Exceed 180 Days**

A Family's absence from a unit assisted by the Section 8 program may not exceed 180 consecutive calendar days without exception. If a Family is absent from the unit for more than 180 consecutive calendar days the HHA shall terminate the HAP Contract for the unit.

## **11.7 Family Break-Up Policy**

A Family Break-Up occurs when one or more adult Household Members will no longer reside together and there is a dispute as to whom the subsidy will remain with. A Family Break-Up situation may often occur in instances including but not limited to divorce, separation, or protective order. When a Family Break-Up occurs, the HCVP assistance does not necessarily remain with the Head of Household. Any adult Household Member, Emancipated Minor, or adult assuming responsibility for one or more minor family members could retain the HCVP Assistance.

When the HHA receives notice that a Family has broken up or will imminently break-up, the HHA will make the determination of which Family member retains the HCVP assistance using the criteria and the procedure provided below.

### **The Violence Against Women Act- Landlord Rights and Responsibilities**

The Violence Against Women and Justice Department Reauthorization Act of 2005 protects qualified recipients of HUD assisted housing from adverse actions (evictions/terminations of assistance) solely as a result of being a victim

of domestic violence, dating violence or stalking.

HUD has recently issued a revised Housing Assistance Payments contract (form HUD 52641) and revised Tenancy Addendum (form HUD 52641A) that include the new VAWA provisions. When executing these revised forms, landlords should pay particular attention to Section 8 (e) in the HAP contract (pages 8-9) and Section 8 (e) (page 3) in the Tenancy Addendum, both titled *Termination of Tenancy by Owner, Protections for Victims of Abuse*.

The revised HAP Contract and Tenancy Addendum incorporate the following requirements:

- An incident or incidents of actual or threatened domestic violence, dating violence or stalking will not be construed as serious or repeated violations of the lease or other good cause for termination of the assistance or tenancy.
- Criminal activity directed related to abuse engaged in by a household member, guest or other person shall not be cause for termination of assistance if the tenant or an immediate member of the household is the victim or threatened victim of the abuse.
- The PHA may terminate assistance, or the owner may remove from the lease only the person who has committed the abuse against another family member.
- The Act does not limit the authority of a PHA to honor court orders addressing rights of access or control of property including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members.
- The Act does not limit the authority of an owner to evict or the PHA to terminate assistance for any violation not premised on the acts of abuse or violence as long as the individual who has been a victim is not subjected to a more demanding standard than other tenants.
- The Act does not limit the authority of an owner to evict or the PHA to terminate assistance to any tenant if the owner or PHA can demonstrate an actual and imminent threat to other tenants or to employees if the tenant is not evicted or terminated from assistance.
- The Act does not supersede any provision of any federal, state or local law that provides for a greater degree of protection.

Be aware that Section 8 landlords are subject to these provisions immediately, regardless of whether they have or have not executed the revised HAP contract or lease.

#### **11.7.1 Court Determination.**



If a court has determined the disposition of the Family's subsidy in a divorce or separation under a court order or court approved settlement (provided that no provision is against State or Federal Housing regulations), the HHA is bound by the court's determination as to which Household Members will continue to participate in the program. Such a determination cannot be appealed through the HHA review process, as it is the court's determination, and not the HHA's determination that governs.

### **11.7.2 HHA Determination**

When there is no court determination, the HHA determines which Household Members will continue to receive assistance if an assisted Family breaks up. In making this determination, the HHA shall consider the interests of all assisted family members. The HHA will use its discretion to decide which Household Members will receive the Voucher by taking into account the following factors:

- (a) The interests of any minor children;
- (b) The interests of any ill, Elderly or Disabled Persons who are family members;
- (c) Whether family members *fled* the unit because of actual or threatened violence by a spouse or other member of the Household (The HHA will take this factor into consideration regardless of whether the individuals leaving the unit are the victims or the perpetrators);
- (d) Whether the assistance should remain with family members remaining in the original assisted unit or those who have fled or left the unit;
- (e) The amount of time since the Household Members were added to the Family Composition. The HHA will consider this factor, on a case-by-case basis, the circumstances surrounding a Household Member's being added or not having been added to the Household.

### **11.7.3 Notice of Proposed Disposition of Subsidy**

When the HHA receives notice that a family has broken up or will imminently break up, the HHA will make an initial determination under section 11.7.2 regarding which Household Members shall retain the Section 8 voucher, including the person who will be regarded as the new Head of Household or Co-Head of Household, and shall notify all adult

Household Members (and other adults as may be required by section 11.7.8) of this determination. Notice shall be sent to any and all addresses identified by such adults, and not solely to the last address for the Head of Household. The notice shall describe what factors HHA utilized in arriving at its decision. The notice also states that any adult Household Member has twenty (20) days to request a review of the decision.

#### **11.7.4 Right to Appeal HHA's Initial Determination**

If a Household Member (or another adult as described in section 11.7.8) disagrees with the HHA's determination regarding which person(s) shall retain the Voucher, that person may appeal the decision. The request for a hearing must be in writing and filed at the HHA Leased Housing Division within twenty (20) days of the date of the HHA's notice.

#### **11.7.5 Procedure for Informal Hearings Regarding Family Break-Up**

If any Family member files a request for a hearing disputing the HHA's Family Break-Up decision, the HHA Leased Housing Division shall conduct a hearing to review that decision. All adult Family members (and other adults as may be required by section 11.7.8) shall be given notice of the hearing date. The hearing will be conducted by a person who did not make or is not the subordinate of the person who made the initial determination. The person requesting the hearing shall have the right to review those portions of the file involved in the HHA's decision except that the HHA will redact any information, including addresses where applicable, which could compromise the safety of any person. The HHA may alter its usual hearing procedure and rules, consistent with applicable law, to assure the safety of all individuals who may be participating in the proceeding.

The person conducting the hearing shall issue a written decision within fourteen (14) days from the close of the hearing record. The decision shall be sent to all adult Household Members (and other adults as may be required by section 11.7.8).

#### **11.7.6 Assistance Pending the Exhaustion of Right of Review**

The HHA will not issue a voucher for relocation based on a Family Break-Up determination under section 11.7.2 until the time period has elapsed for requests for informal hearing or, if a request for an informal hearing has been made, until there has been a hearing decision. Hearing decisions will be issued within fourteen (14) days of the close of the hearing record. HHA will continue to pay assistance under the existing HAP contract until the appeal period has elapsed or a hearing decision has issued, whichever is later; assistance thereafter shall be in

accordance with the HHA's Family Break-Up determination or hearing decision.

#### **11.7.7 Recertification of Family's Income and Change in Rent Share**

Where there has been a Family Break-Up, and following the court or HHA Family Break-Up determination (and exhaustion of the HHA review process, where applicable), a subsequent change in the Head of Household occurs, the HHA will immediately remove the prior Head of Household from the Family Composition and recalculate the family's rent share to reflect the current Family Composition in accordance with the provisions of section 7.1.3 of this Administrative Plan. Any change in the Family's Share of rent will be effective retroactive to the first of the month following the date the Family Break-Up occurred.

#### **11.7.8 Procedure Where There Is a Family Break-Up and Adults Who Are Not Currently Household Members Advance a Claim on Behalf of Minor or Incapacitated Household Members**

Where:

- (a) There has been a Family Break-Up with one or more remaining Minor Household Members; AND
- (b) One or more adults who are not currently Household Members advance a claim that they wish to become the Head of Household on behalf of one or more remaining Minor or incapacitated Household Members; AND
- (c) There is a dispute about who should become the Head of Household or Co-Head of Household, the HHA shall determine which such claimant shall take over the Voucher as Head of Household using the criteria under section 11.8.2 above.
- (d) In the event the remaining Household Member(s) is an incapacitated Adult who is unable to fulfill the Family obligations, the Residual Family Applicant must be an adult who has been appointed either a temporary or permanent guardian and is willing to assume the obligations and become a Participant in the HCVP and assume the responsibilities as Head of Household.
- (e) If the HHA determines that it would be appropriate to make an adult who is not currently a member of the assisted Household the new Head of Household on behalf of one or more remaining Minor Household Members, HHA may condition such approval on the adult's eligibility for the HCVP. Such adults who are not Household

Members shall be entitled to written notice and an opportunity for HHA review as provided above in the same manner as adult Household Members.

## **11.8 Residual Family Policy**

A remaining Household Member may apply to become the Head of Household, in the event of the death, departure or incapacity of the Head of Household. This person is referred to as a Residual Family Applicant for the purposes of this Administrative Plan. Application approval is contingent on the Residual Family Applicant and all Household Members meeting the criteria set forth below.

### **11.8.1 Qualifications for Residual Family**

In order to assume the status of Head of Household and continue as a Participant under this policy, the Residual Family Applicant must be:

- (a) An Adult who was a Household Member at the last annual Recertification and whose income was recorded and considered in the rent computations during the period of hi(s)her participation, unless he/she was without income or was a Full-Time Student; OR
- (b) In the event the remaining Household Member(s) consists only of Minor children, the Residual Family Applicant must be an adult, or a court granted Emancipated Minor or an adult, who has been appointed either a temporary or permanent guardian, or is the natural parent of one or more Household Members, and is willing to assume responsibility for the Apartment and the remaining Family members, and is willing to become a Participant and Head of Household in the Section 8 program; OR
- (c) In the event the remaining Household Member(s) is an incapacitated adult who is unable to fulfill the Family obligations, the Residual Family Applicant must be an adult who has been appointed either a temporary or permanent guardian, and is willing to assume the obligations and become a Participant in the Section 8 Program and assume the responsibilities as Head of Household; AND
- (d) The Residual Family Applicant and Family, if any, for Residual Family status must meet the eligibility requirements for Applicants as set forth in this Administrative Plan.

### **11.8.2 Calculation of Rent Once Residual Applicant Approved**

The HHA will calculate the Family Share and adjust the Voucher Size appropriately once the Residual Family Applicant has been approved. The rent will be retroactive to the date that the original Head of Household/Co-Head of Household left the unit.

### **11.8.3 Limitations of Policy**

The remaining Household Members will not become Residual Family, if the departing or incapacitated Head or Co-Head of Household: is relocating to another subsidized or non-subsidized Apartment, is purchasing a home, has an outstanding balance due to the HHA, or termination of the subsidy by the HHA is pending.

Remaining Household Members will not become a Residual Family, if the deceased Participant has an outstanding balance due to the HHA.

### **11.8.4 Residual Family – Right of Appeal**

A Residual Family Applicant who disagrees with a decision made by the HHA may request an informal hearing pursuant to 24 CFR section 982.555 and Chapter 13 of this Administrative Plan.

## **11.9 Ineligible for Continued Assistance**

### **11.9.1 Income Ineligible**

If thirty percent (30%) of the Family's Monthly Adjusted Income equals or exceeds the lower of the Gross Rent or the Payment Standard, the HHA will suspend subsidy for six (6) months. The HHA will inform the Family in writing of the suspension and its right to appeal the suspension through an informal hearing.

### **11.9.2 Resumption of the Subsidy**

If within six (6) months after notifying the Family of the suspension: (i) the Family's income share falls below the lower of the Gross Rent or the Payment Standard, (ii) the Contract Rent increases, or (iii) the Family moves to a new Apartment, the HHA will reexamine the Family's eligibility for participation in the HCVP upon the Family's request. If thirty percent (30%) of the Family's Monthly Adjusted Income is then less than the lower of the Gross Rent or the applicable Payment Standard, then the HHA will resume making assistance payments on behalf of the Family.

### **11.9.3 Termination of subsidy**

If the Family's income share does not fall below the lower of the Gross Rent or the applicable Payment Standard in six (6) months, the HHA will terminate the Family's assistance.

## **Chapter 12: Portability**

A Housing Choice Voucher Holder or a Participant has the right to receive tenant-based assistance outside the HHA Jurisdiction. The Voucher Holder or Participant may lease a unit anywhere in the United States, in the jurisdiction of a Public Housing Authority. The HHA will brief Participant Families on Portability in an oral presentation when they receive their Voucher. The briefing packet provided to Families will also contain information about Portability.

### **12.1 Portability Requirements for Applicant Families**

#### **12.1.1 Applicant Families Residing Outside of Town of Huntington**

The HHA Jurisdiction is anywhere within the Town of Huntington.

Families on the HHA waiting list in which neither the Head of Household nor the spouse has a Domicile within the HHA Jurisdiction at the time of initial application have a right to Portability.

When such Families reach the top of the waiting list, they will be offered the opportunity to use a Voucher to locate an assisted unit within the HHA Jurisdiction or within another jurisdiction.

#### **12.1.2 Applicant Families within HHA Jurisdiction**

A Family that has not yet leased a unit under the HCVP is eligible for Portability if the Head of Household or spouse has a Domicile within HHA Jurisdiction at the time the application was submitted.

***Verification of Domicile.*** A Lease, school records, or voter registration are acceptable forms of documentation to verify Domicile.

### **12.2 When an Assisted Family Moves into the HHA Jurisdiction**

#### **12.2.1 HHA Procedure for Receiving Families**

When a Family with HCVP assistance from another Jurisdiction arrives at the HHA, the HHA will issue the Family a Housing Choice Voucher to enable the Family to conduct a housing search within the HHA Jurisdiction. The Voucher issued by the HHA may not expire before the expiration date established by the Initial Housing Authority. If the Voucher has already expired when the HHA receives the paperwork from the Initial Housing Authority, the HHA will refer the incoming portable Family back to the Initial Housing Authority, who may decide to extend the Voucher term and the billing deadline. HHA (the Receiving Housing Authority) policies and procedures as the regarding extensions and Voucher term shall apply. In addition, the HHA will use its own Subsidy Standards to determine the appropriate Voucher Size for a Family that will be administered by the HHA.

The HHA will inform the Initial Housing Authority immediately whether it will absorb or administer the Family's Housing Choice Voucher assistance, and if it approves an extension to the Voucher term or changes the Family's Voucher Size.

The HHA's Payment Standards are used when the portable Family Leases a unit. The HHA will inform the incoming Family of the HHA's policies and Payment Standards before the Family begins its housing search.

The HHA may delay approval of the unit or issuance of the Voucher if the Family refuses to comply with HHA procedures (such as completing disclosure forms or certifications). The HHA may not delay issuing a voucher unless recertification is necessary to determine income eligibility. If the HHA is refusing to process or provide assistance under the Portability procedures, the Family will be given the opportunity for an informal review or hearing in accordance with Chapters 5 and 13 of this Administrative Plan.

### **12.2.2 Absorb or Administer**

The HHA has the option to *administer* the subsidy on behalf of the Initial Housing Authority or to *absorb* the portable Family into its own Housing Choice Voucher Program. The Receiving Housing Authority must promptly inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable Family or will absorb the portable Family into its own program.

#### **(a) *Administer the Voucher***

If the HHA decides to administer the Initial Housing Authority's Housing Choice Voucher assistance, the housing assistance for

the portable Family comes from the Initial Housing Authority's Housing Choice Voucher allocation.

When the HHA administers the subsidy, the Initial Housing Authority will retain twenty percent (20%) of the ongoing Administrative Fee for that Housing Choice Voucher unless both the Initial Housing Authority and the HHA (Receiving Housing Authority) reach a different agreement. The Initial Housing Authority may also be eligible for a preliminary fee if the portable Voucher is part of a funding increment awarded during the first twelve (12) months of the PHA's Housing Choice Voucher Program.

The HHA will bill the Initial Housing Authority for the full amount of the Housing Assistance Payment and eighty (80%) percent (or another amount agreed to by both PHAs) of the ongoing Administrative Fee earned by the Initial Housing Authority.

The HHA may change its decision to administer a Voucher and decide to absorb at any time in the future.

(b) *Absorb the Voucher*

The HHA may absorb the portable Family into its own program once the HAP contract is executed on behalf of the incoming Participant Family by the HHA. The HAP contract must be executed within the HHA Jurisdiction for the Absorption to take place. If the HHA decides to absorb the portable Family, funds from the HHA's consolidated ACC will pay for the Family's housing assistance. The HHA will specify the effective date of the Absorption to the Initial Housing Authority.

### **12.2.3 Extensions and Suspensions of a Portable Voucher**

The HHA will grant extensions and suspensions to a holder of a portable Voucher in accordance with the same standards it uses to grant extensions for Participants or Applicants within the HHA Jurisdiction who are not exercising Portability. See section 7.2.

(a) Extension that Extends After Initial Housing Authority Expiration Date



If the HHA is the Receiving Housing Authority and provides an incoming portable Family with search time beyond the expiration date of the Initial Housing Authority's Voucher, it must inform the Initial Housing Authority of the extension and should bear in mind the billing deadline provided by the Initial Housing Authority.

Unless willing and able to absorb the Family, HHA will ensure that any Voucher expiration date will leave sufficient time to process a RTA, execute a HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) so that it will be received by the Initial Housing Authority by the deadline date (See section 12.6 on billing).

#### **12.2.4 On-going Responsibilities of the Receiving PHA**

After a portable Family Lease in the HHA Jurisdiction is up, the HHA is responsible for conducting all interim and annual reexaminations for the Family and all HQS inspections of the Family's unit. The HHA will send the Initial Housing Authority a copy of the updated Form HUD-50058 at each annual Recertification for the duration of the time the HHA is billing the Initial Housing Authority, regardless of whether there is a change in the billing amount.

Under a billing arrangement, the Initial Housing Authority must be informed of all changes affecting the Family's subsidy. After each interim and annual reexamination, the Receiving Housing Authority must send the Initial Housing Authority a completed form HUD52665 showing the new HAP amount with a copy of the form HUD50058 if the billing amount changes.

If the receiving PHA has absorbed the Family, the Family is no longer considered a portable Family. The Initial Housing Authority is no longer involved with the Family's subsidy. There is no billing and no communication on other details of the Family's occupancy.

## **12.3 When an Assisted Family Moves out of the HHA Jurisdiction**

### **12.3.1 Family Interest in Portability**

After a Family announces its interest in Portability, the HHA will provide the Family with information to help it contact the PHA in the Jurisdiction where the Family wishes to live. If this will be the Family's first Lease under the Housing Choice Voucher Program, the HHA will compare the Family's income to the applicable-income limit (typically the very low-income limit) for the community where the Family wants to move and determine if the Family will be able to Lease an Apartment with continued assistance in the Jurisdiction of their choice.

Addresses and telephone numbers for PHAs around the country are available on HUD's web site: [www.hud.gov](http://www.hud.gov).

### **12.3.2 Decision to Move Outside HHA Jurisdiction**

When the Family decides to move outside the HHA Jurisdiction the HHA will:

- (a) Contact the Receiving Housing Authority by phone, fax, or email to alert that agency to expect the Family; and
- (b) Send the Receiving Housing Authority, by mail or facsimile, a completed form HUD-52665, Family Portability Information form.

### **12.3.3 Selecting the Receiving PHA**

When there is more than one PHA administering a Housing Choice Voucher Program within the Jurisdiction where the portable families want to move, the Initial Housing Authority has the authority to select the receiving PHA.

### **12.3.4 Limitations on Moving**

- (a) Participants who have utilized Portability to move outside the HHA jurisdiction are bound by the same limitations on moving as Participants not exercising Portability. See section 11.3.2. Thereafter, a move at the Family's request may not occur more than once in any twelve (12) month period. See section 11.3.2 for exceptions to this limitation.

**Exception:** A Receiving Housing Authority must absorb the Family to alleviate this limitation.

- (b) The HHA will not provide portable assistance for a Participant Family if the Family has moved out of its assisted unit in violation of the Lease. See 24 CFR 982.355 (b).

## **12.4 Portability Terminations**

The HHA may terminate a Family's assistance when it is acting as the Initial Housing Authority or the Receiving Housing Authority.

In cases where the HHA is the Initial Housing Authority and is terminating assistance, the Participant shall be advised of the reason for the termination as provided by the HHA and of the Participant's right to request a hearing of the terminating HHA. The result of decision rendered by the HHA (the Initial Housing Authority) is binding upon the Receiving Housing Authority. The Family's participation shall be terminated on the date specified in the hearing notice or at the end of the month following the month in which the HHA has notified the participant and the Owner of the termination, whichever is later.

## **12.5 Claims by Another PHA**

Any amounts owed by a Participant to an Initial Housing Authority, to any prior PHA, or to a Receiving Housing Authority which are the result of the Family's participation in a housing program while in the Jurisdiction of that PHA must be collected by that PHA. The HHA will not collect amounts owed to another PHA on behalf of that PHA.

Either PHA may contact the HUD state or area office for assistance in resolving Portability disputes between PHAs, although efforts to reach mutual agreements without HUD's involvement are encouraged. Frequently, involvement of management or executive staff at both agencies and agreement to use logs and other monitoring tools internally is all that is required.

## **12.6 Portability Billing Requirements**

### **12.6.1 Summary of Portability Billing Deadlines.**

Failure to meet the following deadlines may result in a reduction of administrative fees or a transfer of the amount of baseline units from one Housing Authority to another in accordance with HUD regulations and guidelines.

- (a) *Submission of Initial Billing Amount* (Part II of the Form HUD-52665) -- Receiving PHA must submit initial billing notice
  - (1) no later than ten (10) working days following the date the

HAP contract was executed and  
(2) in time that it will be received no later than sixty (60) days following the expiration date of the Family's Voucher issued by the Initial Housing Authority.

- (b) *Payment of First Billing Amount* -Initial Housing Authority makes payment within thirty (30) days of receipt of Part II of the Form HUD 52665 indicating billing amount.
- (c) *Payment of Subsequent Billing Amounts* – The Initial Housing Authority is responsible for ensuring that subsequent billing amounts are received no later than the fifth (5<sup>th</sup>) working day of each month for which the monthly billing amount is due.
- (d) *Notification of Change in Billing Amount or Other Action* – The receiving PHA notifies the Initial Housing Authority of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but in no circumstance any later than ten (10) working days following the effective date of the change.

## **CHAPTER 13: Termination of Assistance**

### **13.1 Definitions**

#### **13.1.1 Drug Related Criminal Activity**

- (a) The manufacture, sale, distribution, or use, or the possession with intent to manufacture, sell or distribute a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);
- (b) The use or possession (other than with intent to manufacture, sell or distribute) of a controlled substance, must have occurred within one year before the date that the PHA provides notice to an Applicant to deny Admission pursuant to 982.553.

#### **13.1.2 Violent Criminal Activity**

Violent Criminal Activity includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

#### **13.1.3 Termination Due to Domestic Violence**

The HHA will not terminate the assistance of a Family solely for the reason of being a victim of Domestic Violence, Stalking, Dating Violence, or Sexual Assault, unless there is an imminent threat to other tenants or

those employed at or providing service to the property if that participant is not terminated from the assistance.

## **13.2 Mandatory Termination**

The following chapter outlines the program violations for which the HHA can terminate a Family's assistance. Certain program violations allow the HHA to use its discretion in deciding whether or not terminate the Family's assistance. See section 13.3. The following are list of program violations which require the HHA to terminate the Family's assistance:

### **13.2.1 Eviction for Lease Violations**

The HHA must terminate program assistance for a Family evicted from federally assisted housing for serious violations of the Lease.

### **13.2.2 Consent Forms**

The HHA must terminate the assistance of a Participant if any Family member fails to sign the Consent forms as required in 24 CFR Part 5, Subparts B and F.

### **13.2.3 Evidence of Citizenship**

The HHA must terminate assistance if the Participant has failed to submit evidence of eligible immigration status or a form certifying that a Family member does not wish to claim eligible Citizen or non-Citizen status for each Family member, or because the Applicant or Participant cannot provide evidence of Citizen, National, or Eligible Non-Citizen Status for at least one Family Member pursuant to 24 CFR Part 5 (See Chapter 5 section 5.6 for requirements for evidence of Citizenship and immigration status).

### **13.2.4 Manufacture of Methamphetamine**

The HHA must permanently terminate assistance if a Participant has ever been convicted of Drug Related Criminal Activity as a result of manufacture or production of methamphetamine on the Premises of federally assisted housing. The Premises includes the dwelling, common areas, and grounds.

### **13.2.5 Sexual Offenders**

The HHA must deny admission to an applicant if the PHA determines that any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

#### **13.2.6 Eviction from Federally Assisted Housing/Debt to Housing Authority**

The U.S. Department of Housing and Urban Development maintains a national repository of debts owed to Public Housing Agencies (PHAs) or Section 8 landlords and adverse information of former participants who have voluntarily or involuntarily terminated participation in one of the above-listed HUD rental assistance programs. This information is maintained within HUD's Enterprise Income Verification (EIV) system, which is used by Public Housing Agencies (PHAs) and their management agents to verify employment and income information of program participants, as well as, to reduce administrative and rental assistance payment errors. The EIV system is designed to assist PHAs and HUD in ensuring that families are eligible to participate in HUD rental assistance programs and determining the correct amount of rental assistance a family is eligible for. All PHAs are required to use this system in accordance with HUD regulations at 24 CFR 5.233. If any member of the Family has been evicted from federally assisted housing for non-payment lease violations in the past five (5) years.

#### **13.2.7 Termination of Assistance**

If a Public Housing Authority has ever terminated assistance under the program for any member of the Family.

#### **13.2.8 Debt to Housing Authority**

- (a) If the family currently owes rent or other amounts the HHA or another Public Housing Authority in connection with Section 8 Program, public housing assistance under the U.S. Housing Act of 1937, or any other Publicly Assisted Housing Program.<sup>18</sup>
- (b) The Participant as a previous or current Participant in the Section 8 program has not reimbursed the HHA or another Public Housing Authority for amounts paid to an Owner under a Contract for rent or other amounts owed by the Family under the Lease.

- (c) If the Family breaches an agreement with the HHA to pay amounts owed to the HHA, or amounts paid to an Owner by the HHA.

### **13.2.9 Fraud**

If any member of the Family has committed fraud, bribery, or any other corrupt criminal act in connection with any Federal housing program.

### **13.3.0 Drug Related Criminal Activity**

The HHA will terminate assistance for a Participant Family when any Family member has engaged in Drug Related Criminal Activity if the HHA determines that:

- (a) Any Family Member is currently engaged in any illegal use of a drug; or
- (b) A pattern of illegal use of a drug by any Family member interferes with the health, safety or right to peaceful enjoyment of the Premises by other residents.

### **13.3.1 Alcohol Abuse**

The Participant's or a Family member's abuse or pattern of abuse of alcohol may threaten the health or safety of, or the right to peaceful enjoyment of the Premises by other residents.

- (a) A Participant's dependency on alcohol will not help to mitigate violations of the Participant's requirement to meet the obligations of the program.
- (b) The HHA may require a Family member whose abuse or pattern or abuse of alcohol has threatened the health or safety of, or the right to peaceful enjoyment of the Premises by other residents to submit evidence of participation in, or successful completion of, a treatment program as a condition preceding being allowed to reside in the unit.

### **13.3.2 Behavior towards HHA staff**

If the Family member has engaged in or threatened abusive or violent behavior towards HHA personnel.

### **13.3.3 Violation of Family Obligations**

The Participant has violated any Family obligation under the program by action or failure to act as listed in section 13.5.2 or as set forth in 24 CFR 982.551.

## **13.4 Termination of Assistance Due to Lack of Adequate Funding**

### **13.4.1 Background**

The HHA is prohibited from assisting Families over either its annual baseline number of Vouchers per its approved Annual Contributions Contract (ACC) with HUD or its Annual Housing Assistance Payments (HAP) Budget Authority from HUD. In the event that the HHA's Annual HAP Budget Authority is reduced to an amount that will no longer support the number of Families currently participating in the program, the HHA shall determine the number of families that must be terminated from assistance due to the lack of adequate funding from HUD. The HHA shall follow the steps outlined in this section in terminating assistance to families.

### **13.4.2 Excluded Families**

A Family in any of the following categories shall be excluded from any termination of assistance due to lack of funding from HUD:

- (a) Elderly Family,
- (b) Disabled Family

### **13.4.3 Determining Families to be Terminated**

The HHA shall terminate a Family based upon their date of admittance to the program. For this purpose, the HHA shall consider the Family's original Lease date under the HHA's Section 8 Program to be their date of admittance to the HCVP. The Family that was first admitted to the program, according to their Lease date, shall be the first to have assistance terminated due to the lack of adequate funding from HUD. The HHA will refer terminated Families to appropriate agencies to find available housing.

### **13.4.4 Resumption of Terminated Subsidies**

The HHA will allow terminated Families to resume their subsidy. If and



when subsidy is restored, the HHA will undertake a special analysis to determine which those Families previously terminated for lack of funding should receive housing Priority.

## **13.5 Family Obligations**

### **13.5.1 Tenants Informed of Family Obligations**

- (a) The HHA will supply the Family with a written description of the Family obligations
- (b) The Head of Household will sign the Family obligations at each annual Recertification to certify that he/she understands and will comply with the obligations of the program.

### **13.5.2 HCVP Family Obligations**

Participants in the HCVP must follow the Family obligations. Violation of the Family obligations by an act or a failure to act may result in termination of assistance.

This section states the obligations of a Participant Family under the program.

- (a) *Supplying required information.*
  - (1) The Family must supply any information that the HHA or the Department of Housing and Urban Development (HUD) determines necessary in the administration of the program, including submission of required evidence of Citizenship or eligible immigration status (as provided in section 4.6) as required by federal regulations. "Information" includes any requested certification, release or other documentation.
  - (2) The Family must supply any information requested by the HHA or HUD for use in a regularly scheduled reexamination of Family income and composition in accordance with HUD requirements. See section 10.1.1 for specific requirements.
  - (3) The Family must disclose and verify social security numbers (as provided by part 5, subpart B of 24 CFR) and must sign and submit Consent forms for obtaining information in accordance with part 5, subpart B of 24 CFR.
- (b) *HQS Breach Caused by Family.* The HHA may terminate a Participant from the Section 8 program for life threatening HQS violations that the Participant does not correct within 24 hours. The HHA may terminate assistance for non-life

threatening HQS violations that the Family does not correct the violation within thirty (30) days. The HHA may also terminate a Participant under this provision for one or more of the following reasons:

- (1) The Family fails to pay for any utilities that the Owner is not required to provide, but which are to be paid by the tenant.
- (2) The Family fails to provide and maintain any appliances that the Owner is not required to provide, but which are to be provided by the Family.
- (3) If any Family member or any guest damages the dwelling unit or common areas beyond ordinary wear and tear. An action for termination under this provision may be commenced for one or more of the following reasons:
  - i. A HHA Inspector determines that the damage was a result of intentional or reckless conduct. For the purpose of this section "reckless conduct" shall be defined as rash, heedless, wanton conduct; acting with indifference and/or disregard to the possibility or probability of causing damage to property of the Section 8 Family or the property of any other residents of the property;
  - ii. the damage was of such an extreme nature. The following factors may serve as a guideline to determine whether damage is considered to be extreme:
    1. number of identified areas damaged within the unit;
    2. the degree of damage beyond normal wear and tear.

**Note:** The examples above are not exclusive and a variety of authentic data relating to the damage/incident may be used either together or individually to determine if damage is extreme.

- (c) *Allowing HHA inspection.* The Family must allow the HHA to inspect the unit at reasonable times and after reasonable notice.

- (d) *Violation of Lease.* The Family may not commit any serious or repeated violation of the Lease
- (e) *Family notice of move or Lease termination.* The Family must notify the HHA, and the Owner before the Family moves out of the unit or terminates the Lease on notice to the Owner. The Family must give the HHA a copy of the thirty-day notice of termination that the Family gave to the Owner before the Family can move to a new Apartment with assistance.
- (f) *Owner eviction notice.* The Family must promptly give the HHA a copy of any Owner eviction notice. Promptly means within two weeks of receiving the eviction notice for the purposes of this section.
- (g) *Use and occupancy of the unit.*
  - (1) The Family must use the assisted unit for residence by the Family. The assisted unit must be the Family's only residence.
  - (2) All Family members residing in the unit must be approved by the HHA. The Family must promptly notify (within thirty (30) days) the Housing Authority of the birth, adoption, or court-awarded custody of a child. The Family must request and receive HHA approval before adding any other Family member as an occupant of the unit. No person other than members of the assisted Family may reside in the unit, except a foster child<sup>19</sup> or a Personal Care Attendant.
  - (3) The Family must promptly notify HHA (within thirty (30) days) that a Family member no longer resides in the unit.
  - (4) If the HHA has given approval, a foster child or a Personal Care Attendant may reside in the unit. See also the definition of Family in Chapter 18: Glossary.
  - (5) A Family Member may engage in legal profit-making activities in the unit, but only if such activities are incidental to the primary use of the unit for residence by members of the Family.
  - (6) The Family must not sublease or let the unit.

- (7) The Family must not assign the Lease or transfer the unit.
- (h) *Absence from the unit.* The Family must supply any information or certification requested by the HHA to verify that the Family is living in the unit, or relating to a Family absence of the unit, including any HHA requested information or certification regarding Family absences. The Family must cooperate with the HHA for this purpose. The Family must promptly notify (within thirty (30) days) the HHA of an absence from the unit. Absence means that no member of the Family resides in the unit. See also section 11.6.
- (i) *Interest in the unit.* The Family must not own or have an interest in the unit.
- (j) *Fraud and other program violation.* The members of the Family must not commit fraud, bribery, or any other corrupt criminal act in connection with the programs.
- (k) *Crime by Family Members.* The members of the Family may not engage in Drug-Related Criminal Activity or Violent Criminal Activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the Premises.
- (l) *Alcohol abuse by Family Members.* The members of the Family must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other Participants and persons residing in the immediate vicinity of the Premises.
- (m) *Other housing assistance.* An assisted Family, or any member of the Family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

## **13.6 Procedure for Terminating Assistance**

### **13.6.1 Proposed Termination Notice**

The Leasing Officer will send the Family a notice of proposed termination (by first class and certified mail). The notice will contain a brief statement with the reason for the proposed termination. The notice will also explain the Family's right to request an informal hearing if they disagree with the HHA basis for termination.

### **13.6.2 Failure to Respond to Termination Notice**

If the Family fails to respond within Ten (10) the HHA will send the Participant a thirty (30) day notice of termination (by first class and certified mail). The HHA will also send a copy of the letter to the Owner. The HHA will grant a request for a hearing when a Participant submits a late request but submits evidence of compelling circumstances that prevented the Participant from requesting a hearing within ten (10) days.

### **13.6.3 Reinstatement after Failure to Request a Hearing**

If the failure to request a hearing within ten (10) days is due to a documented disability, the HHA will reinstate the subsidy. See also HHA Reasonable Accommodation in Rental Assistance Policies and Procedures).

### **13.6.4 Private Conference**

The HHA will use its discretion to schedule a private conference with a Family in an attempt to resolve the alleged violation(s). The HHA has no obligation to schedule a private conference before the informal hearing.

## **13.7 Informal Hearings for Participant Families**

### **13.7.1 When an Informal Hearing must be offered to a Family**

The HHA will offer a Family participating in the program an informal hearing for the following reasons:

- a) A determination of the Family's annual or adjusted income, and the use of such income to compute the Housing Assistance Payment;
- (b) A determination of the appropriate Utility Allowance (if any) for tenant-paid utilities from HHA allowance schedule;
- (c) A determination of the Family Unit Size under the HHA Subsidy Standards;
- (d) A determination to terminate assistance for a Participant Family because of the Family's action or failure to act;
- (e) A determination to terminate assistance because the Family has been absent from the assisted unit for longer than the maximum period permitted under HHA policy and HUD rules. See section 13.5.2(h);

- (f) A determination to deny a Reasonable Accommodation;
- (g) A determination to deny assistance under the HHA's Residual Family policy.

### **13.7.2 When an informal hearing is not required**

The HHA is not required to provide a Participant Family an opportunity for an informal hearing for any of the following:

- (a) Discretionary administrative determinations by the HHA;
- (b) General policy issues or class grievances;
- (c) Establishment of the HHA schedule of Utility Allowances for families in the program;
- (d) A HHA decision not to approve an extension or suspension of a Voucher term;
- (e) A HHA determination not to approve a unit or tenancy;
- (f) A HHA determination that an assisted unit is not in compliance with HQS;
- (g) A HHA determination that the unit is not in accordance with HQS because of the Family size;
- (h) A HHA determination to exercise or not to exercise any right or remedy against the Owner under a HAP contract;

### **13.7.3 Notice to the Family to Request an Informal Hearing**

- (a) In the cases described in sections 13.6.1(a), (b), and (c), the HHA will notify the Family of the basis for the HHA determination. The HHA will attempt to schedule a private conference in accordance with section 13.6.5 and section 8.6 in these situations. If a resolution cannot be reached at the Private Conference, the HHA will notify the Family in writing that the Family may request an informal hearing within ten (10) days.
- (b) In the cases described in sections 13.7.1(d), (e), (f), and (g), the HHA will notify the Participant as explained in section 13.5.

### **13.7.4 Expeditious Hearing Process**

The HHA will hold a hearing and issue a decision within fourteen (14) business days from the date the hearing request was made. The Family will continue to receive assistance while a decision is pending.

### **13.7.5 Hearing Procedures**

- (a) *Time to request a hearing.* The Participant has ten (10) days from the date of the proposed termination letter, except in non-Citizen Rule cases where the time period shall be thirty (30) days from the date of the notice of termination of assistance for any Family member.
- (b) *Scheduling.* The HHA will schedule an informal hearing upon the receipt of a Participant's written request. The Participant will be given at least fourteen (14) days' notice prior to the hearing date.
- (c) *Discovery.*
  - (1) The HHA will give the Family the opportunity to examine before the hearing, any documents in HHA's possession that are directly relevant to the hearing. The HHA will allow the Family to make copies of the relevant documents before the hearing at the Family's expense. The HHA will also allow a representative of the Family with an authorized release may have access to the file. If the HHA does not make the document available to the Family for examination upon request, then the HHA may not rely on the document at the hearing.
  - (2) The Family must allow the HHA to examine any Family documents that are directly relevant to the hearing before the hearing upon request. The Family must allow the HHA to examine the relevant documents at the HHA and the Family will allow the HHA to copy the relevant documents at the HHA's expense. If the Family does not make the document available to the HHA for examination upon request, then the Family may not rely on the document at the hearing.
  - (3) Either party may request an extension if required to rebut documents that were not provided to the opposing party prior to the hearing. Extensions will be granted at the discretion of the hearing officer.
- (d) *Postponement.*  
Will not be granted unless the legal representative or the

participants have provided the HHA with prior written notification forty- eight (48) hours in advance.

- (e) *Representation of Family.* At its own expense, the Family may be represented by a lawyer or other representative of the Family's choice.
- (f) *Evidence.* The HHA and the Family will each be given the opportunity to present evidence and question any witnesses. The Hearing Officer may consider evidence without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- (g) *Hearing Officer.* Any designated HHA employee may conduct the informal hearing, other than a person who made the decision under review or his or her subordinate. The person who conducts the hearing may regulate the conduct of the hearing in accordance with the HHA's hearing procedures.
- (h) *Extensions.* The hearing officer may use discretion to grant an extension or continue the hearing to hear additional evidence.
- (i) *Issuance of Decision.* The hearing officer shall make a factual determination relating to the individual circumstances of the Participant based on a preponderance of the evidence presented at the hearing. The hearing officer may also take into consideration any mitigating circumstances presented by the Participant. The hearing officer shall promptly render a written decision (within fourteen (14) days of the hearing) stating briefly the reasons for the decision. The hearing officer will send a copy of the decision to the Family by certified and first-class regular mail. The hearing officer will also forward a copy of the decision to the Leased Housing Division and the Leasing Officer.
- (j) *Failure to attend the hearing.* The HHA may terminate the subsidy, if the Participant did not attend the hearing and did not attempt to reschedule within twenty-four (24) hours prior to hearing. The HHA will reschedule hearing when a Participant submits evidence of compelling circumstances that prevented the Participant attending the hearing on the scheduled date. If the Participant does not attend the hearing because the scheduling notice was not received due to the Participant's failure to give the HHA the correct and



most current address, the HHA may terminate the subsidy.

(k) *Effect of Decision.*

- (1) If the decision to terminate the Family's assistance is **upheld**, the Family will no longer receive assistance under the Section 8 program. The Leased Housing Division will promptly send the Owner and the Participant a 30-day notice of termination. There is no additional opportunity to appeal the hearing officer's decision within the HHA. While a participant will always have an opportunity to engage the HHA Board of Commissioner, in order to preserve their rights, they must utilize the Section 78 Appeal process to appeal a fair hearing.
- 2) If the decision to terminate the Family's subsidy is **reversed**, the Family will continue to receive assistance under the Section 8 program and will be considered a participant in good standing.
- (3) The Administrator or his or her designee may find that the HHA is not bound by an informal hearing decision:
  - (i) concerning a matter for which the HHA is not required to provide an opportunity for an informal hearing, or that exceeds the authority of the person conducting the hearing, or
  - (ii) is contrary to HUD regulations or requirements, or otherwise contrary to federal, State or local law.

Under such circumstances, the Administrator or his or her designee will make the determination to continue or terminate Participant's assistance. The HHA will promptly notify the Participant of the determination, and of the reasons for the determination. There will be no further opportunity to appeal the decision.

## CHAPTER 14: GENERAL ADMINISTRATIVE PROCEDURES

### 14.1 Fraud and Criminal Acts Against the HHA

### **14.1.1 Fraud Defined**

Fraud is an intentional misrepresentation of the truth or concealing of material fact to induce another to act to his or her detriment.

### **14.1.2 Fraud by a Family**

- (a) *Family fraud against the HHA.* Examples of fraud by a Family against the HHA include, but are not limited to:
  - (1) Misrepresentation of income, Assets, or deductions;
  - (2) Misrepresentation of the Family's residence or composition;
  - (3) Subletting or assigning the Apartment;
- (b) *Termination or denial of assistance.* The HHA will propose termination of the Participant's assistance in accordance with Chapter 9 or deny assistance, in accordance with Chapter 5, to an Applicant who commits fraud. The HHA may use its discretion to enter into a repayment agreement with a family.
- (c) *Fraud Reporting.* The HHA may report any incident of Fraud to the HUD Office of the Inspector General or any other applicable law enforcement agency.

### **14.1.3 Owner Fraud and Program Abuse**

- (a) Examples of fraud and program abuse by an owner include, but are not limited to:
  - (1) Providing false information on a RTA;
  - (2) Collecting extra or side rent payments from the Participant;
  - (3) Collecting assistance for Apartments not occupied by eligible families;
  - (4) Filing false vacancy loss or damage claims; or
  - (5) Bribing, or attempting to bribe, a HHA employee.
- (b) *Action for Owner Fraud or Program Abuse.* In cases of suspected or alleged Owner fraud, the Leasing Officer will ask the Owner for an explanation of the suspected or alleged abuse. If the Owner is

found to have intentionally abused the program, the HHA shall cancel the HAP Contract (issuing the Family a new Voucher) and require the Owner to reimburse the HHA for extra or excessive HAP payments, overcompensated claims for vacancy loss, unpaid Participant Rent, or damages. The HHA may require the Owner to reimburse the participant for any overpayment, unauthorized side agreements, or utility costs. The HHA will ask the Owner for proof that the matter has been resolved. In addition, the HHA may refuse to enter into a new HAP contract with such an Owner.

## **14.2 Special HHA Analysis**

### **14.2.1 Analysis of Utility Costs**

The HHA will review Utility Allowances annually. The HHA will establish new Allowances if old Utility Allowances are inadequate. The HHA will revise its Utility Allowance for a utility category if there has been a change of ten percent (10%) or more in the utility rate since the last Utility Allowance revision. The Administrator or his or her designee will approve all adjustments to the Utility Allowance schedules. The HHA will retain the documentation utilized in the annual review for seven (7) years.

### **14.2.2 Analysis of Rental Opportunities**

To provide assistance in further expanding housing opportunities for Voucher holders, the HHA may periodically analyze rental prices both within and outside of the city, especially in areas with relatively low poverty and low concentrations of assisted housing, to determine whether the current Payment Standards allow families to find housing in a broad variety of areas. The HHA may also seek general adjustments or neighborhood exceptions from HUD as appropriate.

### **Owner Recruitment**

PHAS are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participant in the HCV program. To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

### **THHA POLICY**

THHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. THHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- \*Website will have a video with information for new owners.
  - \*Contact property owners and managers by phone or in person.
  - \*Hold owner recruitment / information meetings.
  - \*Develop working relationships with owners and real estate brokers associations.
- Outreach strategies will be monitored for effectiveness and adapted accordingly.

### **14.2.3 Housing Assistance Payments Register Review**

On a monthly basis the Administrator or his or her designee shall review the Housing Assistance Payments register to ensure that it is current and reflects changes in payment due to Owners of units assisted under the Section 8 program.

### **14.2.4 Revising the Payment Standard; Affordability Adjustments**

The Payment Standard established by the HHA will never exceed the greater of 110% of Fair market rent or an exception Payment Standard. The Payment Standard shall not be less than 90% of the Fair market rent.

- (a) When a new *Payment Standard is Applied*. The HHA will apply the Payment Standard that is effective on the date the initial Lease and HAP Contract are effective. The HHA will change a Family's Payment Standard if a new Payment Standard is in effect at the Family's annual reexamination or when the Family relocates.
- (b) *The Review Process*. On a periodic basis, the HHA will review the Participant Share of Rent for families subsidized under the Voucher program. If the rent burdens are determined to be high, the HHA may decide to adjust the Payment Standard upward. In no instance shall the Payment Standard be raised above 110% of the Fair Market Rents except for Reasonable Accommodation and

exceptional Payment Standards.

- (c) In the case of a Reasonable Accommodation request by a Disabled Person for a Payment Standard of 120% of the Fair Market Rent, where the requisite verification of the disability or handicap and the higher Payment Standard would accommodate the disability or handicap, the HHA will seek HUD approval of a higher Payment Standard.
- (d) *Local Factors.* The HHA will take into consideration local factors when reviewing the applicable Payment Standards. Survey and research data will be utilized to review any overall increase in rental prices for the city and their effect on Voucher subsidy holders.

### 14.3 Periodic Review of Administration

The Leased Housing Division will periodically review its procedures and revise them as necessary to accomplish its goals more efficiently and effectively and to assure compliance with the requirements of the Section 8 Management Assessment Program (SEMAP), and applicable federal, State, and local laws. The review and revision of this Administrative Plan is an example of such an undertaking.

## 15: Glossary

### Chapter

**Absorption** - In Portability, the point at which a Receiving Housing Authority stops billing the Initial Housing Authority for assistance on behalf of a portable Family.

**Adjusted Annual Income** - Annual Income of all family members, as verified by the HHA, after deductions, exceptions and exclusions are made with respect to each of the members of the Family to determine initial and continued program eligibility.

**Administrative Fee** - Fee paid by HUD to the HHA for the administration of the program.

**Administrative Plan** - This plan that describes the HHA policies for the administration of the HCVP.

**Administrator** - The chief executive officer of the HHA.

**Admission** - The point when the Applicant Family becomes a Participant in the program. In a tenant-based program, the date used for this purpose is the effective

date of the first HAP Contract for a Family (first day of initial Lease term).

**Adult** - A Family Member who is 18 years or older, or who is the Head of the Household, or spouse, or Co-Head.

**Agency Determination Form** - The form used by the HHA to calculate the term of the Voucher and notify the Applicant or Participant of any Suspension period due to the submission of an RTA or an Extension granted by the HHA.

**Agency Plan** - The HHA Agency Plan is a comprehensive guide to HHA policies, programs, operations, and strategies for meeting local housing needs and goals. There are two parts to the HHA Plan: The Five-Year Plan, which the HHA submits to HUD once every fifth year, and the Annual Plan, which is submitted to HUD every year.

**Annual Contributions Contract (ACC)** - The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the HCVP, and the HHA agrees to comply with HUD requirements for the program.

**Annual Income** -

(a) **Annual income** means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this definition.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) **Annual income** includes, but is not limited to (See 24 CFR 5.609):

- (1) The full amount before any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets

from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b) (2) of this definition. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this definition);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this definition);
- (6) Welfare assistance payments.
  - (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
    - (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
    - (B) Are not otherwise excluded under paragraph (c) of this section.
  - (ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
    - (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

- (B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
- (8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)
  - (a) Annual income does not include the following:
    - (1) Income from employment of children (including foster children) under the age of 18 years;
    - (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the participant family, who are unable to live alone);
    - (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
    - (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
    - (5) Income of a Personal Care Attendant, as defined in section 5.4.2 of this Administrative Plan;
    - (6) The full amount of student financial assistance paid directly to the student or to the educational institution;
    - (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
      - (i) Amounts received under training programs funded by HUD;



- (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;
  - (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;
  - (v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
  - (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
  - (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

- (12) Adoption assistance payments in excess of \$480 per child;
  - (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
  - (14) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
  - (15) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
  - (16) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.
- (d) Annualization of income. If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

**Apartment** - Residential space for the private use of a Family. Also referred to as a unit.

**Applicant (Applicant Family)** - A Family that has applied for Admission to a program but is not yet a Participant.

**Assets** - Assets generally means cash which is accessible to a person including: checking and savings accounts, stocks, bonds, equity in real property, and the cash value of tangible personal property such as furniture, automobiles and household effects. (Certain types of tangible personal property are included, such as coin collections or jewelry, but essential tangible personal property reasonably necessary for everyday living, such as furniture and automobiles are not included. For included real or personal property holdings, the value of the asset is the cash amount that would remain if the resident converted the asset to cash and deducted any outstanding mortgages, liens or selling expenses.)

**Assisted Lease (Lease)** - A written agreement between an Owner and a Family for the leasing of a dwelling unit to the Family. The Lease establishes the conditions for occupancy of the dwelling unit by a Family with Housing Assistance Payments under a HAP contract between the Owner and the Housing Authority.

**Area Median Income (AMI)** - The median income of the Nassau/Suffolk County area as determined by HUD.

**Child** - For purposes of Citizenship regulations, a member of the Family other than the Family head or spouse who is under 18 years of age.

**Child Care Expenses** - Amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to actively seek employment, be gainfully employed, or to further his or her education, and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen** - A Citizen or National of the United States.

**Co-Head of Household** - A person who, with the Head of Household, assumes the responsibility and accountability for the Family and signs the Lease. The Co-Head of Household is equal to and has the same rights and responsibilities as the Head of Household.

**Congregate housing** - Housing for elderly or persons with disabilities that meets the HQS for congregate housing.

**Consent Form** - Any Consent form approved by HUD to be signed by assistance Applicants and Participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The Consent forms may authorize the collection of other information from assistance Applicants or Participants to determine eligibility or level of benefits.

**Continuously Assisted** - An Applicant is Continuously Assisted under the 1937 Housing Act if the Family is already receiving assistance under any 1937 Housing Act program when the Applicant becomes a Participant in the HCVP. Brief interruptions in assistance caused by transitioning from one form of assistance under one 1937 Act program to another will not be considered to break the continuity of assistance where the reason for the transition was through no fault of

the family, including but not limited to, the expiration of a HAP contract for a project-based development or termination of a HAP contract for owner breach or other extenuating circumstances.

**Contract Rent** - The monthly rent payable to the Owner under the Lease and any amendments. The Contract Rent covers payment for any housing services, maintenance, and utilities that the Owner is required to provide and pay for.

**Dating Violence** - The term Dating Violence means violence committed by a person:

- (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) where the existence of such a relationship shall be based on a consideration of the following factors:
  - (1) The length of the relationship.
  - (2) The type of the relationship.
  - (3) The frequency of interaction between the persons involved in the relationship.

**Dependent** - A member of the Family (except foster children and foster adults) other than the Head of Household, Co-Head of Household, spouse, or Emancipated Minor who is under 18 years of age, or is a Disabled Person, or is a Full-time student.

**Disabled Family** - A Family whose head, spouse, or sole member is a Disabled Person; or two or more Disabled Persons living together; or one or more Disabled Persons living with one or more Personal Care Attendants

**Disabled Person** - For program eligibility, a person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423).

For Eligibility in Federally-Assisted Housing – A person who:

- (i) Has a disability defined as an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or, in the case of a person who has attained the age of 55 and is blind, the inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he or she has previously engaged with some regularity and over a substantial period of time, or
- (ii) Has a physical, mental, or emotional impairment which is expected to be of long continued and indefinite duration, which substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions, or
- (iii) Has a developmental disability which is a severe, chronic disability of an individual 5 years or older which is attributable to a mental or physical impairment or combination of impairments and which is manifested before the age of 22 and is likely to continue indefinitely and which results in substantial functional limitations in three or more of the following areas of major life activity (self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living and economic self-sufficiency), and which reflects the individual's need for assistance that is lifelong or of extended duration and is individually planned and coordinated. Such term shall not exclude persons who have the disease acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS. For all purposes other than Eligibility, a person with a physical or mental impairment which substantially limits one or more life activities, or has a record of such impairment, or is regarded as having such an impairment.

*• No individual shall be considered a person with a disability solely because of drug or alcohol dependence.*

**Displaced Person** - a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.” See also 24 C.F.R. section 5.403’s definition of “displaced family”.

**Domestic Violence** - felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating or has cohabited with the victim as

a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction. Domestic Violence also includes dating violence, stalking, and sexual assault. The HHA will form its Domestic Violence policies in accordance with Federal, State and local laws.

**Domestic Violence (for Priority Determination)** - continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the Household Members by another Household Member or by a non-Household Member residing in the dwelling unit;

**Domicile** - The legal residence of the Family as determined in accordance with State and local law.

**Drug Related Criminal Activity** - Illegal use of a controlled substance, and the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use, of a controlled substance.

**Elderly Person** - A person who is at least sixty-two (62) years of age.

**Eligible Non-Citizen Status** - The admittance of a Non-Citizen to the United States under one of the following categories:

- (1) A Non-Citizen lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20), excluding, among others, Non-Citizen visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
- (2) A Non-Citizen who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) [8 USCS section 1259];
- (3) A Non-Citizen who is lawfully present in the United States pursuant to an Admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

- (4) A Non-Citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5))
- (5) A Non-Citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243 (h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));
- (6) A Non-Citizen lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act [8 USCS section 1255a].

**Emancipated Minor** - Minor (under 18 years old) with a child who has otherwise established him/herself as a non-Dependent individual.

**Extremely Low-Income Families** - Those families whose incomes do not exceed thirty percent (30%) of the median income for the area, as determined by HUD with adjustments for smaller and larger families.

**Fair Housing Act** - Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

**Fair Market Rent (FMR)** - The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

**Family** -

- (1) Two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together;
- (2) This definition includes single persons.
- (3) Other persons, including foster children, Personal Care Attendants and members temporarily absent (including children temporarily assigned to foster care), may be considered a part of the household if they are living or will live regularly with the Household.

**Family Break-Up** - A Family Break-Up occurs when one or more adult Household Members will no longer reside together and there is a dispute as to whom the

subsidy will remain with. A Family Break-Up situation may often occur in instances including but not limited to: divorce, separation, or protective order. When a Family Break-Up occurs, the HCVP assistance does not necessarily remain with the Head of Household. Any adult Household Member, Emancipated Minor, or adult assuming responsibility for one or more minor family members could retain the HCVP Assistance.

**Family Composition** – See Household

**Family Share** - The portion of rent and utilities paid by the Family or the Gross rent minus the amount of the Housing Assistance Payment.

**Family Unit Size** - The appropriate number of bedrooms for a Family as determined by the housing authority under the HHA's Subsidy Standards.

**Full-Time Student** - a person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution shall include but not be limited to: college, university, secondary school, vocational school, or trade school.

**Gross rent** - The sum of the rent to the Owner plus any utility allowances.

**Head of Household** - means the member who assumes the responsibility and accountability for the Household and signs the Lease.

**Homeless** - A Household that lacks a fixed, regular and adequate nighttime habitation OR the primary nighttime dwelling is one of the following:

- A supervised public or private shelter designed to provide temporary living accommodations (includes welfare hotels, congregate shelters and transitional housing);
- A public or private place not designed for, or ordinarily used as, a regular sleeping place for human beings.

**Household (Family Composition)** - All persons residing in an Apartment who are listed on the HUD 50058 as Household Members. The Household may include an approved PCA, who resides in the Apartment.

**Household Member** - A person residing in an Apartment who is listed on the HUD 50058 form as a Household Member. A Household Member may be an approved PCA who resides in the Apartment. Household Members are listed on the HUD-50058.



**Housing Assistance Payment (HAP)** - The monthly assistance by the HHA or another housing authority paid to the Owner in accordance with the HAP Contract.

**HAP Contract** - The contract that governs the monthly assistance paid by the HHA to the Owner.

**Housing Quality Standards (HQS)** - The HUD minimum quality standards for housing assisted under the Section 8 program.

**Housing Choice Voucher** - A document issued by the HHA to an eligible Applicant selected for admission to the HCVP or issued to a Participant during a relocation process. This document describes the program and what the eligible Applicant must do to lease an Apartment. The Voucher also states the obligations of the Family under the program. No Housing Choice Voucher will be effective for more than 120 days.

**Housing Choice Voucher Holder** - An Applicant or Participant Family that has an unexpired Housing Choice Voucher.

**Housing Choice Voucher Program (HCVP)** - The program that HUD pays rental subsidies so eligible families can afford decent, safe, and sanitary housing.

**HUD (U.S. Department of Housing & Urban Development)** - The federal department responsible for the Section 8 and public housing program as provided for in the 1937 Housing Act.

**Imputed Welfare Income** - The amount of Annual Income not actually received by a Family, as a result of a specified welfare benefit reduction, that is nonetheless included in the Family's Annual Income for the purposes of determining rent.

**Initial Housing Authority** - In Portability both: (1) a housing authority that originally selected a Family that later decides to move out of the Jurisdiction of the selecting housing authority, and (2) a housing authority that absorbed a Family that later decides to move out of the Jurisdiction of the absorbing housing authority.

**Initial Payment Standard** - The Payment Standard at the beginning of the HAP contract term.

**Initial Rent to Owner** - The Rent to Owner at the beginning of the initial Lease term.

**Interim Recertification** - A reexamination of a Participant's income, expenses, and Family Composition conducted between the annual recertifications when a change in a Family's circumstances warrant such a reexamination.

**Jurisdiction** - The area in which the HHA has authority under State and local law to administer the program.

**Lease** - A written agreement between the Apartment Owner and the Head or Co-Head of Household for the occupancy of the Apartment.

**Leased Housing Division** - The division within HHA that is responsible for the administration of the Section 8 Program.

**Leasing Officer** - The employee of the HHA that assists the Participant with continued eligibility and participation in the Section 8 program.

**Live-in Aide** - See Personal Care Attendant (PCA)

**Low-Income Household** - A Household whose Annual Income does not exceed eighty (80%) percent of the median income for the area as determined by HUD with adjustments for smaller and larger families. [1937 Act]

**Medical Expenses** - Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

**Minor** - A Minor is a person less than 18 years of age. An unborn child will not be considered as a Minor. (See also the definition of Dependent)

**Mitigating Circumstances** - Circumstances which would tend to lessen the negative impact of unsuitable behavior, and which may overcome or outweigh negative information gathered in the Admissions or Termination process about the Applicant/Participant.

**Mixed Family** - A Family whose members include those with citizenship or Eligible Non-Citizen Status, and those without citizenship or Eligible Non-Citizen Status.

**Monthly Adjusted Income** - One twelfth of Adjusted Income Annual.

**Monthly Income** - One twelfth of Annual Income.

**National** - A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-Elderly Family** - A Family whose head, spouse, or sole member is a person

who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more Personal Care Attendants.

**Non-Citizen** - A person who is neither a Citizen nor National of the United States.

**Overcrowded** - A condition of occupancy where given its bedroom size and applicable HQS standards, too many people reside in an Apartment.

**Owner** - Any person or entity, including a Cooperative, having the legal right to Lease or Sub-lease existing housing.

**Participant (Participant Family)** - A Family that has been admitted to the housing authority's program and is currently assisted in the program. A Participant will also include those persons which the HHA has an obligation to offer Continued Assistance. The Family becomes a Participant on the effective date of the first HAP contract executed by the housing authority for the Family (first day of initial Lease).

**Participant in Good Standing** - A Participant who has not violated any rules of the Section 8 program in the prior year is a Participant in good standing. If a Participant has violated Section 8 program rules but the violation has been resolved by agreement between the Participant and the HHA or another PHA, and, if applicable, the Participant has honored the terms of the agreement for the prior year, then the Participant is in good standing. If a determination is pending, the Participant will be considered "in good standing" pending the final decision or resolution of any pending proposed violation of Section 8 program rules and obligations.

**Payment Standard** - The maximum monthly assistance payment for a Family before deducting the Total Participant Payment by a Family. For a Voucher tenancy, the housing authority sets a Payment Standard in the range from 90% to 110% of the current FMR or at any exception Payment Standard amount approved by HUD.

**Personal Care Attendant** -

A Personal Care Attendant ("PCA") is defined as a person who:

- (i) is determined by HHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and wellbeing of an Elderly or Disabled Person or persons; **AND**
- (ii) may or may not reside with the Elderly or Disabled Person or persons;  
**AND**

(iii) is not obligated to support the Elderly or Disabled Person or persons;  
**AND**

(iv) in the case of a live-in PCA, would not be living in the Apartment except to provide the necessary supportive care; **AND**

(v) has no right to the Apartment as a Residual Participant except as provided in Section 8.9, **AND**

(vi) does not have his/her income included in the Elderly or Disabled Participant's Household for the purposes of determining total Family income and rent except as provided in Section 8.9.

**Portability** - Renting a dwelling unit with Section 8 tenant-based assistance outside the Jurisdiction of the Initial Housing Authority.

**Premises** - The building or complex in which the dwelling unit is located, including common areas and grounds.

**Present Ownership Interest** - In the homeownership option: "Present ownership option" in a residence includes title, in whole or in part, to a residence, or ownership, in whole or in part, of Membership Shares in a Cooperative. "Present Ownership Interest" in a residence does not include the right to purchase a title to the residence under a Lease-purchase agreement.

**Priority** - Priority is a housing-related situation that affects an Applicant's present residential status. The HHA gives points to an Applicant with a Priority that ranks an Applicant higher on each waiting list than an Applicant without Priority. An Applicant can qualify for only one Priority at any given time. Certain Priorities are given more points than others are. An Applicant will always be assigned to the highest Priority for which they qualify.

**Private Space** - In Shared Housing: The portion of a contract unit that is for the exclusive use of an assisted Family.

**Proration of Assistance** - The reduction in a Family's Housing Assistance Payment to reflect the proportion of the Household Members in a Mixed Family who are eligible for assistance.

**Public Housing Agency (PHA)** - A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

**Qualified Healthcare Provider** - A medical or rehabilitation professional or expert, **OR** non-medical service agency whose function is to provide services to the disabled.

**Reasonable Accommodation** - A change or modification to HHA rules, policies, practices, or services when such a change is reasonable and necessary because of a person's disability, and provided that the change does not pose an undue financial or administrative burden or result in a fundamental Alteration of HHA policies.

**Reasonable Rent** - A Rent to Owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

**Receiving Housing Authority** - In Portability, a housing authority that receives a Family selected for participation in the tenant-based program of another housing authority. The Receiving Housing Authority issues a Voucher and provides program assistance to the Family.

**Recertification** - A reexamination of a Participant Family's income, expenses, and Family Composition to determine the Participant Share of Rent for the following twelve (12) months.

**Remaining Member of a Participant Family** - A Household Member listed on the Lease who continues to live in the assisted unit after the Head of the Household has left.

**Rent to Owner** - See Contract Rent

**Residual Tenancy Applicant** - An existing Household Member, (except a Personal Care Attendant), or an adult (if all other Household Members in the Apartment are Minors or incapacitated adults), willing to assume guardianship where appropriate of an Apartment where the Head and Co-Head of Household vacates or becomes incapacitated.

**Residual Participant** - A remaining Household Member, (except a Personal Care Attendant), or an adult (if all other Household Members in the Apartment are Minors or incapacitated adults) who has been approved under this Administrative Plan to remain a HHA resident.

**Sexual Assault** - The term Sexual Assault means any conduct prescribed by Chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal

prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

**Shared Housing** - A unit occupied by two or more families. The unit consists of both Common space for shared use by the occupants of the unit and separate Private Space for each assisted Family.

**Single Person** - Someone living alone or intending to live alone who does not qualify as an Elderly Person, a Disabled Person, a displaced person, or the Remaining Member of a Participant Family.

**Single Room Occupancy Housing (SRO)** - A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

**Special Admission** - Admission of an Applicant that is not on the housing authority waiting list, or without considering the Applicant's waiting list position.

**Special Housing Types** - Special Housing Types include: SRO housing, Congregate housing, Group Homes, Shared Housing, Cooperatives (including Mutual Housing), and Manufactured Homes (including manufactured home space rental).

**Stalking** – The term stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional stress.

**Statement of Homeowner Obligations** - In the homeownership option: The Household's agreement to comply with program obligations.

**State Wage Information Collection Agency (SWICA)** - The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy Standards** - Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension** - Stopping the clock on the term of a Household's Voucher, for such

period as determined by the housing authority, from the time when the Household submits a request for tenancy approval to Lease a unit, until the time when the housing authority approves or denies the request, and upon HHA approval based on other extenuating circumstances. Also referred to as tolling.

**Participant** - The person or persons (other than a PCA) who executes the Lease as lessee of the dwelling unit.

**Participant Share of Rent (Household Rent to Owner)** - In the Voucher program, the portion of the monthly Rent to Owner paid by the Household. For calculation of Rent to Owner see 24 CFR section 982.515(b).

**Third-Party Verification** - Oral or written confirmation of an Applicant/Participant's income, expenses, or Family Composition provided by a source outside the household, such as an employer, doctor, school official, etc.

**Tolling** - See Suspension

**Total Participant Payment (TTP)** - Total Participant Payment is the amount calculated under Section 3(a)(1) of the 1937 Act, which is the higher of: 30% of the Family's Monthly Adjusted Income; 10% of the Family's Monthly Income; Minimum rent; or if the Family is receiving payments for Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such an agency to meet the Family's housing cost, the portion of such payments which is so designated.

**Utility Allowance** - An amount equal to the estimate made or approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other such services for the unit by an energy-conservative Family of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment, if the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the participant rent but is the responsibility of the Family occupying the unit.

**Utility Reimbursement** - The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Participant Payment for the Family occupying the unit.

**Verification** - The process of obtaining statements from individuals whom can

attest to the accuracy of the amounts of income, expenses, or Family Composition (e.g., employers, public assistance agency staff, doctors).

**Very Low-Income Families** - Low-income families whose incomes do not exceed 50% of the median Family income for the area, as determined by the Secretary with adjustments for smaller and larger Families.

**Veteran** - Anyone who is a Veteran as defined in M.G.L Chapter 4, Section 7, clause 43. The word "Veteran" as used in this Administrative Plan shall include the spouse, surviving spouse, Dependent parent or Child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a Child of a Veteran.

**Violent Criminal Activity** - Any illegal criminal activity that has as one of its element the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher** - See Housing Choice Voucher.

**Voucher Holder** - A Family holding a Voucher with unexpired search time.

**Voucher Size** – See Family Unit Size.

**Welfare Assistance** - Welfare or other payments to Families or individuals, based on need, that are distributed through programs funded by Federal, State or local governments. See 24 CFR 5.603 (d).



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## Resources and Where to Find Them

Following is a list of resources and the online location of each.

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### Document and Location

Code of Federal Regulations <https://www.ecfr.gov/>

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Earned Income Disregard FAQ

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/phr/about/ao\\_faq\\_eid](https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid)

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Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule <http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf>

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Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data <https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF>

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Executive Order 11063

<https://www.archives.gov/federal-register/codification/executive-order/11063.html>

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Federal Register

<https://www.federalregister.gov/>

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Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/guidebook](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook)

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HUD-50058 Instruction Booklet

<https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF>

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Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004

[https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf)

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Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007

[https://www.lep.gov/guidance/HUD\\_guidance\\_Jan07.pdf](https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf)

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Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice

[https://www.hud.gov/sites/documents/DOC\\_8993.PDF](https://www.hud.gov/sites/documents/DOC_8993.PDF)

Notice PIH 2017-12, Administrative Guidance for Effective and M  
Income  
Verification (EIV) System

<https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF>

Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report

[https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24\\_EIV\\_SSN\\_Notice\\_FINAL.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf)

OMB Circular A-133

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf>

Project-Based Voucher Program; Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf>

VAWA Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf>

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips website:

[https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips).