



Department of Housing Preservation and Development

Housing Choice Voucher Program

(formerly known as Section 8 Tenant Based Assistance)

Administrative Plan

Effective March 1, 2006

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CHAPTER ONE: OVERVIEW OF THE PROGRAM AND THE PLAN

PART I: Overview of HPD's Voucher Program

The New York City Department of Housing Preservation and Development (HPD) is organized under the Charter of the City of New York and New York State enabling legislation. A Commissioner who is appointed by the Mayor and confirmed by the City Council of New York City is the authorized official who governs the agency. The overall mission of HPD is to improve the availability, affordability and quality of housing in New York City (NYC) through a variety of preservation, development and enforcement strategies. The Housing Choice Voucher (HCV) Program plays an important role in this mission.

HPD's jurisdiction for the voucher program covers the five boroughs of NYC. The program complements the one administered by the New York City Housing Authority (NYCHA). The NYCHA program is available to all low-income households in New York City who qualify for Housing Choice Voucher assistance; HPD's program is intended to serve specific categories of low-income households who are affected by, or participate in, HPD or other government agency programs and consequently face special circumstances. Both HPD and NYCHA are designated PHAs; households in NYC can apply for vouchers from both programs but may receive assistance from one only agency.

A major emphasis of HPD's voucher program is to supplement development activities that improve the quality of low-income housing. Under certain initiatives, HPD issues a voucher to eligible families for relocation activities associated with the substantial renovation of low-income housing. In others, HPD assists eligible families that reside in properties that have been recently renovated with HPD loans but where the newly restructured rent causes a financial hardship. HPD also offers Housing Choice Voucher assistance to families who previously benefited from the agency's development programs but who maintain a significant rent burden that places them in a precarious housing situation. In all of these instances, Housing Choice Vouchers are a critical resource in preventing the displacement and potential homelessness of low-income households from revitalized neighborhoods.

The voucher program also partners with other government agencies and divisions within HPD to assist special needs populations, including homeless clients from shelters operated by HPD, the Department of Homeless Services (DHS) and the Human Resource Administration (HRA).

Pursuant to special contracts offered by HUD, HPD also issues enhanced vouchers to families affected by a housing conversion action. These actions occur when a private property owner opts out of a project-based contract prepays an existing federal mortgage and converts the property to market rate housing. Enhanced vouchers permit a special payment standard which exceeds the normally applicable payment standards, so long as the family remains in the development. Accordingly, these special contracts are funded at higher levels than standard vouchers. The use of enhanced vouchers by HPD has become a critical tool in preserving affordable housing opportunities for many of the City's Mitchell-Lama residents.

Finally, HPD uses vouchers to address unique and critical local housing needs resulting from unforeseen catastrophes such as the September 11th attacks and other emergency situations.

HPD administers the Housing Choice Voucher program in conformance with 24 CFR Part 5, 982 and 983, the Housing Act of 1937, the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act. HPD affirmatively furthers fair housing in the administration of the HCV program.

PART II: Purpose of the Administrative Plan

The purpose of the Administrative Plan is to establish HPD's policies for carrying out the Housing Choice Voucher program in a manner consistent with HUD requirements as well as local goals and objectives contained in the Agency Plan/PHA Annual Plan. All issues related to the HCV program that are not addressed in this document are governed by federal regulations, HUD memos, notices and guidelines and state and local law.

This administrative plan is a supporting document to the Agency Plan, and is available for public review as required by 24 CFR Part 903.

PART III: Covered Programs

HPD administers the Housing Choice Voucher program (regular and enhanced vouchers, FSS, and Section 8 Homeownership), the Section 8 Moderate Rehabilitation program (Mod Rehab), the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program and the Shelter Plus Care program. The policies described herein apply to all four programs, except in specified cases, such as enhanced vouchers and Mod Rehab where some special rules pertain.

Section 8 Moderate Rehabilitation Program

The Mod Rehab program is governed by federal statute, regulations at 24 CFR Part 882 and the housing assistance payments contract for the program. The (Mod Rehab) program provides project-based rental assistance for low-income families. The U.S. Congress repealed the program in 1991 and no new projects have been authorized for development since then. (see Chapter 21).

The Section 8 Moderate Rehabilitation SRO Program for Homeless Individuals

The moderate rehabilitation SRO program is authorized by the McKinney-Vento Homeless Assistance Act and governed by regulations at 24 CFR Part 882. Through this project-based program, HPD makes rental assistance payments to non-profit and for-profit homeless housing providers on behalf of eligible homeless individuals.

The Shelter Plus Care Program

The Shelter Plus Care Program is authorized by the McKinney-Vento Homeless Assistance Act and governed by federal regulations at 24 CFR Part 582 and the HAP contract for the

program. The program provides rental assistance for hard-to-serve homeless persons with disabilities in connection with supportive services funded from sources outside the program.

PART IV: Changes to the Administrative Plan

HPD is responsible for complying with all changes in HUD regulations pertaining to the voucher program. If such changes conflict with this plan, HUD regulations will have precedence, and HPD will revise this plan accordingly. On an ongoing basis, HPD may make minor, non-substantive modifications to the Administrative Plan in order to clarify existing policies and procedures and/or to correct editing errors.

The original plan and any proposed changes must be approved by the Commissioner of HPD, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

CHAPTER TWO: FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: Nondiscrimination

It is HPD's policy to fully comply with federal, state and local nondiscrimination laws and with the rules and regulations which govern Fair Housing and Equal Opportunity in housing and employment.

HPD shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Housing Choice Voucher program on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability, sexual orientation, gender identity, prior record of arrest or conviction, or status as a victim of domestic violence.

To further its commitment to full compliance with applicable Civil Rights laws, HPD will provide federal, state and local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the voucher holder's briefing packet. Fair Housing posters are displayed throughout HPD's offices, and staff will attend Fair Housing training courses as deemed necessary.

Discrimination Complaints

In the event that a person alleges discrimination in their housing search, the case will be forwarded to HPD's Office of Equal Opportunity and Community Affairs. Staff in this office will assist the client in filing a HUD-903 form and will conduct an investigation into the matter.

Depending on the nature of the complaint, HPD may suspend the voucher term from the date that the complaint was made. A suspension of the voucher means the clock is stopped during the suspension period. For example, if a 60-day voucher is suspended for a period of 10 days, the total life of that voucher would be extended to 70 days.

PART II: Reasonable Accommodations for Persons with Disabilities

HPD's policies and practices will make reasonable accommodations to persons with disabilities to ensure that they may fully access and use the voucher program and related services. The opportunity for requesting an accommodation will be provided on the House Choice Voucher application and other forms or letters. This policy is intended to afford persons with disabilities equal opportunity to obtain the same results and gain the same benefits as those who do not have disabilities, and is applicable to all situations described in this plan.

Reasonable accommodation will be made only after applicants or participants with a disability request a change to HPD's generally applicable policies or practices. To be eligible

to request reasonable accommodation, the individual making the request must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the applicable definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and the Americans with Disabilities Act.

Requests for reasonable accommodation should be made in writing, if possible. HPD will review all requests and make a determination to approve or deny based on the information provided. In accordance with Section 504 of the 1973 Rehabilitation Act, if the need for the accommodation is not readily apparent, the family must explain the relationship between the requested accommodation and the disability. In order for HPD to approve a reasonable accommodation, there must be an identifiable relationship between the requested accommodation and the individual's disability.

HPD may deny the request if it will cause an undue financial or administrative burden, or will change the fundamental nature of the program. Applicants and participants will be notified by mail or phone.

HPD will provide reasonable search time and extensions to families with disabled persons so that they may locate housing to meet their needs. Reasonable search time will be defined by HPD, but shall not be indefinite.

PART III: Improving Access to Services for Persons with Limited English Proficiency

HPD will comply with the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

HPD will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

In determining whether it is feasible to provide translation of documents written in English into other languages, HPD will consider the following factors:

- The number of applicants and participants in the jurisdiction who do not speak English and speak a different language;
- The estimated cost to HPD, per client, of the translation of documents into other languages; and
- The availability of local organizations or City government staff to provide translation to non-English speaking families.

PART IV: Promoting Deconcentration

To promote deconcentration of low-income families, HPD will encourage property owners outside of areas of minority or poverty concentration to participate in the HCV program.

Using data from the U.S. Census Bureau and HPD's Housing and Vacancy Survey, the agency will obtain information on areas in its jurisdiction and neighboring jurisdictions that are not poverty or minority concentrated. This data will be organized by community or neighborhood boundaries for easier understanding by HCV clients. Once the areas of opportunity are identified, HPD will perform outreach activities to property owners to encourage them to participate in the program.

Examples may include:

- Placing advertisements in local or neighborhood-based newspapers;
- Coordinating with local real estate boards and organizations;
- Meeting with relevant community and business associations; or
- Meeting with elected officials to explain the benefits of the program and to seek outreach assistance.

Within the constraints of the Fair Market Rent-based system, HPD will make concerted efforts to coordinate outreach efforts in areas of non-minority/non-poverty concentration with community groups and/or organizations engaged in fair housing issues and community development activities. Based on the most recent available census data (2000), areas of HPD's jurisdiction that would promote deconcentration for HCV clients and are within a reasonable rent range of HPD's payment standards include the following:

Bronx: Baychester/Eastchester, Kingsbridge/Marble Hill, Pelham Gardens, Pelham Parkway and Throgs Neck/Edgewater Park

Brooklyn: Bay Ridge, Carroll Gardens, Flatlands, and Fort Greene

Manhattan: Harlem and Roosevelt Island

Queens: Corona, East Elmhurst, Laurelton/Springfield Gardens, Middle Village, Ozone Park, and Woodhaven

Staten Island: South Beach

Outside HPD's Jurisdiction: Cities outside of HPD's jurisdiction in nearby Westchester and Nassau counties maintain expanded housing opportunities for HPD's voucher holders.

Areas of poverty and minority concentration within and outside of HPD's jurisdiction are outlined on a map of the city that is included in the briefing booklet.

At the voucher briefing, families are encouraged to search for housing in non-impacted areas. On occasion, HPD will investigate and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration and will consider additional outreach strategies, including exception payment standards, to ameliorate the situation.

CHAPTER THREE: LOCAL PREFERENCES AND SPECIAL ADMISSIONS

PART I: Local Preferences

Federal regulations permit a housing authority to establish a system of preferences for the selection of families admitted to the program. The system must be based on local housing needs and priorities as determined by the PHA.

HPD may change these preferences to respond to changes in local housing needs or emergency housing situations. When changes are made, HPD will offer an opportunity for public comment as part of the Agency Plan approval processes.

HPD will verify all preference claims at the time they are made. Staff will re-verify a preference claim if they believe the family's circumstances have changed at the time of selection from the waiting list. HPD will only offer vouchers to applicant families that still meet the preference eligibility criteria at time of selection from the waitlist.

HPD's preferences are summarized below:

- Homeless Households and Programs for Near Homeless, including SRO Re-Rentals and Special Needs Housing
- HPD Building Renovation Households – Relocation
- HPD Building Renovation Households – Rent Restructuring
- In Place Households with Rent Burdens - Homeless Housing and Special Needs Housing
- In Place Households with Rent Burdens - Homeless Prevention Strategies
- HPD Pilot Programs for the Expansion of Affordable Housing
- Households in Special Circumstances

Homeless Households and Programs for Near Homeless, including SRO Re-Rentals and Special Needs Housing:

- 1) Households that have a primary nighttime residence that is either:
 - a) A publicly or privately-operated homeless shelter in HPD's jurisdiction designed to provide temporary living accommodation, including shelters operated by DHS and designated by HPD to receive HCV assistance for its clients; or
 - b) The home of another household in HPD's jurisdiction that is allowing the applicant to reside temporarily, provided that the applicant has been classified as homeless by HPD's Emergency Housing Services Bureau.

In order to qualify for this preference, a household must maintain their eligibility for homeless assistance as certified by the responsible government agency administering the shelter assistance.

- 2) Households that maintain a precarious permanent housing situation, as certified by a government agency including HPD and HRA, which puts them at risk of becoming homeless.

HPD Building Renovation Households – Relocation: Households that reside in a building that is in need of substantial renovation and is either owned by the City of New York or an entity designated by the City to achieve its housing goals, or is part of the City’s housing preservation efforts. The voucher will be issued to allow the applicant to locate permanent, alternate housing.

HPD Building Renovation Households – Rent Restructuring: Households that reside in buildings that have been recently renovated with financial assistance from HPD (generally within 12 months from the date of application) which result in rent increases that cause rent hardship to the applicant. Rent hardship is defined as paying more than 30% of gross income toward rent, and any utilities not included in the rent.

In Place Households with Rent Burdens - Homeless Housing and Special Needs Housing: Households from HPD homeless and special needs housing programs that maintain a rent burden of more than 30% of annual household income toward rent plus utilities not included in the rent.

Applications received under this preference must be referred by HPD program staff, or a designated program sponsor, and represent a household that has relocated from a homeless shelter within 12 months preceding the date of the application.

In Place Households with Rent Burdens - Homeless Prevention Strategies:

Households that maintain a rent burden of more than 30% of annual household income toward rent plus utilities not included in the rent, and reside in buildings that were developed in the past with financial assistance from HPD, or buildings for which HPD maintains a regulatory agreement governing the operation of the building.

Applications received under this preference must be referred by HPD program staff, or a designated program sponsor, and represent a building that has been identified by the agency to receive Housing Choice Voucher assistance for its eligible residents.

Households in Special Circumstances: Households in circumstances that present an imminent risk to their life, health or safety, and where Housing Choice Voucher assistance is the primary mechanism for remedying the emergency situation. Special circumstance cases require the written approval of an HPD Office of Housing Operations employee at the level of Deputy Commissioner or higher or the Assistant Commissioner of the Division of Tenant Resources.

HPD Pilot Programs for the Expansion of Affordable Housing: Households participating in pilot programs developed by the agency to increase the supply of affordable housing or housing designated for special needs populations through the provision of Housing Choice Voucher rental assistance.

The table below presents some examples of government-administered programs that correspond to each local preference.

Preference	HPD/Agency Programs
Homeless Households and Programs for Near Homeless	Emergency Housing Service Bureau, DHS and HPD In Rem Moving On Program NY/NY Program SRO FOYER Program
HPD Building Renovation – Relocation	Neighborhood Entrepreneur Program Neighborhood Homes Program Neighborhood Redevelopment Program Third Party Transfer Anti-Abandonment
HPD Building Renovation – Rent Restructuring	Tenant Interim Lease Program Participation Loan Program Article 8A Loan Program Small Homes Program
In Place – Homeless and Special Needs Housing	
In Place – Homeless Prevention	Special Initiatives Program Rent Burden Construction Management Rent Burden Mitchell Lama Rent Burden; Coop and Rental LISC Program Rent Burden Vacant Cluster Program Rent Burden Capital Budget Homeless Housing Program Rent Burden
Special Circumstances	Emergencies
HPD Pilot Program	

PART II: Special Admission Programs

HPD will assist families who do not qualify for other local preferences when HUD awards funding which targets certain categories of families. Special admission families will be admitted through a special process. They do not have to qualify for any local preferences, nor are they required to previously be on the HCV program's single waiting list. HPD maintains separate records of these admissions. HPD will use such targeted funding in accordance with the conditions imposed when funds are awarded and accepted. Turnover vouchers (i.e., vouchers recycled when an existing participant leaves the program) for all below special admission programs will be converted to regular Housing Choice Vouchers and distributed to applicants in accordance with the agency's regular selection policy.

The following special admission programs are administered by HPD:

Enhanced Vouchers

HPD uses enhanced vouchers to preserve housing units that might otherwise be lost due to housing conversion actions such as mortgage prepayments, project-based opt-outs, some HUD enforcement actions, and HUD property disposition. Enhanced vouchers are also known as "sticky" vouchers because the enhanced assistance only applies if the voucher holder stays in the conversion project. If the family moves outside the development, the voucher reverts to a regular housing choice voucher and the regular HCV program rules apply. (See separate chapter on Enhanced Vouchers for more information).

Welfare-to-Work

HPD no longer accepts new applicants in the Welfare-to-Work program, but families already utilizing welfare-to-work vouchers remain in the program.

Welfare-to-work voucher families were those who, upon admission were residing in a city-owned building or a homeless shelter operated by HPD or HRA; were receiving TANF assistance or were eligible to receive TANF assistance within the previous two years from the date of application for Housing Choice Vouchers; and were able to demonstrate that Housing Choice Voucher assistance was critical to the success of an adult household member obtaining or retaining employment.

Family Unification Program

HPD no longer accepts new applicants in the Family Unification Program, but families already utilizing family unification vouchers remain in the program.

Eligible families were those who, upon admission, were households for whom lack of adequate housing placed the family's child or children at risk of imminent placement to out-of-home care, or caused the delay of discharge of the family's child or children to the family from out-of-home care. These circumstances had to be certified by New York City's Administration for Children's Services.

CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I: The Application Process

Outreach to Tenants

HPD will employ staff from different divisions within the agency, management staff from various housing providers, and staff from other governmental agencies to perform outreach to households that may qualify for one of the applicant preferences identified in this plan. These intermediaries will assist families with completing their Housing Choice Voucher applications and facilitate the vouchering and leasing process for HPD.

Outreach will be a comprehensive effort that involves coordination with a variety of service providers, HPD case management staff, and print advertising. All outreach activities will be performed in English, Spanish, and other languages, as appropriate. HPD will provide reasonable accommodation such as home visits for applicants with disabilities who are unable to visit the office or meet with a service provider.

Advertising

HPD will advertise the opening and closing of the waiting list as required by 24 CFR Part 982. These advertisements will be placed in English and Spanish language publications throughout HPD's jurisdiction and will include an Equal Opportunity logo and non-discrimination statement in the advertising message.

Service Provider Strategies

HPD will coordinate with a variety of homeless shelter administrators, non-profit and for profit housing providers, and community-based organizations to identify households who may qualify for Housing Choice Voucher assistance and to help with the application process and submission. HPD will conduct regular training sessions with service providers on application requirements.

Application Format

During periods when the wait for Housing Choice Voucher assistance is shorter than 12 months, HPD will require that applicants submit a full application and all supporting documentation in order to be placed on the waiting list. Alternately, HPD will institute a preliminary application process during periods when the wait for assistance is longer than 12 months.

Full applications require the following information:

- A completed HPD Housing Choice Voucher Application for Rental Assistance;
- Proof of all income and assets in accordance with 24 CFR Part 5;
- Proof of citizenship or eligible immigration status for every family member in accordance with 24 CFR Part 5;
- Documentation of allowable expenses in accordance with 24 CFR Part 5;
- Release of Information Authorization;
- Federal Privacy Act Notice;
- Absent Parent Affidavit(s), if applicable;
- Unemployment Statements, if applicable; and

- Any other information that HPD deems necessary to determine program eligibility in conformance with applicable statute, regulation and HUD notices.

If any applicant family misrepresents the information on which eligibility or tenant rent is established, HPD may deny assistance and may refer the family file or record to the HPD Inspector General for appropriate action.

Application Submission

All applications are submitted through the intermediaries described above and not directly by applicant families.

HPD will return all incomplete applications to the applicant, through the intermediary, with a letter outlining the missing items and a deadline by which the items must be submitted.

After public notice of the Agency's local preferences and the application submission process, HPD will discard all applications that are not submitted through a designated intermediary and applications that do not meet a local preference category.

PART II: Waiting List

Waiting List Organization and Management

When a complete application is submitted to HPD it establishes the family's date and time of application for placement order on the waiting list. While a family is on the waiting list, the family must immediately inform HPD of changes in contact information, including current residence, mailing address and phone number and change in preference status, family composition and income. HPD maintains a single waiting list for the HCV program, and a separate one for the Mod Rehab program. HPD will offer all applicants for HCV assistance the opportunity to be placed on the other waiting list if it is open and if the applicant meets admission requirements.

When processing eligible applicants for inclusion on the Mod Rehab waiting list, HPD shall offer the applicant the opportunity to apply for a tenant-based voucher, provided that a) the Mod Rehab applicant meets the preference requirements for the tenant-based waiting list, and b) HPD is currently accepting tenant-based voucher applications for that preference category.

An applicant does not have any right or entitlement to be listed on HPD's waiting list, to any particular position on the waiting list, or to admission to the program. Applications received which HPD determines unqualified for a local preference will not be placed on the waiting list. The applicant will be notified in writing of their denial of assistance. Families have the right to have the decision reviewed if they make the request in a timely manner and provide evidence of their qualification for a local preference category. HPD may also deny admission to the waiting list due to an action or inaction by any family member, as permitted by federal regulation, such as violent drug-related criminal activity.

Multiple Families in the Same Household

Households consisting of two families living together will be treated as one household if they apply as one family unit.

Split Households Prior to Voucher Issuance

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, HPD will decide who shall remain on the waiting list (unless there is a court determination) based on factors including but not limited to:

- Which family member applied as head of household;
- Which family unit retains the children or any disabled or elderly members;
- Restrictions that were in place at the time the family applied;
- Role of domestic violence in the split;
- The role of criminal activity or incarceration; and
- Recommendations of social service agencies or qualified professionals such as child protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by HPD.

Opening and Closing the Waiting List

Applications for Housing Choice Voucher assistance will be accepted onto the waiting list unless HPD has determined that it has a sufficient number of applicants on the waiting list to utilize the amount of available funding.

HPD will close the waiting list if staff makes a determination that new applicants would be unable to receive assistance within a reasonable period of time (usually twelve-months). All closings of the waiting list will be advertised in English and Spanish language publications throughout HPD's jurisdiction.

Based on a periodic assessment of waiting list size and local need, HPD may elect to open or close the waiting list for applicants who qualify for specific local preferences. In such instances, HPD may elect to accept applications only from applicants who qualify for specific local preference categories.

If examination of voucher utilization, availability of existing funds, and anticipated future funding warrants re-opening of a closed waiting list, HPD will advertise the re-opening for any specific time period that is required to utilize the existing and anticipated future supply of vouchers.

Removal of Applicants from the Waiting List

Applicants who are deemed ineligible for program participation will be removed from the waiting list, including those who may have initially qualified for a local preference but subsequently changed their circumstances and no longer meet any of HPD's preference categories.

Consistent with the requirements of 24 CFR 982.554, HPD will give an applicant written notice of any decision denying assistance as soon as the final determination of eligibility is completed. The notice will include the reason for the denial of eligibility, and allow the family to request an informal review of the decision. Any such request must be in writing and received by HPD within 21 calendar days from the date of the notice.

In addition, applicants who do not respond to periodic written requests from HPD for updated household information will be removed from the waiting list. Households will also be removed from the waiting list if letters from HPD are returned as undeliverable.

PART III: Selection of Applicants from the Waiting List

Local preferences will be used to select families from the waiting list. When funding is available, families will be selected from the waiting list in their determined sequence based on date and time of application within individual local preference categories, regardless of family size, and subject to income targeting requirements. When there is insufficient funding available for the family at the top of the list based on local preference status, HPD will not admit any other applicant from that same local preference group until funding is available for the first applicant.

HPD will use the following system to apply local preferences:

- On a periodic basis, not less than annually, HPD will project the number of applicants to be selected from each preference category. This projection shall be based on HPD's assessment of the amount of Housing Choice Voucher resources available to meet local needs and priorities including internal development program priorities.
- Applicants will be drawn in rank order, according to the date and time of application, within each preference category consistent with the periodic projections.

It is HPD's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admission in accordance with the policies in this administrative plan. The method for selecting applicants described in this plan will leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in this plan.

HPD will strive to include documentation indicating the preference category and the referral agency in the case file for each client selected from the waiting list. This documentation shall be considered sufficient justification for waitlist placement and voucher selection.

CHAPTER FIVE: ELIGIBILITY

Upon receipt of an application, HPD determines eligibility for the program by verifying factors required by Federal law and regulation. The HUD eligibility criteria are summarized as follows:

- An applicant must meet the definition of “family;”
- An applicant must be within the appropriate income limits;
- At least one member of the applicant family must meet the documentation requirements of citizenship or eligible immigration status;
- An applicant must furnish social security numbers for all family members age six and older who have them; and
- Members of the applicant household must not currently or in the past have engaged in activities prohibited by HUD pursuant to 24 CFR 982.553, which describes the requirements for mandatory denial of assistance (See Chapter 14: Denials and Terminations).

PART I: Family

To be eligible for HCV assistance, an applicant must qualify as a “family” pursuant to the table definitions below. Each family must identify all of the individuals who are included in the family at the time of application. This information must be updated at the time of annual recertification or within sixty (60) days of the change, whichever is sooner.

Under the HCV program, a “household” may include additional non-family members such as live-in aides, foster children and foster adults, provided that HPD has approved these additional non-family members.

Definitions of Family and Household Members

Family	A single person or a group of two or more persons with or without children who maintain an interdependent relationship (see definition of interdependence following this table) and whose income and resources are available to meet the family’s needs. Families must show evidence of a stable family relationship or have a history as a family unit. Families may also include live-in aides under the provisions described below.
Family Members	A husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, nephew, niece, uncle, aunt, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law or any other family member or person for whom the head of household can prove legal guardianship or a relationship based on dependency, blood, marriage or domestic partnership.

Head of Household	The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State and local law. Emancipated minors who qualify under State law will be recognized as head of household.
Spouse of Head of Household	Spouse means the husband or wife of the Head of Household. The definition includes the partner in a marriage or domestic partnership recognized within or outside of this jurisdiction. The term “spouse” does not apply to boyfriends, girlfriends, significant others, or co-heads.
Co-Head	A Co-Head is an individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or a co-head, but not both. A co-head never qualifies as a dependent.
Domestic Partner of Head of Household	Domestic Partner means the same or opposite sex partner of the Head of Household. To document a domestic partnership, couples must provide an original Certificate of Domestic Partnership issued by the New York City Office of the City Clerk. Domestic partnerships, civil unions, and same-sex marriages legally entered into in other cities, states or countries will be honored if original valid legal documentation is presented at time of application.
Elderly Family	A family whose head, co-head, spouse, or sole member is at least 62 years of age. It may include two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
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 live-in aides.
Disabled Family	A family whose head, co-head, spouse or sole member is a person with disabilities; two or more persons with disabilities; or one or more persons with disabilities with one or more live-in aides (see definition of disability below).
Displaced Family	A family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by federal disaster relief laws.
Remaining Member	A family member of an assisted tenant family who remains in the unit when other members of the family have left the unit. To be considered the remaining family member of the family, the person must have been a

	<p>member of the family in a current or prior certification of the family composition during the family's participation in the program, and previously approved by HPD to live in the unit. A live-in aide is not a member of the family and will not be considered a remaining member.</p> <p>In order for a minor child to continue to receive assistance as a remaining family member they must have been awarded emancipated minor status by a court of law.</p>
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Interdependence

Although no single factor shall be determinative, evidence that HPD will consider in determining whether such emotional and financial commitment and interdependence exists may include, without limitation, the factors listed below:

- Longevity of the relationship
- Sharing of or relying upon each other for payment of household or family expenses, and/or other common necessities of life;
- Intermingling of finances as evidenced by, among other things, joint ownership of bank accounts, personal and real property, credit cards, loan obligations, sharing a household budget for purposes of receiving government benefits;
- Engaging in family type activities by jointly attending family functions, holidays and celebrations, social and recreational activities, etc.;
- Formalizing of legal obligations, intentions and responsibilities to each other;
- Regularly performing family functions, such as caring for each other or each other's extended family members, and/or relying upon each other for daily family services;
- Engaging in other patterns of behavior or other action, which evidences the intention of creating a long-term, emotionally committed relationship; and
- Filing for a domestic partner registration certificate under New York City law.

Disability

In accordance with 42 U.S.C. Section 423, a person who has a physical, mental or emotional impairment that: is expected to be of long-term and indefinite duration; substantially impedes his or her ability to live independently; is of such a nature that the ability to live independently could be improved by more suitable housing conditions; and limits major life activities.

Disability claims must be verified by a knowledgeable professional source that the person meets these criteria (see verification chapter).

Family Break-Up

HPD has broad discretion to decide which family members continue to receive assistance after a family separates (divorce, legal separation or other types of separations). Factors to be considered in making this decision include, but are not limited to:

- Whether the assistance should remain with family members remaining in the original assisted unit;
- The interest of minor children or of the ill, elderly or disabled;
- Whether family members are forced to leave the unit as a result of actual or threatened physical violence against family members by a spouse or other member of a household;
- The involvement of family members in illegal drug activities or other illegal activities;
- Recommendations of social service professionals; and
- Which family member was the head of household when the voucher was initially issued.

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, HPD will be bound by the court's determination of which family members continue to receive assistance in the program.

Joint/Partial Custody of a Child or Children

School-aged children who are subject to a joint custody agreement but live in the unit at least 51% of the time (defined as 183 days of the year whether or not the days are consecutive) will be considered family members. Applicants will be required to provide legal custody agreements at the time of application to prove the residency status of the child(ren). If a legal agreement does not exist, the applicant will be required to prove through other forms of documentation (such as notarized statements from both parents, letters from school officials or social service providers) that the child(ren) reside with them 51% of the time. When both parents are on the waiting list separately and both try to claim the child as a dependent, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

Live-in Aides and Attendants

A family may include a live-in aide provided that the aide is determined by HPD to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities; not be obligated for the support of the person(s); and would not be living in the unit except to provide care for the person(s). Written verification of such (including the hours the care needs to be provided) is required from a reliable, knowledgeable professional such as a doctor, social worker, or caseworker.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide description described above.

A live-in aide is treated differently than family members insofar as:

- Income of the live-in aide is not counted in determining eligibility or level of benefits;
- Live-in aides are not subject to non-citizen rule requirements; and
- Live-in aides may not be considered as a remaining member of the family.

HPD will approve a live-in aide as a reasonable accommodation to make the program accessible to and usable by family members with disabilities. Approval of a live-in aide for reasonable accommodation will be in accordance with 24 CFR Part 8.

Family Absence from the Unit

Absence from the unit is defined as the *entire* family not residing in the unit. One or more absent family members is not considered an “Absence from the Unit.”

An entire family may not be absent from the assisted unit for a period of more than 180 consecutive days in any circumstance and for any reason. After 90 days, assistance will terminate unless the family presents proof of intent to return to the dwelling within 180 days of departure, and documents that no alternate residence is being maintained. Consideration will be given to individual circumstances concerning hospitalization, incapacitation, family matters and other related situations that may cause an absence from the dwelling. Absences of 90 days or more accompanied by a failure to pay rent or utilities for the whole duration of the absence may result in termination.

Any family member will be considered permanently absent from the unit if they are away for more than 90 consecutive days except where noted below, and they are required to notify HPD of their absence. After HPD is informed of and verifies a family member’s permanent absence, which they may do by performing an occupancy inspection, that family member’s income will not be counted in the household’s income determination. Any member that leaves the household due to medical conditions will be permitted to be absent from the unit for a period of up to 180 consecutive days. Family members must be able to provide proper documentation from a verifiable source that the member is likely to return to the unit within this timeframe.

A child who is temporarily (less than 90 consecutive days) away from home due to placement in foster care or another non-permanent situation may be considered a member of the family. HPD will make best efforts to coordinate with ACS, NYCHA, and DHCR to maintain proper tracking of subsidies for foster children. Children who are away at school will be considered family members if their primary residence is the same as the head of household. Members serving in the armed forces, children in joint custody, and foster children may be granted exceptions to the definition of temporary absence.

Continual Assistance

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 family is admitted to the Housing Choice Voucher program. HPD will consider a family to be continually assisted if an interruption in assistance under any 1937 Housing Act program occurs for a maximum period of 60 days.

PART II: Income

Income Limits at Admission

Household income at the time of initial eligibility determination and admission shall not exceed 50% of the Area Median Income except in the case of enhanced vouchers, tenants in certain government-assisted projects, and other special circumstances, as described below. Annual income will be determined in accordance with 24 CFR Part 5 and includes all amounts, monetary or not, that go to or are on behalf of, the family head or spouse (even if temporarily absent) or to any other family member, or all amounts anticipated to be received from a source outside the family, and assisting the family, during the 12-month period following admission or annual reexamination date. Families must provide verification of income any time prior to annual recertification as requested by HPD.

Exceptions to income limits include:

- **Enhanced Vouchers:** HPD may issue enhanced vouchers to eligible moderate-income households residing in a preservation eligible project. Families affected by a mortgage prepayment or voluntary termination of mortgage insurance action may have a family income that is equal to, or less than, 95% of the area median income as determined by HUD. This 95% income limit applies to moderate-income families residing in a low vacancy area (three percent or less vacancy rate). Households residing in Mod-Rehab conversions also receive enhanced vouchers, but they are subject to an income limit of 80% of the area median income; OR,
- **Other:** HPD may issue vouchers to households with incomes up to 80% of area median income that reside in Housing Development Fund Cooperative (HDFC) projects or other properties identified by HPD provided that: 1) the household would pay more than 30% of household income for rent as a result of a rent restructuring program or other comparable action; and, b) the household meets all other program eligibility and suitability requirements. The 80% threshold also applies to applicants referred through HPD's Emergency Housing Services Bureau and the "Special Circumstances" preference category.

Allowable Deductions from Income

- **Medical Expenses:** Deductions from income for medical expenses are allowed for all family members in households whose head or spouse is elderly or disabled. Families who claim medical expenses will be required to submit a written certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. If a family has medical expenses and no disability assistance expenses, the allowable medical expense is that portion of total medical expenses that exceeds three percent of annual income.
- **Childcare Expenses:** A childcare expense may be deducted from income where it allows an adult family member to be employed, to actively seek employment, or to further his/her education. Childcare expenses deducted to permit employment must be reasonable and in no instance may exceed the amount of employment income that is included in annual income.

- **Disability Assistance Expenses:** Disability assistance expenses include only those costs associated with attendant care or auxiliary apparatus (e.g., wheelchair, medical equipment, etc) for a disabled member of the family, which allow an adult family member to be employed outside of the home. The amount deducted is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds three percent of gross income.

Zero Income Policy

There is no minimum income requirement. However, staff must use good interviewing and investigative skills, including the HUD Enterprise Income Verification system when available, to determine whether an applicant actually has income but is not fully reporting it. For any family reporting zero income, the Head of Household will be required to complete a Statement of Income and Expenses documenting the family's regular living expenses (such as food and shelter) and the source of revenue for each expense. Failure to provide such information will be grounds for denial of assistance.

Income of Temporarily Absent Family Members

Income of family members who are temporarily absent is counted except for full-time students who have documented their absence from the family. This includes the income (pay and allowances) of family members serving in the military except for hazardous duty pay when exposed to hostile fire.

Averaging Income

There are two ways to calculate income that is not received for a full year:

- Calculating projected annual income by annualizing current income (and subsequently conducting an interim reexamination if income changes); or
- Using information available to average anticipated income from all known sources when the sources are expected to change during the year.

HPD will generally use the method of annualizing income to determine income that is not received for a full year.

Assets Disposed of for Less than Fair Market Value

At initial eligibility and annual recertification, HPD will determine whether an applicant or participant family has disposed of an asset for less than fair market value within the past two years. As permitted by regulation, HPD may adopt a minimum threshold to ignore small amounts that would not be counted toward income.

Earned Income Disallowance

Pursuant to 24 CFR 5.617, HPD will disallow the increase in annual income provided by the regulations covering the self-sufficiency incentive for disabled families. The disallowance of increases in income as a result of employment of persons with disabilities will not apply for purposes of admission to the program.

Income Targeting

At a minimum, 75% of families admitted to the HCV program in New York City during any fiscal year will be families whose annual income is less than 30% of the area median income

as defined by HUD. HUD will treat multiple PHAs serving one jurisdiction as a single PHA for income targeting purposes. HPD will cooperate with NYCHA to assure that aggregate admissions comply with the 75% requirement for the jurisdiction. Families admitted to the HCV program as a result of a housing conversion action are not subject to the income targeting requirements and their admission is not counted in determining whether HPD is complying with the income-targeting requirement.

Up to 25% of the families admitted to the HPD's voucher program during any fiscal year may be families whose annual income is greater than 30% of the area median income but less than 80% of the area median income.

With HUD approval, and in accordance with 24 CFR Part 982, HPD may elect to admit a greater percentage of families with incomes above 30% of the area median income.

PART III: Citizenship/Eligible Immigration Status

In order to receive assistance, at least one family member must be a U.S. citizen or eligible immigrant. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD in 24 CFR Part 5. For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request an informal review if they contest this determination.

Individuals who are neither citizens nor eligible immigrants may elect to contest HPD's determination of their status. For citizenship and eligible immigration status eligibility requirements only, the applicant is entitled to an informal hearing, instead of an informal review.

Assistance for non-citizen students or their non-citizen spouses and children is prohibited.

PART IV: Mandatory Social Security Numbers

Families are required to provide verification of social security numbers for all family members age six and older prior to admission. This requirement also applies to persons joining the family after admission to the program. Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a social security number must sign a certification that they have never been issued a number. Persons who disclose their social security number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly or disabled persons must provide verification within 120 days.

Applicants without social security cards may provide other acceptable forms of documentation that identify the social security number including: earnings statements or

payroll stubs, bank statements, IRS Form 1099, unemployment benefit letters and court records.

PART V: Privacy Rights

Applicants and participants, including all adults in their households, are required to sign form HUD 9886 and/or HPD's Authorization for the Release of Information. These documents incorporate the Federal Privacy Act Statement and describe the conditions under which HUD/HPD will release family information. HPD's policy regarding the release of information is in accordance with State and local laws, which may restrict the release of family information.

HPD's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location, which is only accessible by authorized staff. All files must be signed for when removed from the file storage area and returned promptly after use. Access to information stored electronically will be limited to HPD employees with proper authorization.

HPD staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

CHAPTER SIX: VERIFICATION

PART I: Third Party Verification

Before an applicant is issued a voucher, and at subsequent recertifications, HPD must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. HPD will not pass on the cost of verification to the family.

HPD will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD.

Third party verification is considered to be the most effective means of verifying information provided by the family. HPD will include verification forms in the recertification package with a request for return by the appropriate third party within 14 calendar days. Third party verification forms may not be returned to HPD via hand-delivery by the family, except in the case of computer printouts from other government agencies, as noted below. HPD will use any source available for verifying income, including inquiries with the Internal Revenue Service (IRS). Each client file contains a record of the documentation that has been provided. Verification of eligibility items may not be more than 60 days old from time of receipt by HPD to the voucher issuance date.

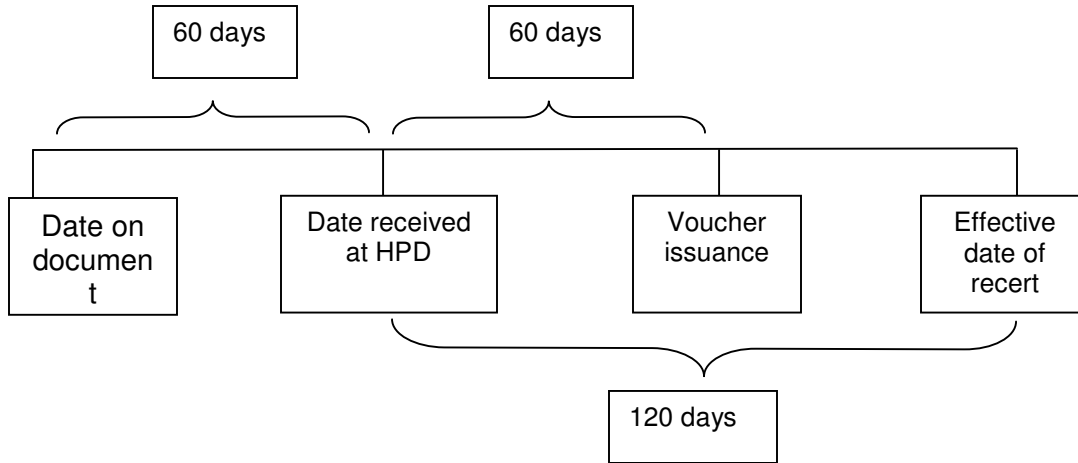
Any documents used for verification must be the original (HPD will keep photocopies and return the originals) and generally must be dated within 60 calendar days of the date they are provided to HPD. The documents must not be damaged, altered or in any way illegible. HPD will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity only provides semi-annual reports, HPD would accept the most recent report.

In the event that third party written verification cannot be obtained, staff will document the file accordingly and obtain oral verification via a telephone call or in-person meeting. When third party oral verification is used, staff will complete a form to be included in the case file noting the source's name, date and time of the conversation and the information provided. In the event that third party oral verification cannot be obtained, HPD will either review submitted documents or accept a certification/self-declaration (notarized statement) from the applicant of the reported information. If third party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, HPD will use the third party verification.

HPD will also accept as third party verification computer printouts, computer matching or digital images provided from other government agencies. Such sources include but are not limited to: the Social Security Administration, Veterans Administration, the U.S. Department of Housing and Urban Development, NYC Human Resource Administration, and the NYC Administration for Children's Services. HPD will accept computer printouts from these agencies that are hand carried by the family.

HPD may also accept as third party verification computer printouts, computer matching or digital images provided from trustworthy non-governmental sources, such as companies that provide employment verification services under contract for a participant's employer.

AGE OF VERIFICATION DOCUMENTS



Age of Documents when they are received by HPD

The age of the verification document is calculated from the date on the document to the date it was submitted to the HA. HPD's policy practice is to require that verification documents be dated within 60 calendar days from the date they were submitted. Older documents may be used when and if they represent the most recent scheduled report, e.g. semi-annual pension reports or other such items that are not provided more than once every two months.

Admission - Regulatory Requirement

The timing of verification is critical at admission. Verifications are usable for calculation purposes for only 60 days from the time they are received in the office until the voucher is issued. If more than 60 days has elapsed between the date of verification and the issuance of a voucher for initial admission, the item must be reverified.

Recertification

Verifications are usable for calculation purposes for 120 days from the time they are received in the office until the effective date of the recertification.

PART II: Verification Factors and Required documentation

HPD verifies household composition, family income and assets, citizenship/eligible immigration status, factors allowing a local preference, and other items relating to program eligibility before an applicant is issued a voucher. The table below lists the factors to be verified along with acceptable forms of documentation within each category.

For applicants, verification of U.S. citizenship/eligible immigration status occurs at the same time as verification of other factors of eligibility. Upon request, HPD will grant an extension of 30 days for families to submit evidence of eligible immigrant status prior to removing the family from the waiting list.

Household Composition – Legal Identity (required for each listed household member)	
Verification Factors	Form of documentation
Name	A form of <u>government issued</u> identification such as a birth certificate, driver’s license or employment identification.
Age	Government issued documentation such as a birth certificate or driver’s license that includes a birth date.
Married	Certificate of marriage or license.
Divorced	Copy of the certified divorce decree.
Separated	Copy of a certified, court-ordered maintenance award (if legal) or a notarized statement declaring separation
Interdependent relationship (i.e., not married or registered as domestic partners with the City Clerk)	Joint bank accounts, purchases or loans; prior or current lease showing co-habitation; credit report showing residence and joint financial activity.
Guardian	Court ordered guardianship order; verification from a social service agency; or current school records.
Disability	Documentation includes but is not limited to: letters regarding qualification for or receipt of SSI payments or disability benefits from the responsible agency; proof of residence in an institution; documents showing hospitalization for a disability; or a letter from another knowledgeable professional such as a health or service professional or a social worker.

Full-Time Student	Current school records documenting a student's status as full-time. This requirement applies only to household members 18 years and older.
Income	
Verification Item	Form of Documentation
1. Employment Income	<p>Verification forms for employment income must specify:</p> <p>Beginning date of employment; amount of pay; frequency of pay; effective date of last pay increase; and probability and effective date of any increase during the next 12 months.</p> <p>HPD may also request the following documentation:</p> <p>Most recent paycheck stubs (consecutive: six for weekly pay, three for bi-weekly pay, two for monthly pay); W-2 forms if the applicant has had the same employer for at least two years and increases can be accurately projected; Earnings statements; and Most recent federal income tax statements</p>
2. Self-employment, Gratuities	Form 1099, 1040/1040A or Schedule C of 1040 showing amount earned and employment period; signed self certifications or income tax returns may be used.
3. Business Income	IRS Form 1040 with schedules C, E or F; financial statements; any loan application or credit report listing income derived from business during the preceding 12 months.
4. Rental Income	Copies of recent bills, checks or leases to verify income; tax assessment information; insurance premiums; receipts for maintenance and utility expenses; bank statements.
5. Dividend and Interest Income	Copies of current bank statements, bank passbooks, certificates of deposit showing current rate of interest; copies of IRS form 1099 from the financial institution and verification of projected income for the next 12 months; broker's quarterly statements showing value of stocks, bonds and earnings credited to the applicant; tax forms to indicate earned income tax credits.
6. Interest from Sale of Real Property	Amortization schedule with amount of interest earned in next 12 months
7. Unemployment Compensation	Benefit letter signed by authorizing agency; copies of checks or records from agency stating payments, dates, and pay period and benefit schedule.
8. Social Security and Supplemental Security Income (SSI)	Annual award letter signed by authorizing agency; copies of checks or records from agency stating payments, dates, pay period and benefit schedule; copies of validated bank deposit slips with identification by bank.
9. Public Assistance Benefits	Original benefit letter signed by authorizing agency; copies of checks or records from agency stating payments, dates, pay period and benefit schedule; copies of validated bank deposit slips with identification by bank; if applicable, maximum shelter allowance schedule with ratable reduction schedule provided by applicant.

10. Recurring Contributions or Gifts	Copies of checks received by the applicant or a self-certification that contains the following information: the person who provides the gifts; the value of the gifts; the regularity (dates) of the gifts; and the purpose of the gifts.
11. Family Assets	Passbooks, checking or savings account statements, certificates of deposit, stock or bond documents or other financial statements; documents related to retirement funds; copies of real estate tax statements; copies of real estate closing documents, which indicate distribution of sales proceeds and settlement costs; opinions from attorneys, stockbrokers, bankers and real estate agents verifying penalties and reasonable costs incurred to convert assets to cash.
12. Disability Income/Workers Compensation	Benefit letter from authorizing agency indicating pay rate and period over which payments will be made; copies of checks or records from agency stating payments, dates, pay period and duration of benefit term; copies of validated bank deposit slips with identification by the bank.
13. Pension	Benefit letter from authorizing agency; copies of checks or records from agency stating payments, dates, pay period and duration of benefit term; copies of validated bank deposit slips with identification by the bank; most recent quarterly pension account statement.
14. Alimony and/or Child Support	<p>Copies of recent checks , recording the date, amount and check number of alimony or child support payment; a court ordered support schedule; recent letters from the court.</p> <p>If payments are irregular, the family must provide:</p> <ul style="list-style-type: none"> • A copy of the separation or settlement agreement or divorce decree stating the amount and type of support and payment schedules; • A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement; • A notarized affidavit from the family indicating the amount received; • A public assistance notice of action showing amounts received by the human resource/social service agency for child support.
15. Education Scholarships	Award letters showing the scholarship's purpose, amount and dates of the awards.

Allowable Deductions from Income	
Type of Deduction	Form of verification
Medical Expenses	Acceptable forms of documentation of medical expenses include but are not limited to: copies of cancelled checks that verify payments on outstanding medical bills that will continue for the next 12 months; income tax forms which itemize medical expenses that are expected to continue over the next 12 months; copies of cancelled checks that verify payments to a resident attendant; receipts or ticket stubs which verify transportation expenses directly related to medical care; written verification by a doctor, hospital or clinic personnel of the anticipated medical costs to be incurred by the family and regular payments due on medical bills; written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
Childcare Expenses	Verification of childcare expenses must include the childcare provider's name, address and telephone number, the names of the children cared for, the number of hours the childcare occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods. HPD will require as documentation copies of receipts or cancelled checks indicating childcare payments. If the childcare provider is an individual, that person must provide a notarized statement of the amount they are charging the family for their services.
Assistance to Persons with Disabilities	Written certification from a reliable professional that the disabled person requires the services of an attendant and/or the use of any auxiliary apparatus permitting him/her to be employed or function with sufficient independence thus enabling another family member to be employed; family's certification as to how much if any amount of reimbursement for any of the expenses of disability assistance they receive; and the following documentation: Attendant Care: <ul style="list-style-type: none"> • Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided; and • Certification of family and attendant and/or copies of cancelled checks family used to make payments. Auxiliary Apparatus: <ul style="list-style-type: none"> • Receipts for purchase or proof of monthly payments and maintenance expenses for auxiliary apparatus; and • In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.
Citizenship or Eligible Immigration Status	
Status	Acceptable forms of verification
Citizens or Nationals of the United States	A U.S. birth certificate; U.S. passport; resident alien/registration card; social security card; other appropriate documentation as determined on a case-by-case basis by HPD. U.S. Citizens are required to sign a declaration under penalty of perjury.

Eligible Immigrants Aged 62 or over	A signed declaration of eligible immigration status and proof of age.
Non-Citizens With Eligible Immigration Status	<p>A signed declaration of status and verification consent form along with one or more of the following original immigration documents</p> <ul style="list-style-type: none"> • Resident Alien Card (I-551); • Alien Registration Receipt Card (I-151); • Arrival-Departure Record (I-94); • Temporary Resident Card (I-688); • Employment Authorization Card (I-688B); • Receipt issued by the BCIS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified. <p>HPD will copy the documents and return them to the family. HPD may verify the status through the Bureau of Citizenship and Immigration Service ("BCIS," formerly known as "INS") SAVE system. If this primary verification fails to verify the status, HPD will request within 10 days that the BCIS conduct a manual search.</p>
Non-Citizen Students on Student Visas	<p>Student visa</p> <p>Note: Non-citizen students on student visas are ineligible family members even though they are in the country lawfully.</p>

PART III: Enterprise Income Verification

The Enterprise Income Verification (EIV) system is a data source used to verify income reported by tenants in assisted housing programs. The EIV system compares tenant income data obtained from various sources, including tenant-supplied information recorded on Form HUD-50058, wage information from the National Directory of New Hires, and Social Security and Supplemental Security Income from the Social Security Administration. The HUD Office of Public and Indian Housing (PIH) is responsible for administering and maintaining the EIV system.

EIV tenant data is used to verify a tenant's eligibility for participation in a HUD rental assistance program and to determine the level of assistance the tenant is entitled to receive. Any other use is strictly prohibited.

Authorization

Signed Form HUD-9886 or HPD's Authorization for the Release of Information / Privacy Act Notice (Form G – Alternative to Form HUD-9886) authorizes HPD to obtain and verify income information from various sources, including current and former employers, state agencies, and the Social Security Administration. HPD may use income verification information at new admission, interim recertification, annual recertification, or at any other time it deems appropriate. Information obtained through third party verification is protected under the Privacy Act.

Security

HPD will designate a security officer to monitor the EIV system. The security officer's responsibilities include:

- Maintaining a record of users with approved access
- Recording and monitoring security issues
- Enforcing security procedures
- Conducting quarterly reviews of all user IDs
- Revoking or modifying access rights as appropriate
- Reporting evidence of unauthorized access or security breaches

All HPD employees will be trained in EIV security policies and procedures before receiving access to EIV information. In addition, HPD will conduct annual briefings on security policies and procedures. EIV access will be limited to HPD staff whose duties require access to EIV information. HPD will maintain a record of all approved users. Users who no longer require access will have their access rights revoked. The security officer will conduct periodic reviews to ensure that EIV access is limited to authorized individuals.

HPD will maintain the physical security of EIV data by instructing staff not to print income information, when possible, and instead print the introductory screen of the tenant's EIV record to document that the record has been reviewed. In the event that income information needs to be printed, any printed information will be stored in locked file cabinets or locked rooms in restricted areas. EIV documents will be shredded or otherwise destroyed as soon as their purpose has been served. Designated staff will maintain a log of all documents that have been destroyed.

Income Discrepancies

If EIV data shows a substantial difference from tenant-reported income or other information in the case file, HPD will request written third party verification from the income source indicating an income discrepancy. In addition, HPD may require the tenant to provide tax returns or historical income documentation that shows patterns of employment, paid benefits, etc. HUD defines a substantial difference as one that is \$200 or more per month.

No adverse action can be taken against a tenant as a result of the EIV system until HPD has independently verified the EIV information and the tenant has been granted an opportunity to contest any findings through established procedures.

Cases of suspected fraud will be referred to the Section 8 Program and Integrity Compliance (PIC) Unit. Serious cases (those involving verified discrepancies exceeding \$10,000) may be referred to the New York City Department of Investigation Inspector General for further investigation. In cases where HPD is able to verify unreported and/or underreported income, HPD will take actions it deems appropriate on a case by case basis, e.g., initiating repayment agreements, adjusting future HAP payments, and termination.

CHAPTER SEVEN: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

PART I: Briefings and Family Obligations

Briefing

Upon selection from the waiting list, HPD will conduct a briefing with the head of household. Individuals with a disability may have a proxy attend the briefing session on their behalf if proper documentation is provided indicating their inability to attend and naming the proxy. If warranted, HPD may also conduct individual briefings for families with a disabled head of household or spouse at their home upon request by the family, and if HPD staff determines it is required for reasonable accommodation.

The briefing will cover the following general topics:

How the HCV program works;

Family and owner responsibilities;

Where the family can lease a unit, including renting a unit inside or outside HPD's jurisdiction; and

- Opportunities for expanded housing choices outside areas of poverty concentration.

An interpreter, or fluent HPD employee, will attend each briefing to assist Spanish-only speaking clients. HPD will take affirmative steps to make interpreters available when briefing client groups with other foreign language requirements (see Chapter 2: Part II.).

All applicants attending a briefing will receive a packet that includes a number of documents that further explain the HCV program requirements. Briefing packet requirements are stipulated by 24 CFR Part 982.301(b).

HPD also uses the briefing session to determine final eligibility in cases where an applicant is missing a required piece of information. Applicants who miss more than one briefing will have their application rejected and will be required to re-apply for admission. HPD will not issue a voucher to a family unless the household representative has attended the briefing and signed the voucher.

Family Obligations

The following are obligations of participants under the program. Violation of one or more of these obligations is grounds for denial or termination of assistance.

The family must:

- Supply any information that HPD or HUD determines is necessary in the administration of the program. This includes any requested certification, release or other documentation. All information must be true and complete;
- Supply any information regarding family income and composition requested by HPD for use in any annual or interim recertification;
- Disclose and verify social security numbers and sign and submit consent forms for obtaining information in accordance with regulations;

- Allow HPD to inspect the unit at reasonable times and after reasonable notice;
- Be held responsible for an HQS breach caused by the family;
- Notify HPD and the owner before the family moves out of the unit, or terminates the lease on notice to the owner;
- Promptly give HPD a copy of any owner eviction notice;
- Use the assisted unit for residence by the family and the unit must be the family's only residence;
- Promptly inform HPD of any changes in family composition, including the birth, adoption or court-awarded custody of a child, or the removal of any family member from the unit. The composition of the family residing in the unit must be approved by HPD; and
- Promptly notify HPD of any change in household income.

The family must *not*:

- Commit any serious or repeated violation of the lease;
- Assign the lease or transfer the unit;
- Own or have any interest in the unit (other than in a cooperative, or the owner of a manufactured home leasing a manufactured home space);
- Receive Housing Choice Voucher tenant-based assistance while receiving another housing subsidy for the same unit or for a different unit, under any duplicative (as determined by HUD) federal, State or local housing assistance program.
- Engage in profit making activities in the unit, unless such activities are legal *and* incidental to primary use of the unit for residence by members of the family; or
- Engage in drug-related criminal activity, violent criminal activity, other criminal activity, or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

PART II: Issuance of Vouchers and Subsidy Standards

Voucher Issuance

When funding is available, and after the family has been certified eligible and briefed on program requirements, HPD issues a voucher to the family. The voucher represents a contractual agreement between HPD and the family specifying the rights and responsibilities of each party, and is the family's authorization to search for an eligible unit. It also describes the program and procedures for HPD approval of a unit selected by the family, and specifies the size of unit the family is eligible for. A voucher does not constitute admission to the program, and a voucher-holder is not considered a program participant until such time as a lease and HAP contract become effective.

HPD will stay as close as possible to 100% lease-up and budget utilization, and will perform a monthly calculation (or more frequent as warranted) to monitor utilization rates.

Applications will be processed and vouchers issued accordingly.

HPD may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers that are over-issued will be honored. If the agency finds it is over-leased, it will adjust future issuance of vouchers so as to not exceed the budget limitations over the fiscal year.

Voucher Term, Suspensions and Extensions

The initial voucher term will be 60 calendar days. Upon request, HPD will automatically grant a single 60-day extension.

HPD may grant additional extensions to certain clients in documented special circumstances. An HPD employee must approve these cases at the level of Director or higher (or their designee). HPD will also grant additional extensions if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities.

HPD will suspend the voucher term (i.e., “stop the clock”) if the applicant has provided a Request for Tenancy Approval (RFTA) until the time that HPD approves or denies the request. If the lease for which the RFTA was submitted is not approved or executed (a “delink”), the applicant’s search time will be extended for a period of time equal to the number of days elapsed between the submission of the RAFTA and the denial of the request.

If a voucher has expired, the family will be required to reapply and will be placed on the waiting list only if HPD is accepting applications.

Subsidy Standards

The subsidy standard is the criteria established for determining the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions. HPD’s subsidy standards provide for the smallest number of bedrooms needed to house a family without over-crowding. HQS space requirements specify that a “dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room (24 CFR Part 982.401(d)(ii)).” HPD does not determine who shares a bedroom/sleeping room but there must be at least one person per bedroom listed on the family’s voucher.

Determining Family Unit (Voucher) Size

The unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented. Families that exceed two people per living/sleeping room in a household are over-crowded and will be required to reduce the household size, or move to an appropriately sized unit.

Within these parameters, the following guidelines will apply:

- An adult is a person who is 18 years of age or older;
- One bedroom will generally be assigned for each two family members. In making this determination, HPD will consider factors such as the sex, age, relationship of

family members, medical reasons, the presence of a live-in aide or evidence of a disability;

- All adults may be allocated separate bedrooms, unless they are a husband and wife, or a couple that has an interdependent relationship, in which case they will be allocated one bedroom (with limited medical exceptions);
- Two children of the same sex will be allocated one bedroom;
- Children of the opposite sex who are four years old or older will be allocated one bedroom each;
- Two adults of the same sex (of the same or different generations) may be assigned separate bedrooms;
- Single parents with a child that is age three or younger will be allocated one bedroom;
- Any live-in aide approved by HPD to reside in the unit will be counted as a household member for the purpose of determining the appropriate unit size;
- Foster children will be included in determining unit size only if they will be in the unit for more than 183 days (six months) a year;
- Children specified in joint custody agreements will be considered family members if the agreement specifies that they live with the parent at least 183 days a year; and
- Space may be provided for a family member who is away at school but who lives with the family during school recesses;

The table on the following page presents examples of different family compositions and the applicable subsidy standard.

Housing Choice Voucher Subsidy Standards

Family Composition Examples (For this purpose, "Couple" will be taken to mean either a married couple or two adults in an interdependent relationship. "Grandparent" can mean either a single grandparent or a grandparent couple).	1BR	2BR	3BR	4BR	5BR
Single person or couple	X				
Single parent, one child younger than 4 years of age	X				
Single person, live-in aide		X			
Single parent, one child age 4 or older		X			
Single parent, two children younger than 4		X			
Single parent, one child younger than 4, one child age 4 or older		X			
Single parent, two children age 4 or older of the same gender		X			
Single parent, two children age 4 or older of different genders			X		
Single parent, one boy age 4 or older, two girls age 4 or older			X		
Single parent, two boys age 4 or older, two girls age 4 or older			X		
Single parent, child age 4 or older, grandparent			X		
Single parent, three boys age 4 or older, two girls age 4 or older				X	
Single parent, three boys age 4 or older, two girls age 4 or older, adult son				X	
Single parent, three boys age 4 or older, three girls age 4 or older, adult son or daughter					X
Couple with one child		X			
Couple, two children younger than 4		X			
Couple, two children age 4 or older of the same gender		X			
Couple, two children age 4 or older of different genders			X		
Couple, two children of different genders, one age 4 or older, one younger than 4			X		
Couple, two boys, one girl			X		
Couple, two boys, two girls			X		
Couple, grandparent, two children younger than 4			X		
Couple, grandparent, two children age 4 or older of the same gender			X		
Couple, grandparent, two children age 4 or older of different genders				X	
Couple, three boys age 4 or older, one girl				X	
Couple, three boys age 4 or older, two girls age 4 or older				X	
Couple, three boys age 4 or older, two girls age 4 or older, adult son				X	
Couple, three boys age 4 or older, three girls age 4 or older, adult son or daughter					X

Exceptions to Subsidy Standards

HPD may grant an exception to these subsidy standards if the exception is justified by the age, sex, health, disability, relationship of family members, or other personal circumstances. However, such exceptions will not override the requirement of providing only a zero or one-bedroom unit to a single person. An HPD employee at the level of Director or higher must grant all such exceptions to this policy. All requests for exceptions must be made in writing and be received by HPD within 14 calendar days of the determination of the bedroom size (issuance of the voucher). All such requests must be accompanied by documentation from a verifiable source. For medical exception requests, documentation from a social worker is not considered a verifiable source.

For participants and families that initially lease in-place, HPD may base its decision on whether to grant an exception on the severity of a family's over- or under-housed situation. For example, an exception to the subsidy standard may be granted to families affected by a housing conversion action who are over-housed only by one bedroom as opposed to families over-housed by two or more bedrooms.

HPD will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, domestic partnership, or court-awarded custody unless the addition is approved by HPD.

Voucher holders may select a different size dwelling than that listed on the voucher as long as the maximum subsidy is based on the lesser of the payment standard for the unit size issued or the payment for the unit size selected.

The utility allowance used to calculate gross rent is based on the actual size of the unit the family selects regardless of the size authorized on the family's voucher.

CHAPTER EIGHT: HOUSING QUALITY STANDARDS

HPD is required by federal legislation and HUD regulations to ensure that each unit occupied by a voucher household is “decent, safe and sanitary.” To meet this requirement, HPD conducts a Housing Quality Standard (HQS) inspection prior to providing assistance on behalf of a client and at least annually throughout the term of assisted tenancy.

Inspected units will receive a designation of “pass,” “pass with comments,” or “fail.” Minor defects leading to a “pass with comments” designation will be noted at the next annual inspection for signs of further deterioration leading to a failure.

PART I: Physical Standards

In order to pass an HQS inspection, a unit must meet HPD standards on the following components:

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Lead-based paint;
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke and Carbon Monoxide detectors.

Bedrooms and Apartment Layout

At a minimum, a dwelling unit must have a living room, a kitchen area and a bathroom. The unit must also have at least one living/sleeping room for every two household members. Single Room Occupancy units are exempt from this requirement.

- A studio apartment is considered a living/sleeping room.
- Each living/sleeping room must also have:
 - Two working outlets; or one working outlet and one working light fixture; and
 - A window if the room is used primarily for sleeping.

Kitchen

A kitchen area must be used primarily for the preparation and storage of food. It must have the following items:

- Oven and a stove with top burners. All burners must be working and all knobs to turn the burners on and off must be present;
- A refrigerator of appropriate size based on the number of household members. For example counter top or compact type refrigerators are insufficient for a family of four. The refrigerator must also maintain a temperature low enough to keep food from spoiling, and the freezer space must be present and in working condition;
- Storage: the kitchen must have space for storage, preparation and serving of food; and
- Kitchen sink: a kitchen sink must provide running hot and cold water from the faucet and have a properly working drain.

Bathroom

The bathroom must be contained within the apartment and have the following characteristics:

- An enclosed and operating toilet facility;
- A shower or tub with running hot and cold water;
- A permanently installed washbasin (bathroom sink);
- One permanent light fixture in working condition; and
- A window or alternative adequate ventilation.

Other Rooms Used for Living

Other rooms used for living are defined broadly, and include bedrooms, dining rooms, the entrance hall and the corridor. If any of these areas are used primarily for sleeping, they must have a window; two working outlets; or one working outlet plus one working permanent light fixture.

Specific Apartment Items

Windows

The windows should not show any signs of severe deterioration. The presence of any of the conditions listed below requires a failure rating. Severe deterioration means:

- Missing or broken panes;
- Dangerously loose, cracked panes (which present a cutting hazard);
- Windows that will not close;
- Windows that, when closed, do not form a reasonably tight seal and allow the outside elements (wind, snow, or rain) to enter; and
- Broken window balance.

If there were only moderate deterioration, the window may pass with comments. Moderate deterioration means:

- Minor crack in the window;
- Splintered sill;

- Minor rotting in the window; and
- Loose windowpanes.

Doors

All exterior doors must be lockable, have no holes and have all trim intact. All interior doors must have handles, contain no holes and have all trim intact.

Walls and Ceilings

Walls and ceilings may not show any signs of being structurally unsound or hazardous. The presence of any condition below is an automatic failure. Unsound or hazardous means:

- Severe bulging, buckling, or leaning;
- Large cracks or holes allowing drafts or rodents to enter; and
- Loose sections of plaster in danger of falling.

Floors

In order to pass inspection, floors must not show any signs of being structurally unsound or hazardous. The presence of any condition below is results in an automatic failure.

- Severe buckling or major movements under walking stress;
- Large sections of damaged or missing flooring [two square feet or more where floor beams are visible]; or
- Large cracks or holes allowing drafts or rodents to enter.

Electrical

A unit must be free of electrical hazards and meet the following criteria:

- Kitchen - One working electric outlet and one permanently installed light fixture.
- Bathroom - One permanent light fixture. An outlet may be present but is not required. An outlet cannot be substituted for an overhead light fixture.
- Living Room & Bedroom - Two operating electrical dual outlets, or one operating dual outlet and one permanent overhead or wall mounted light fixture.

Electrical hazards that cause an automatic HQS failure include the following:

- Exposed, un-insulated, frayed wires;
- Missing switch covers;
- Overloaded circuits;
- Improper wire connections to outlets;
- Light fixtures hanging from electric wire with no other firm support; and
- Illegal wiring from building source to the tenant's unit.

Heating

The heating must have a direct or indirect heat source as defined below:

- Direct– Each room used for living must have a radiator, hot air register or a facility for baseboard heat.
- Indirect– If there is no heat source present in the room, heat must be able to enter the room from an adjacent heated room.

Plumbing

- The kitchen and bathroom must have hot and cold running water;
- The apartment should be free from major plumbing leaks; and
- The plumbing must be free from major corrosion that results in serious or persistent levels of rust in the water.

Access

- The apartment must have its own entrance;
- Doors and windows that are accessible from the outside must have legal, working locks;
- Double cylinder locks are considered a violation and a hazardous condition. Apartments or buildings with double cylinder locks are automatic failures; and
- Buildings with intercoms located between the front building entrance door (that is locked) and the vestibule door are considered an HQS violation, when they prevent inspectors from communicating with residents and gaining entry into the unit to conduct an inspection.

Exits

- The apartment must have an unblocked, acceptable, alternative means of egress in case of a fire. (i.e. fire escape, fire exit);
- Illegal window gates (gates that are located in front of fire escape windows and are locked with combination locks or key padlocks) are illegal and an HQS violation; and
- Legal window gates are located in front of fire escape windows and allow easy exit in case of an emergency. These types of gates do not have locks but have a mechanical lever that can be lifted and the gate pulled back in case of an emergency. Gates with a quick release system are permissible.

Sanitary

- The apartment must be free of severe infestation of vermin or roaches; and
- Sanitary facilities must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Smoke and Carbon Monoxide Detectors

- A smoke and carbon monoxide detector is required in every unit. Building owners are responsible for installing the detectors in accordance with the law, while tenants are responsible for maintaining them in working order. The detector is to be located in the hall of the unit near the bedrooms and on every floor if the dwelling has multiple floors. The detector may be battery or hard-wire operated;
- If the detector is present but is inoperable (due to the need for a battery or the tenant removed the smoke detector for cooking purposes) the violation will be considered a tenant-caused deficiency; and

- If a hearing-impaired person is occupying the dwelling unit, the detectors must have an alarm system designed for hearing-impaired persons as specified in the National Fire Protection Association Standards (NFPA) 74.

Lead-Based Paint

Federal lead-based paint requirements applying to the voucher program are codified at 24 CFR Part 35, subparts A, B, M and R. Owners must comply with The NYC Childhood Lead Poisoning Act of 2003, also known as Local Law 1 of 2004, and HPD's implementing rules, which are available online at www.hpd.nyc.gov.

Emergency Conditions

The following list provides examples of the type of household defects that HPD considers emergency HQS violations. The owner must repair these defects within 24 hours. Hazardous conditions will also be referred to HPD's Office of Code Enforcement for remedial action.

Electrical

- Broken, non-insulated, or frayed wiring;
- Wires located in or near standing water or other unsafe areas; and
- Light fixture hanging from electric wiring without other firm support or fixture.

Windows

- Broken panes of glass; and
- Loose, cracked panes of glass.

Ceiling and Wall Conditions

- Serious defects where there is a potential for collapse;
- The existence of large cracks or holes where ceiling beams or studs are visible;
- Severe bulging or buckling of the ceiling;
- Peeling paint in the presence of a child under the age of seven (timeframe allowed for correction is greater than 24 hours, per Local Law 1 of 2004 and Federal regulation—see above); and
- Falling or precarious, loose surface materials other than paint or plaster.

Floor Conditions

- Severe buckling or major movements under the stress of walking; and
- The existence of large cracks or holes that reveal floor beams.

Gas Leaks

- The smell of gas or a meter shut-off notice from Keyspan or Con Edison.

Plumbing

- Inoperable toilet (does not flush); and
- No running hot or cold water.

Other

- Apartment entrance door does not lock;
- Inadequate or no heat per the NYC Housing Maintenance Code;
- Inoperable refrigerator or gas range or a dangerous condition associated with these appliances; and
- Inoperable or non-existent smoke/carbon monoxide detectors.

Tenant-Caused Damages

Unless provided for in the lease agreement, owners are not responsible for the correction of HQS defects that HPD determines were tenant caused. The following list provides examples of defects that HPD will consider to be caused by the tenant/participant. HPD reserves the right to make a determination of the cause of any HQS deficiency following an inspection and discussion with both the owner and the tenant.

- Double-key cylinder lock on the apartment door entrance;
- A frayed or damaged electrical cord that is tenant owned;
- No electricity when the tenant is responsible for the payment of utilities;
- Illegal, electrical wiring to the unit;
- Fire escape blocked by tenant;
- A fire exit that is blocked by tenant furniture;
- An illegal window gate on a fire escape window;
- The heavy accumulation of refuse or debris in the unit;
- The family fails to provide and/or maintain any appliances that are their responsibility under the lease (e.g. no refrigerator);
- No heat in conformance with local code when tenant is responsible for this utility per the lease agreement;
- No battery in the smoke/carbon monoxide detector or the smoke/carbon monoxide detector is inoperable;
- Excessive grease or dirt on the stove or range;
- Damage to the apartment in excess of normal wear and tear by a household member or guest; and
- No gas to the unit when the tenant is responsible for this utility per the lease agreement (e.g. the family fails to pay for any utilities for which they are responsible under the lease).

PART II: The Inspection Process

General Policies

There are five types of HQS inspections that the HPD Housing Choice Voucher program conducts:

- Initial inspection prior to entering into a HAP contract with an owner;
- Annual inspection;

- Special inspection (occupancy checks, complaints, hazardous situations);
- Re-inspections to confirm that deficiencies have been corrected; and
- Quality control inspection.

Inspections will be scheduled as required under 24 CFR Part 982. Additionally, inspections may be scheduled at the request of HUD, an applicant, a participant, an owner/managing agent, Housing Choice Voucher staff, or any other interested party.

Inspections will document on the appropriate form all defects that may cause the unit to fail to meet HQS standards. If the unit fails its HQS inspection, notification of the failure and a list of the defects will be provided to the tenant and the landlord, and a copy will go into the tenant's file. The failure letter will provide the owner (or tenant, if the defect is tenant-caused) with 30 calendar days to notify HPD (in writing or by phone) that the defects have been corrected. The letter will also indicate that HPD has scheduled a re-inspection on or about the 30th day. Owners will not be allowed more than two re-inspections to remedy the defects. Additionally, HPD may identify new defects discovered during a re-inspection, and will provide a 30-day failure notice for these new defects.

The Housing Choice Voucher program will notify both the tenant and the owner of the scheduled inspection date. For occupied units, the tenant is responsible for providing access to the unit. If two scheduled HQS inspections are missed, HPD will terminate the family from the program for failure to uphold their family voucher obligations. For initial inspections of vacant units, the owner is responsible for providing access and failure to do so may result in a cancellation of their Request for Tenancy Approval (RFTA—see chapter on General Leasing)..

Initial Inspections for New Program Units

Initial inspections will be scheduled upon submission of an approved RFTA. An initial inspection that passes HQS will be valid for one year. However, HPD reserves the right to conduct a second inspection if the period between the initial inspection and execution of the HAP contract exceeds 60 days.

If the unit does not pass inspection, the owner will be notified of the defects and the 30-day requirement to make repairs. The participant will receive verbal notification of the failure and will have the option of searching for alternative housing or waiting for the deficiency to be corrected.

Access to vacant units for the initial inspection is the responsibility of the owner. If an owner misses two appointments, HPD will cancel the RFTA and extend the voucher another 60 days so the tenant can look for alternative housing.

Annual Inspections

HPD must conduct an HQS inspection of each unit under contract at least annually. HPD will notify the family in writing at least 10 days prior to the inspection. If the family cannot be present during the inspection, they must reschedule the appointment so that the inspection is completed within two weeks of the original date. Two missed inspection

appointments by the family will be considered a violation of family obligations under the program, and will result in termination of assistance.

If the unit does not pass inspection, the owner and tenant will be notified in writing of the defects and the 30-day requirement to make the repairs. The notice will inform the owner that HAP payments will be suspended the first of the month following the 30-day period if the defect has not been corrected.

Complaint Inspections

The Housing Choice Voucher program will conduct an inspection if the tenant, owner, or an interested third party complains that the unit does not meet HQS.

The Housing Choice Voucher program has the option to conduct a full inspection of the unit or to inspect only the defects within the unit. In either case, it is the responsibility of the owner or the tenant to correct all defected items within the timeframe described above.

The Housing Choice Voucher program recommends that immediately hazardous situations be reported to the Office of Code Enforcement by calling 311. An HQS complaint inspection will be considered critical if the defect creates an immediately hazardous situation. In these instances, the inspection will be performed within 24 hours of notification. If the defect endangers the family's health or safety, the owner will be required to make the repair within 24 hours. In these instances, HPD will provide the owner and tenant with written notification of the emergency, the 24-hour correction requirement and the possibility for the suspension of HAP payments if the repairs are not made. Payment suspensions will be effective the first of the month following the correction period.

In most cases where a life-threatening violation exists, the family will be referred to HPD's Emergency Services Housing Bureau and may be issued a new voucher to find alternative housing if the repairs on the former unit are not made within a reasonable period of time.

HPD has the right to terminate a contract if another federal, state or city authority or agency inspects a unit and certifies that it is unsafe for the family.

PART III: Abatement of Rent and Contract or Program Termination for HQS Violation

Owner-Caused Violations

When an owner fails to correct an HQS violation within the allotted time frame, HPD will provide the owner with written notice that the HAP payment will be abated effective the first of the month following the correction period. A copy of the notice will also be sent to the tenant. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the PHA's portion of any abated rent.

The abatement will continue until all HQS deficiencies have been corrected and until the date the unit passes re-inspection. It is the owner's responsibility to notify HPD that

deficiencies have been corrected so that a re-inspection can be scheduled. If repairs are not made within 90 days (or less, as determined by HPD in more severe cases), HPD reserves the right to terminate the HAP contract. HPD will provide the tenant with at least 30 days notice before the contract termination occurs, and upon the termination date, as funding allows, HPD shall provide the tenant with a new voucher, provided that the tenant remains eligible for assistance and can provide evidence that they are in good standing with the current lease requirements including payments to owners. HPD may, at its discretion, waive the requirement for the tenant to document good standing with lease requirements when there is a compelling and urgent health and safety related need that requires the tenant to move immediately.

If the defects are corrected after notification of contract termination but before the effective date, HPD may rescind the termination.

Tenant-Caused Violations

When the tenant causes an HQS violation, HPD will provide the tenant with a notice of the defect, the required timeframe to correct the defect and the effective date of the program termination date if repairs are not made.

If the family causes an immediately hazardous HQS violation, the family must correct the defect within no more than 24 hours at the family's expense. For other family-caused defects, the family must correct the defect within no more than 30 calendar days or within any extension period granted by HPD. If defects are not corrected within the above timeframe, HPD will terminate the tenant's participation in the program on the first of the month following the correction period.

Extensions for HQS Repairs

HPD may grant one or more extensions to the HQS correction period at the request of the owner or tenant. In making this decision, HPD will consider the owner or tenant's prior record in the Housing Choice Voucher program. For owners, HPD will also consider other factors such as participation in the Moderate Rehabilitation program, the severity of a defect in terms of damage and cost of repair, and unavoidable delays such as poor weather conditions.

CHAPTER NINE: RENT REASONABLENESS DETERMINATIONS

PART I: General Policy

HPD will not approve a lease until it has been determined that the initial rent to the owner is a reasonable rent. During the initial term of the lease, the owner may not raise the rent. Furthermore, the contract rent must be reasonable during the whole course of the assisted tenancy in the voucher program. The term “reasonable” means that the owner’s proposed rent is within a range of rents that appropriately reflects the market conditions of a particular neighborhood in the city considering all of the relevant factors specified in 24 CFR part 982.507.

In New York City, rent reasonableness determinations are complicated by the existence of many different submarkets containing varying rent levels. Apartments that may appear to be of similar age, quality and location can have significantly different market rents because of factors such as the specific location of a building, its proximity to particular stores or amenities, the floor level of a certain apartment and the view of a certain apartment.

PART II: When and How Rent Reasonableness Determinations Are Made

Rent reasonableness determinations are made:

- When units are placed under HAP contract for the first time;
- When owners request annual or special contract rent adjustments;
- If there is a 5% decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary; and
- If directed by HUD.

HPD will document and certify on a case-by-case basis that the approved rent:

- Does not exceed rents charged by the owner for comparable, unassisted units in the private market; and
- Is reasonable in relation to rents for similar units on the premises.

HPD’s reasonable rent determination will consider:

- Overall conditions of the apartment, both structurally and cosmetically;
- Amenities supplied by the owner;
- Utilities provided by the owner;
- Maintenance services;
- Location of the apartment;
- Rental market conditions;

- Accessibility to public services;
- Number of bedrooms;
- Facilities;
- Age of the building; and
- Building type.

Each participant file will contain documentation that a rent reasonableness determination has been conducted for the assisted tenancy, except in cases such as conversion projects where rent reasonableness studies are conducted for entire developments and documentation is kept separately.

Other Limitations Upon Rent Subsidy- Maximum Family Share

The only other limitation on rent is the maximum family share at initial occupancy. At the time that a family initially receives assistance in a Housing Choice Voucher approved unit, if the gross rent for the unit exceeds the applicable payment standard, the family share of the rent may not exceed 40% of the monthly adjusted income. RFTAs submitted by families that would violate this family share requirement will not be approved.

Rent Reasonableness Methodology – Initial Rent

Rent Regulated Apartments¹

In rent-reasonableness determinations for rent-regulated apartments HPD maintains consistency with applicable State rent regulation laws, regulations and rules, as may be modified from time-to-time, and administered by the New York State Department of Housing and Community Renewal (DHCR).

Owners of rent-regulated apartments in New York that wish to rent to a Housing Choice Voucher family must submit to HPD a copy of the DHCR Apartment Registration Form. This form will indicate the maximum allowable rent for the apartment and serve as the basis for determining the reasonable rent for the HCV program. Only current forms will be accepted. HPD may also request a copy of a certified rent roll in addition to the DHCR form. HPD shall maintain copies of this rent reasonableness documentation on file.

Non-Regulated Apartments

For apartments that do not fall under rent regulation, HPD will perform rent reasonableness as follows:

¹ In New York City, apartments are under rent stabilization if they are in buildings of six or more units built between February 1, 1947, and December 31, 1973. Tenants in buildings of six or more units built before February 1, 1947, who moved in after June 30, 1971, are also covered by rent stabilization. A third category of rent stabilized apartments covers buildings with three or more apartments constructed or extensively renovated on or after January 1, 1974 with special tax benefits. Generally, those buildings are only subject to stabilization while the tax benefits continue or, in some cases, until the tenant vacates. Under State law, owners are required to register their properties annually and to provide the rent for each unit as of April 1 of the current year.

- HPD will review the rental information for comparable units provided by the owner on form HUD-52517, RFTA;
- If the information in item one is not available or complete, HPD will obtain and review the rent listed on the prior lease for the proposed apartment. If a prior lease is not available, the owner must provide a copy of a current lease for a similarly sized apartment on the premises or a copy of the current rent roll (primarily for multifamily buildings);
- If the information in items one and two is not available, HPD will obtain information on comparable, unassisted units in the local market from sources such as the most recent New York City Housing and Vacancy Survey, data on market rents available within HPD, newspaper listings, letters from real estate brokers/agents and any other available source of information.

Owners that do not comply with HPD requests for information will have their RFTA rejected and will be notified in writing with a copy to the Housing Choice Voucher family.

Annual Adjustments to Rent – Rent Increases

After the completion of the initial term of the lease, owners may request an adjustment in the approved rent once per year. Requests must be made at least sixty days before the proposed effective date of the rent increase. Retroactive adjustments will be processed on a case-by-case basis. All rent increases are subject to funding availability, and HPD may not approve a rent increase to an owner if the unit fails HQS.

The adjusted rent to the owner will equal the lesser of:

- The reasonable rent as determined by HPD; or
- The amount requested by the owner.

HPD will notify both the owner and the participant in writing when HPD has approved a rent increase request. If an increase is approved, the owner must provide HPD with a copy of the new lease executed by both parties.

Rent Regulated Apartments

For regulated apartments, requests for rent increases will be approved in accordance with allowable increases established by the NYC Rent Guidelines Board. In general, a copy of the rent-stabilized lease indicating the new amount of rent and a current DHCR unit registration will constitute sufficient documentation for HPD rent increase approval. Increases for new services, new equipment or improvements to an apartment and increases for an Major Capital Improvement (MCI) may also be approved per the policies of the Rent Guidelines Board.

Non-Regulated Apartments

Rent increases for non-regulated apartments are only limited by HPD's determination of the reasonable rent and funding availability. The methodology used to make this determination

will rely on information provided by the owner and/or information obtained by HPD as follows:

- 1) A copy of a current lease for a similarly sized, unassisted unit on the premises or a rent roll for larger, multifamily buildings; or
- 2) Data on comparable, unassisted units in the local market from sources such as the most recent New York City Housing and Vacancy Survey, data on market rents available within HPD, newspaper listings, letters from real estate brokers/agents and any other available source of information.

Owners that do not comply with HPD requests for information will have their rent increase request rejected.

CHAPTER TEN: TENANT SHARE AND SUBSIDY DETERMINATIONS

PART I: Calculating Family Share

Families will pay the highest of the following amounts, rounded to the nearest dollar:

- 30% of the family's monthly adjusted income;
- 10% of the family's monthly income;
- If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs (including tenant-paid utilities), the portion of those payments which is so designated; or
- The minimum rent established by HPD.

Minimum Rent

The minimum tenant rent to be paid under HPD's Housing Choice Voucher program is \$50 per month.

HPD will grant an exception to the minimum rent requirement if the family is unable to pay the amount because of financial hardship as defined below:

- When the family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- When the family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death has occurred in the family; or
- Other circumstances determined by HPD or HUD on a case-by-case basis.

Enhanced Vouchers

Families receiving Enhanced HCV assistance have a special statutory minimum rent requirement that provides that they pay for rent no less than the rent the family was paying on the date of the eligibility event for the project in question. (see Chapter 19, Enhanced Vouchers, Minimum Rent)

Maximum Family Share at Initial Occupancy

In instances where the initial gross rent of the unit exceeds the applicable HPD payment standard for the family, the family share of the rent must not exceed 40% of the family's adjusted monthly income. This provision applies only to the initial occupancy of the family in a new unit (including moves). This provision does not apply to conversions under HUD Notice PIH# 2001-41 (including Enhanced Voucher Conversions).

PART II: Payment Standards

The payment standard is the maximum monthly subsidy HPD will pay for units, according to the number of bedrooms in the unit. It can be no less than 90% and no more than 110% of the HUD-determined Fair Market Rent (FMR) for the New York City metropolitan region.

HPD will set the payment standard at 110% of the Fair Market Rent (FMR) in order to maximize the housing opportunities for voucher recipients in the city's restricted housing market. The payment standard will remain at this level until such time that HPD determines that a different percentage of FMR is warranted. If the FMR for the New York City metropolitan area is increased to the 50th percentile rent level, HPD will review housing market factors and financial feasibility in determining whether to revise the payment standard.

Increase in Payment Standard Amount During Contract Term

If the payment standard amount is increased during the term of the HAP contract, the increased payment standard shall be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Change in Family Unit Size

Irrespective of any increase or decrease in the payment standard amount, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard amount for the family beginning at the family's first regular reexamination following the change in the family unit size. If the family is residing in a unit larger than that approved according to their family size, the family will be required to pay the additional cost out of pocket to remain in the oversized unit.

Application of Utility Allowances and Payment Standards

The utility allowance that applies for a household when their initial lease is approved is the utility allowance in effect when the lease is approved and executed by the tenant and owner. The utility allowance that applies for a household when a scheduled recertification occurs is the utility allowance in effect when the recertification is complete. When utility allowances have been revised/updated, the revised/updated allowances will be applied to the family's rent and subsidy calculations at the first regular recertification after the allowance is adopted. For example, during an interim recertification, if the utility allowance was revised since the last regular recertification, HPD will not apply the new utility allowance until the next regular recertification.

The payment standard that applies for a household when their initial lease is approved is the payment standard in effect when the lease is approved and executed by the tenant and owner. The payment standard that applies for a household when a scheduled recertification occurs is the payment standard in effect when all recertification documents have been received and the recertification information is entered into the computer system. The payment standard that applies to a household during an interim recertification is the payment standard which was in effect at the last regular recertification.

CHAPTER ELEVEN: GENERAL LEASING POLICIES AND HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT

PART I: Initial Steps in the Leasing Process

When a family finds a suitable unit and the owner is willing to lease the unit under the program, the family must submit to HPD, prior to the expiration of the voucher:

- A completed Request for Tenancy Approval (RFTA);
- A copy of the proposed lease, including the HUD-prescribed tenancy addendum.

Both the owner and voucher holder must sign the RFTA, and the family may not submit more than one RFTA at a time.

HPD will review the proposed lease and the RFTA to determine whether they can be approved. The following factors are considered:

- Whether the unit is an eligible type of housing;
- Whether the unit meets HUD's Housing Quality Standards;
- Whether the rent is reasonable;
- Whether the security deposit is approvable in accordance with federal regulation;
- Whether the proposed lease complies with HUD and HPD requirements; and
- Whether the owner is approvable and there are no conflicts of interest.

Eligible Housing Types

All structure types can be utilized in the HCV program, including, but not limited to:

- Single-family;
- Duplex;
- Triplex;
- Fourplex;
- Garden apartments;
- Townhomes;
- Walk-up apartments;
- Highrises;
- Manufactured homes where the tenant leases the dwelling and the pad;
- Group residences;
- Single room occupancy (SRO) dwellings;
- Shared housing;
- Cooperative housing (including mutual housing) subject to the specific requirements of the cooperative by-laws and restrictions; and
- Congregate housing facilities.

HPD may not allow a voucher holder to lease a unit that is receiving project-based Housing Choice Voucher assistance or any duplicative rental subsidy.

Initial Family Share of Rent

At the time that a family initially receives assistance in a Housing Choice Voucher approved unit, if the gross rent for the unit exceeds the applicable payment standard, the family share of the rent may not exceed 40% of the monthly adjusted income. RFTAs submitted by families that would violate this family share requirement will not be approved.

Disapproval of the RFTA

If HPD determines that the RFTA cannot be approved, the landlord and the family will be notified in writing unless verbal notification will suffice based on the reason for the disapproval.

When the RFTA is disapproved, HPD will provide the family with another RFTA form so that they can continue their search for eligible housing.

Screening of Applicants for Family Behavior or Suitability

Placing a family on the waiting list or selecting a family for participation in the program is not a representation by HPD to prospective owners about the family's expected behavior or suitability for tenancy. Tenant screening and selection are the responsibility of the owner. HPD encourages owners to consider a family's background with respect to such factors as:

- Payment of rent and utilities;
- Care of unit and premises;
- Respect for the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that threatens the health, safety or property of others; and
- Compliance with other essential conditions of tenancy.

To assist prospective owners in determining the suitability of applicants, HPD may provide the following information:

The household's current and prior address; and

- The name and address, if known, of the landlord at the household's current and prior address.

HPD will make an exception to this requirement if the family's whereabouts must be protected due to domestic violence or witness protection.

HPD will provide the same information for all families as that provided to owners. HPD will not provide any additional information about the applicant household but will assist owners, when requested, in referring them to public information resources that may be helpful in determining suitability for tenancy.

PART II: The Lease and Tenancy Addendum

Form of Lease

All private leases submitted for Housing Choice Voucher assistance must comply with state and local law, include the HUD-required Tenancy Addendum as an attachment and be reviewed and approved by HPD staff. Owners that require assistance in drafting a legally permissible lease will be encouraged to purchase a standard lease agreement, such as the Blumberg lease form, that can be found at many stationery stores throughout the city and online at <http://www.blumberg.com>. Leases that conform to requirements for rent-regulated units will also be accepted by HPD as a standard form of lease. HPD will use a model lease as a substitute for a standard lease form only in very limited cases.

The lease must contain:

- The name of the owner and tenant;
- The address of the unit rented (including the apartment number);
- The term of the lease (initial and any provisions for renewal);
- The amount of the monthly rent to owner; and
- Specifications concerning which utilities and appliances are to be supplied by the owner and which are to be supplied by the family.

Initial Lease Term

Initial lease terms in the voucher program will be for a minimum of twelve months unless HPD approves a shorter term. Shorter lease terms will generally only be approved to improve housing opportunities for the tenant or if shorter-term leases are the prevailing local market practice.

In accordance with 24 CFR Part 982.309, for clients that lease in-place, HPD may approve an initial lease for Housing Choice Voucher tenancy that is shorter than 12 months to accommodate an owner's allowable rent increase under rent regulation law.

In certain limited circumstances, HPD may also grant an initial lease term shorter than one year to accommodate development programs that require the temporary relocation of eligible tenants during building renovation.

Existing leases can be terminated and reissued to match the date of the HAP contract, if mutually agreed upon by both landlord and tenant.

Lease/HAP Renewal in Rent-Regulated Units

Once an owner has accepted a participant's Voucher and signed a Housing Assistance Payment Contract that establishes a Housing Choice Voucher tenancy in a rent-regulated unit, HPD considers that the owner has agreed to the acceptance of the tenant's Housing Choice Voucher for subsequent lease renewals, so long as the tenant must be offered a renewal lease. This policy is in accordance with the policy of NYCHA ([LHD 3-26](#)). Under these guidelines, a new HAP contract is not necessary for continued assistance.

Right to Remain—Conversions and Opt-Outs

On conversion from the Mod Rehab program, Mitchell-Lamas and other project-based assistance programs, owners may not terminate the tenancy of a family as long as the unit is used for rental housing, and the unit is otherwise eligible for HCV assistance, except for serious and repeated lease violations, or other good cause. Owners may not refuse to honor the family's voucher to lease in place. Serious and repeated lease violations for rent-regulated leases are typically established through Housing Court actions.

Changes in Lease

If a tenant and owner mutually agree to alter the current lease agreement, any changes must be in writing, dated, and signed by both parties. The owner must provide a copy of the updated lease to HPD. HPD will approve any mutually agreed-upon alterations in a lease, as long as the lease still complies with HUD requirements.

A new lease and HAP contract are required for:

- Changes in tenant/owner supplied utilities;
- Changes governing the term of the lease; and
- If a family moves to a new unit even in the same building or complex.

A new lease and HAP contract are **not** required when the family composition changes or the amount of rent to the owner changes.

Separate Agreements

Owners and tenants may execute separate agreements for services, appliances, and other items or amenities outside those that are provided under the lease, if the agreement is in writing and approved by HPD.

Any appliance, service or other item that is routinely provided to unassisted tenants on the premises, or permanently installed in the unit may not be placed under a separate agreement and must be included in the lease. To qualify for a separate agreement, the service, appliance or item must be an optional amenity.

A tenant's failure to perform under a separate agreement has no effect on the tenant's rights under the lease, and cannot be a cause for eviction.

If the tenant and owner agree on charges for an additional item, as long as those charges are reasonable and not a substitute for a higher rent, HPD will permit them.

All agreements for special items or services must be attached to the lease approved by HPD. If agreements are executed at a later date, they must be approved by HPD and attached to the lease.

Security Deposits

The owner may collect a security deposit from the tenant. HPD may prohibit security deposits in excess of private market practice or in excess of amounts charged by the owner to unassisted tenants. HPD may not pay for security deposits or any other additional costs outside of rent and utilities.

PART III: Housing Assistance Payment (HAP) Contracts

HAP contracts may be executed after HPD has approved the rent and lease form and the unit has passed the HQS inspection. The effective date of the HAP contract will be the first or fifteenth of the month following the latter of two events:

- The date the unit passed HQS inspection; or
- The tenant move-in date.

HPD will make every effort to execute the HAP contract before the commencement date of the lease term. The HAP contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed. If an executed HAP contract is not returned to HPD within this 60-day term, the contract will be null and void and the tenant will be issued a voucher to move. This provision includes contracts that may have been executed by the owner but were not returned within the 60-day term. There will be no exceptions to this rule.

HAP Payments

After a HAP contract has been executed, HPD will begin to make payments to the owner. Payments for HPD's Housing Choice Voucher program are made by the New York City's Comptroller's Office in accordance with the terms of the HAP contract. Prior to the beginning of every month, HPD forwards a copy of the HAP register for the entire program to the Comptroller's Office for processing. Checks are subsequently mailed from the Comptroller's Office on the first of every month following confirmation of all payment information. HPD deems payment as received 5 calendar days after the payment is mailed by the City.

Individual HAP registers, which provide detailed information on the amount of HAP payment for every Housing Choice Voucher family under lease to an owner, are mailed by HPD on or about the first of every month in a separate envelope.

HPD also processes through the Comptroller's Office, additional HAP registers during the month as necessary. These adjustment runs typically account for regular HAP payments that begin mid-month and arrears payments due to owners for items such as retroactive rent increases.

Overpayments

In accordance with the terms of all HAP contracts, if HPD determines that the owner is not entitled to any part of the HAP the Agency may exercise rights and remedies including deducting the amount of overpayment from any amounts due the owner (including amounts due under any other Housing Choice Voucher assistance contract), recovering payments, suspending future payments, or terminating the HAP contract. HPD may seek additional relief by judicial order or action, including specific performance, other injunctive relief, or order for damages.

Examples of overpayments that may occur include:

- Payments made when a unit is under HAP abatement because of HQS violations, or a HAP contract has been terminated for HQS violations;
- Payments made for a unit vacated with or without the knowledge of the owner. This policy does not apply to HAP payments for the month of the move-out as described below. HPD may recoup any amount due for the period that a tenant did not reside in the Housing Choice Voucher unit; and
- Payments mistakenly made twice in one month because of a record-keeping or other error.

In all of these examples, the owner would owe HPD the portion of the HAP to which he/she is not entitled.

Termination of Contract and Payment

Housing assistance payments terminate if:

- The lease is terminated by the owner in accordance with the terms of the lease;
- The lease terminates and is not renewed;
- The HAP contract terminates; or
- HPD terminates assistance for the family.

If an owner has commenced the process to evict the tenant, and if the family continues to reside in the unit, HPD must continue to make housing assistance payments to the owner in accordance with the HAP contract until the owner has obtained a judicial determination allowing the owner to evict the tenant. HPD will continue such payments until the family is evicted from the unit or moves out. Payments will be pro-rated to eviction date.

Family Move-out

If the family moves out of the unit, HPD may not make any HAP payment to the owner for any month after the month when the family moves out. The owner may keep the HAP for the month when the family moves out.

Violation of Space Standards

If HPD determines that the unit no longer meets HQS because of an increase in family size or composition, HPD will issue the family a new voucher to enable them to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the original HAP contract, with notification to family and owner. The contract terminates at the end of the month that follows the month in which notification is given.

CHAPTER TWELVE: OWNERS

Definition of Owner

An owner is defined as any person or entity legally authorized to lease or sub-lease the participating dwelling unit. Ownership may include a principal or interested party, if authorization to act on behalf of the partnership, corporation, etc. is provided.

Proof of ownership is required for participation in the program and must be submitted in the following form:

- If the property is managed by an agent and payments are to be made to a management company, a copy of the management agreement; and
- A copy of the deed or title registered with the NYC Department of Finance, or a copy of the tax receipt verifying payment of local property taxes for the assisted property.

Disapproval of Owners

HPD will not approve a Housing Choice Voucher assisted tenancy if HUD or another party has informed HPD that the owner is debarred, suspended, or subject to limited denial of participation. HPD will also not approve a Housing Choice Voucher assisted tenancy under the following circumstances:

- The federal government has instituted an administrative or judicial action against the owner for a violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending;
- A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements;
- The owner is a parent, child, grandparent, grandchild, sister or brother of any voucher family member residing in a unit that they own. HPD will waive this restriction as a reasonable accommodation for a family member who is a person with a disability. Exceptions to this rule must be approved at the level of Director or above;
- Violations of obligations under one or more HAP contracts;
- Acts of fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- Participation in any drug-related criminal activity or any violent criminal activity;
- Current or previous practice of non-compliance with HQS and/or state and local housing codes or with applicable housing standards for units leased under any other federal housing program;
- Current or prior history of refusing to evict housing choice voucher program or other assisted housing tenants for activity by the tenant, any member of the household, a guest, or another person under the control of any member of the household that: threatens the right to peaceful enjoyment of the premises by other residents; threatens the health or safety of residents, HPD employees, or owner employees; threatens the neighbors' health or safety, or neighbors' right to peaceful enjoyment of their residences; or engages in drug-related criminal activity or violent criminal activity;

- The owner has engaged in or threatened abusive or violent behavior toward HPD personnel; and
- The owner fails to pay state or local real estates taxes, fines, or assessments.

Any owner that has entered into a legal agreement with HPD to pay outstanding obligations may be approved for participation in the voucher program. This decision will be made on a case-by-case basis and must be approved by an employee at the level of Director or higher.

Change in Ownership

HPD may approve the assignment of a HAP contract at the old owner's request. HPD may also deny approval of assignment of the contract to the new owner for any of the reasons listed above. Owners must receive the written consent of HPD before assigning a HAP contract to a new owner.

HPD will process a change of ownership only if the request is accompanied by proper documentation of ownership of the property in question (copy of the deed or title) and proper documentation of the sale agreement.

HPD must receive a written request by the old owner or new owner in order to change the HAP payee and/or the address to which payment is to be sent.

CHAPTER THIRTEEN: ANNUAL AND INTERIM RECERTIFICATIONS

PART I: Annual Recertification

HPD conducts annual recertifications of income and family composition by mail. At least 90 – 120 days in advance of the scheduled annual recertification date, HPD will send a recertification package to the head of household. The package contains documents, as identified below, that the tenant and associated third parties must complete for verification purposes. In general, verification documents should be dated no more than 60 days prior to the date the application is returned. In cases where income and asset information is reported quarterly or semi-annually by a third party, the most recent statement will be acceptable (see Chapter 6, Verification):

- Housing Choice Voucher recertification declaration form;
- Federal privacy act notice;
- Applicant/tenant statement;
- Authorization for the release of information, HUD Form 9886, and/or HPD's 'Alternate' Authorization Form;
- Letter on citizenship/immigration declaration for new members of the household;
- Declaration of citizenship/eligible immigration status;
- Verification of wages;
- Pension benefit verification;
- Unemployment statement;
- Absent parent affidavit;
- Verification of student status;
- Bank account verification;
- Verification of pharmacy expenses;
- Verification of child care expenses;
- HUD brochure "Protect Your Family From Lead in Your Home;" and
- Family Self-Sufficiency Program notice.

The entire package, including all required third party verifications, must be returned to HPD on or before the return date printed on the package, or within **21 calendar days of receipt** by the participant, which is deemed by The Housing Choice Voucher program to be three business days after mailing. If HPD has not received the package within this timeframe, HPD will send the tenant a 'Pre-Termination Notice of Section 8 Non-Compliance,' along with a 'Request for Conference' form. Participants will be given 15 calendar days from the date of the notice to request a conference at which they will be granted the opportunity to meet with HPD staff to resolve any outstanding matters that prevent HPD from determining their eligibility for a Section 8 rent subsidy (see Chapter 16).

If the family fails to respond or inadequately responds to the pre-termination notice, a termination notice will be sent that provides information concerning appeal procedures to contest the decision. . Terminations will become effective the first day of the following month after the termination notice has been sent.

HPD will accept partially completed packages if the tenant is in the process of obtaining income documentation. If third party verifications have not been completed and returned to the agency, HPD will attempt to verify information through various means.

HPD will analyze and verify all information included in the recertification package, recalculate the family share of the rent and notify both the tenant and the owner of the new rent amount to be paid by the tenant and new housing assistance payment to be made to the owner (if applicable). This notice, or “rent breakdown letter,” will include effective dates of the new HAP amount, family share and new rent to owner.

PART II: Interim Recertification

HPD may conduct an interim reexamination of family income and composition at any time. Participants may also request an interim reexamination of family and composition at any time.

Participants are required to report all changes in their family composition and income within a “timely manner” (30 days) of the occurrence. When a participant reports a change, the date of the notification will be noted and the participant will be advised to visit the HPD Housing Choice Voucher office to complete a form for continued occupancy and submit verification of the change.

An interim recertification will be conducted for all reported increases or decreases in family income or size. HPD will not process an interim recertification when the family reports a loss of welfare benefits due to fraud or a failure to participate in self-sufficiency or work activity.

PART III: Recalculating Family Share And Subsidy Amount

HPD will notify the client and the owner of any changes in the tenant share of the rent and the housing assistance payment as follows:

Increases in Tenant Share of Rent

Increases in the family’s share of the rent will become effective the first day of the month following a full thirty-day notice, provided that changes are reported in a timely manner. If there has been misrepresentation of income by the tenant, or if the tenant caused a delay in the recertification process, HPD may make the rent change effective on the first day of the month following completion of the reexamination (no 30 day notice provided), or retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance payment and may be required to sign a repayment agreement.

Decreases in Tenant Share of Rent

Decreases in the tenant share of rent will become effective on the anniversary date of the annual reexamination, or, the first day of the month following the date any interim change was reported, provided said change was reported in a timely manner. If the family causes a

delay so that the reexamination is not complete by the anniversary date, the rent change will be effective the first day of the following month after the reexamination.

To ensure consistency in compliance, HPD reserves the right to determine what warrants a “timely manner”.

Increase in Family Size

A family must obtain HPD approval of any additional family member before the new member occupies the unit except for additions by marriage, domestic partnership, birth, adoption, or court-awarded custody in which case the family must report these additions in a timely manner.

If a unit does not meet HQS standards due to an increase in family size, HPD will issue a new voucher to the family, as funding allows, and the family will be required to relocate to an appropriately sized unit.

Families that add members will also be provided a larger voucher size, if funding is available, and will be provided the opportunity to move. However, unless the addition of the family member(s) results in the HQS violation described above, the family will not be required to relocate.

Decrease in Family Size

Decreases in family size must be reported in a timely manner. When the family size decreases, the new family size must be used to determine the payment standard amount for the family beginning at the family’s first regular reexamination following the change. If the family is overhoused according to HPD subsidy standards, the family will be required to relocate to an appropriate size unit or pay the additional cost out of pocket to remain in the oversized unit.

If the family failed to report a change in composition in a timely manner, any difference in the allowable subsidy due to a reduced voucher size will be charged to the family retroactively from the first day of the month following the change and a new voucher will be issued to the family immediately, if funding is available. HPD also maintains the right to terminate assistance to the family for failure to report the change in family composition.

An overpayment of subsidy by HPD in this circumstance will be calculated by subtracting the smaller-bedroom payment standard from the larger-bedroom payment standard. The formula to calculate overpayment is as follows:

$$\begin{aligned} & \text{Larger bedroom payment standard} - \text{Smaller bedroom payment standard} \\ & = \text{Overpaid Subsidy} * \text{Number of Months Retroactive to Actual Change in Family} \\ & \quad \text{Composition} \end{aligned}$$

The terms of an overpayment will be specified in a repayment agreement between HPD and the family.

If an assisted family splits-up, HPD has broad discretion to determine who remains in the program. Either household may retain the voucher if there is mutual consent or a court-stipulated determination as to which household retains assistance.

Overhoused Families with Enhanced Vouchers

In accordance with PIH Notice 2001-41, as extended, families receiving Enhanced HCV assistance are permitted to remain in an oversized unit for a one-year period after the conversion or eligibility date. During this one-year period, the family will only be allowed to add members by marriage, domestic partnership, birth, adoption, or court-awarded custody unless approved otherwise by HPD (See Chapter 19).

CHAPTER FOURTEEN: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

PART I: Moves

A family is not permitted to move during the initial lease term. Thereafter, families may move only once every 12 months as funding allows.

A family may move to a new unit if:

- The assisted lease for the old unit has terminated by mutual agreement of the owner and the tenant, or by HPD action of terminating the HAP contract;
- The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant (unless assistance to the family will be terminated); or
- The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner, for owner breach or otherwise).

HPD may deny permission to move if:

- The family has violated a family obligation;
- The family owes HPD money; or
- The family owes the landlord money.

HPD may grant an exception to these restrictions in an emergency situation, or if the family meets special circumstances associated with certain local preference categories.

Moves within a building or a managed group of buildings – also referred to as transfers – may be scheduled at different intervals than every 12 months, at the discretion of HPD, if the family and owner are both in agreement and provide the required documentation.

Move Procedures

Families that wish to move must follow the procedures presented below:

- The family must provide the owner with an Intent to Vacate notice in accordance with the terms of the lease;
- The family must write HPD and request permission to move attaching a copy of the Intent to Vacate notice to the owner;
- The family must issue proof that they are in good standing with their rent. Proof can come in the form of a general release letter from the landlord, or proof of rent payments (e.g., cancelled checks). HPD may, at its discretion, waive the requirement for the tenant to document good standing with lease requirements when there is a compelling and urgent health and safety related need that requires the tenant to move immediately;

- If HPD has not recertified the family's income and composition within the past 12 months, the family will be required to complete a recertification package. The annual recertification date will be changed to coincide with the new lease effective date;
- Families that are eligible to move will be issued a move package that contains a Housing Choice Voucher briefing booklet, a housing choice voucher and a RFTA; and
- The family may conduct a search for new housing. If the family does not locate a new unit, they may remain in their current unit so long as the owner permits.

In a move, assistance stops at the old unit at the end of the month in which the tenant moved out, unless proper notice was provided to end the lease otherwise. Assistance will begin on the new unit on the effective date of the lease and HAP contract. Assistance payments may overlap for the month in which the family moves. If a family vacates a unit without notice to HPD, the act will be considered a violation of family obligations under the program and the family's assistance will be terminated.

HPD will process all move requests in the order that they are received but reserves the right to prioritize requests depending upon specialized circumstances or emergency situations.

PART II: Portability

Portability is a term used to describe a family's ability to rent a dwelling unit outside the HPD's jurisdiction and continue to receive HCV tenant-based assistance.

A voucher holder or participant family has the right to receive tenant-based voucher assistance to lease a unit outside HPD's jurisdiction, anywhere in the United States, in the jurisdiction of another Public Housing Administrator with tenant-based assistance. Continued assistance is bound by the payment standards and other policies of the 'receiving' PHA.

Unlike moves, portability can be exercised immediately upon receipt of the voucher and does not require an initial lease up in HPD's jurisdiction.

Per the requirements of the NYC Comptrollers Office, receiving PHA's must submit a substitute W-9 form and proof, from the IRS, of their EIN number in order to have their payments processed.

CHAPTER FIFTEEN: DENIAL OR TERMINATION OF ASSISTANCE

HPD may deny or terminate assistance for a family because of the family's action or failure to act. HPD will provide families with a written description of the family's obligations under the program, the grounds under which HPD can deny or terminate assistance and HPD's procedures for informal reviews, conferences, and informal hearings..

Forms of Denial/Termination of Assistance

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the waiting list;
- Denying or canceling a voucher;
- Refusing to enter into a HAP contract or approve a tenancy; and
- Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a tenancy;
- Terminating housing assistance payments under an outstanding HAP contract; and
- Refusing to process or provide assistance under portability procedures.

Mandatory Denial and Termination of Assistance

HPD must deny Housing Choice Voucher assistance to an applicant or terminate program assistance for a participant under any of the following circumstances:

- If the family is under contract and 180 days have elapsed since HPD's last housing assistance payment was made because the participant's portion of rent equals the contract rent. These cases are commonly referred to as "zero subsidy" participants/clients;
- If any family member has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
- If any member of a household is subject to a lifetime registration requirement under a State sex offender registration program;
- If a family was evicted from housing under the program for serious violation of the lease;
- If any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR Part 5; and
- If any member of a family fails to establish citizenship or eligible immigration status.

Permissible Grounds for Denial and/or Termination of Assistance

HPD may deny Housing Choice Voucher assistance to an applicant or terminate program assistance for a participant under any of the following circumstances:

- The family does not meet the program eligibility criteria;

- Any member of the family on the Housing Choice Voucher application has been evicted from federally- assisted housing in the last five years;
- HPD has previously terminated Housing Choice Voucher assistance for any member of the family;
- Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- Any household member is currently engaging in illegal use of a drug;
- Any member of the family commits drug-related criminal activity, or violent criminal activity;
- HPD has reasonable cause to believe that a household member's alcohol or illegal drug use or a pattern of alcohol or illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- The family currently owes rent or other amounts to HPD or another PHA in connection with Housing Choice Voucher or public housing assistance under the 1937 Act;
- The family has breached a repayment agreement with another PHA;
- The family has engaged in or threatened abusive or violent behavior toward HPD personnel. This includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. "Threatening" refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence;
- The family has misrepresented income, household members, or any other reported information on or accompanying the Housing Choice Voucher application;
- The family has violated one of the family obligations listed on the voucher;
- The family has failed to provide information requested by HPD or the family has failed to attend their scheduled briefing with HPD;
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damage to a unit, or any other amounts owed under the lease;
- The family is an FSS participant and fails to comply, without good cause, with the FSS Contract of Participation; or
- A family member is engaged in criminal activity that may threaten the health or safety of the owner, property management staff, or persons performing the contract administration function or responsibility on behalf of the PHA, including a PHA employee or contractor or agent.

Screening and Termination for Drug Abuse and Other Criminal Activity

All screening and termination of assistance procedures shall be administered fairly and in such a way as to not violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sexual orientation, gender identification or other legally protected groups.

Screening of Applicants

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by federal regulations, HPD will endeavor to

screen applicants as appropriately and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to any member of the household who is 18 years of age or older. For minors, HPD will rely on the recommendation of a government agency or social service provider that has knowledge of the minor's history of behavior with drug-related and violent criminal activity.

Drug Related and Violent Criminal Activity

Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Housing Choice Voucher program for a three-year period beginning on the date of such eviction. However, the household may be admitted if, after considering the individual circumstances of the household, HPD determines that:

- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program, the documentation of which has been approved by HPD; and
- The circumstances leading to eviction no longer exist because the criminal household member is no longer a member of the family (death, incarceration or other permanent situation).

Notice of Termination of Assistance

As per normal termination procedures, if HPD decides to terminate assistance to the family, HPD must give the family a written notice of intent to terminate, with reasons, as well as notify them of their right to an informal hearing prior to the proposed date of termination.

HPD Discretion

In deciding whether to deny program admission or terminate assistance because of action or failure to act by members of the family, HPD has discretion to consider all of the circumstances in each case including the seriousness of the case. HPD will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. HPD may also review the family's more recent history and record of compliance and the effects that denial of program admission or termination of assistance may have on other family members who were not involved in the action or failure to act.

HPD may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. HPD may permit the other members of a family to continue in the program.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

- If the owner terminates tenancy through court action for serious or repeated violation of the lease;
- If the owner notifies the family of termination of tenancy for a serious or repeated lease violation and the family moves from the unit prior to completion of court

- action; and HPD determines based on available evidence that the cause of the move is a serious or repeated violation of the lease;
- If the family fails to provide access to the unit for the owner or management agent so that HQS deficiencies can be cured as required by HPD;
 - If there are police reports, neighborhood complaints or other third party information that has been verified by HPD; and
 - Non-payment of rent is considered a serious violation of the lease. A court order of eviction for non-payment is not required for HPD to terminate assistance. If an owner provides sufficient documentation of non-payment of rent, HPD will consider termination of assistance for the participant.

Termination of Tenancy by Owner

The owner may only evict the tenant by court action. During the term of the lease (the initial term or any extension thereafter), the owner may only terminate the tenancy because of:

- Serious or repeated violation of the lease;
- Disturbance of neighbors;
- Destruction of property;
- Living or housekeeping habits that cause damage to the unit or premises.
- Violation of federal, state, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
- Criminal activity or alcohol abuse; or
- Other good cause.

Nonpayment of the HAP subsidy by HPD is not grounds for termination of the lease, since the family is not responsible for the portion under the HAP contract.

After the initial lease term, *if* the owner is not required under state or local housing laws to offer the participant a renewal lease, the owner may opt not to renew the participant's lease, or not to accept a renewal HAP Contract. If the owner intends not to renew a lease or not to accept a renewal HAP Contract, the owner must give HPD 60 days notice prior to the end of the current lease term, in order that HPD can offer the participant a voucher to move. However, under rent-stabilization, landlords *must* offer tenants in good standing a renewal lease that is based on the material terms of the previous lease. HPD considers the acceptance of Section 8 subsidies to be a material term of the lease; therefore, landlords of rent-stabilized units are obligated to accept Section 8 in their renewal leases.

Procedures for Non-Citizens

Applicant or participant families in which no members are either U.S. citizens or eligible immigrants are not eligible for assistance and must have their assistance terminated. Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

When HPD has clear, concrete or substantial documentation that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity for a hearing. If the family or any member claimed

eligible immigrant status and the Bureau of Citizenship and Immigration Services (BCIS) primary and secondary verifications failed to document the status, the family may make an appeal to the BCIS and request a hearing with HPD either after the BCIS appeal or in lieu of the BCIS appeal. After HPD has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

Zero Assistance Tenancies

The family may remain in the unit at zero assistance (the tenant portion of the rent equals the contract rent) for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If within the 180-day timeframe, an increase in rent or decrease in income causes the family to be eligible for a housing assistance payment, HPD will resume payments for the family.

In order for a family to move with continued assistance to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a HAP.

Option Not to Terminate for Misrepresentation

If the family has misrepresented any facts that caused HPD to overpay assistance, HPD may choose not to terminate and may offer to continue assistance provided that the family executes a repayment agreement and makes payments in accordance with the agreement.

Missed Appointments and Deadlines

It is a family's obligation to supply information, documentation and certification as needed for HPD to fulfill its responsibilities. HPD schedules appointments and sets deadlines in order to obtain the required information. An applicant or participant who fails to keep an appointment or to supply information required by a deadline without notifying the agency may be sent a notice of denial or termination of assistance for failure to provide required information.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for admission;
- Verification procedures;
- Voucher issuance and briefings;
- HQS inspections;
- Recertifications; and
- Conferences and Appeals.

Acceptable reasons for missing appointments or failing to provide information by deadlines are: medical emergency, incarceration, family emergency, and any other reason that HPD deems appropriate.

CHAPTER SIXTEEN: INFORMAL REVIEWS, CONFERENCES, AND INFORMAL HEARINGS

HPD offers numerous ways for program applicants and participants to clarify, resolve, review, and appeal matters and decisions concerning their eligibility to receive Section 8 rent subsidies. These include Informal Reviews, Conferences, and Informal Hearings. Informal Reviews concern denials of assistance to applicants (including voucher holders²), a Conference is used as a preliminary step to resolve matters leading to termination of a participant, and an Informal Hearing is an appeal of termination or subsidy determination for a participant.

HPD will take affirmative steps to communicate with people who need services or information in a language other than English. Interpreters will be available if requested in writing at least three business days before the informal review, conference or informal hearing by the participants. The family has a right to legal counsel or other representation at their own expense.

PART I: Informal Review For Applicants

HPD will give all applicants prompt notice of a decision denying assistance along with a brief statement of the reason for HPD's decision. Depending on the reason (see below), the applicant may also be given the opportunity to request an informal review of the decision and a time limit for requesting a review. An informal review consists of a review of the application, its supporting material and any additional written material that an applicant wishes to submit to support the claim of eligibility.

Generally, HPD must provide applicants with the opportunity for an informal review of decisions denying:

- Listing on HPD's waiting list;
- Issuance of a voucher;
- Participation in the program; and
- Assistance under portability procedures.

Generally, informal reviews are not required for the following reasons for denial of assistance:

- Discretionary administrative determinations by HPD;
- General policy issues or class grievances;
- A determination of the family unit size under HPD's subsidy standards;
- HPD's determination not to approve an extension or suspension of a voucher term;

² A voucher holder is considered an applicant, and not a participant.

- Disapproval of the owner's lease form;
- An HPD determination not to grant approval of the tenancy;
- An HPD determination that a unit selected by the applicant is not in compliance with HQS; and
- An HPD determination that the unit is not in compliance with HQS because of the family size or composition.

The exception is - when an applicant is denied assistance for citizenship or eligible immigration status, the applicant is entitled to the same informal hearing that is offered to participants, as discussed in Part III of this chapter.

Procedure for Informal Review

Applicants who wish to request an informal review of HPD's decision must do so in writing within 21 calendar days from the date of the written notification of the denial of assistance. Requests may be mailed or hand delivered to HPD, Division of Tenant Resources, Appeal Coordinator. The informal review will be conducted within a reasonable period of time (usually 30 days) of receipt of the written request from the applicant.

The informal review will be conducted by a staff member of HPD who is neither the person who made or approved of the decision under review or a subordinate of such person. For an informal review, the applicant should provide any written objections to HPD's decision and any additional information that the applicant believes will support the assertion of eligibility. HPD will consider the material and may request clarification from the applicant.

HPD will notify the applicant of the final decision in a timely manner. The notification will include a brief statement of the reasons for the decision.

All requests for an informal review, supporting documentation, and a copy of the final decision will be retained in the family's file.

Preference Denial

Although not required by regulation, when HPD denies admission to an applicant based on their not belonging to a preference category, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with HPD staff to discuss the reasons for the denial and dispute HPD's decision. The person who conducts the meeting will be any employee or officer of HPD including the person who made the decision.

PART II: Conference- For Participants

The conference is an opportunity for program participants to meet with HPD staff to resolve any outstanding matters that prevent HPD from determining whether the participant is still eligible to receive a Section 8 rent subsidy. Participants who do not submit all required information for recertification will be sent a 'Pre-Termination Notice of Section 8 Non-Compliance,' along with a 'Request for Conference' form. Participants will be given 15

calendar days from the date of the notice to request a conference. Request may be mailed or hand delivered to HPD, Division of Tenant Resources .

HPD has voluntarily implemented the conference procedure. HPD is not required to offer a conference and reserves to right to discontinue the use of conferences at any time.

When an Opportunity for a Conference is Granted

In most cases, HPD will offer participants who have not submitted all documents needed to recertify their Section 8 rent subsidy an opportunity to participate in a conference. A conference request will not be offered or granted for cases involving drug-related or other criminal activity. Such cases will automatically result in a termination.

If a conference is held, but the required documentation is not submitted or other procedures are not met, HPD will send a ‘Notice of Subsidy Termination’ to the participant.

If the participant provides the required documentation within the allowable time period, HPD will send a “rent breakdown letter” to the participant and assistance will continue.

The ‘Notice of Subsidy Termination’ and the “rent breakdown letter” constitute notification of the conference determination.

Time Limits

All requests for conferences must be made in writing and received by HPD within 15 calendar days from the date printed on the ‘Pre-Termination Notice of Section 8 Non-Compliance.’ If a family does not request a conference, the family may still request an informal hearing, if applicable. HPD will attempt to schedule all conferences within 14 calendar days of receipt of the request. All conferences will be conducted within a reasonable period of time (typically 30 days) of receipt of the request. Requests to reschedule a conference will only be entertained for documented emergency situations.

Conference Procedures

A team leader and/or coordinator, or higher level program staff will conduct the conference and may regulate the conduct of the conference.

The participant or representative will be given the opportunity to present documents that demonstrate compliance with Section 8 requirements. In addition, when agreed to at the conference participants will be permitted to submit required documentation up to seven calendar days after the conference.

At the conclusion of the conference, participants will be required to sign a ‘Statement of Understanding – Section 8 Participant Obligations’ detailing the documents submitted and the documents still required to be submitted, if any. All documents submitted during a conference will be reviewed for completeness and accuracy after the conference.

PART III: Informal Hearing For Participants

An informal hearing is an appeal by a participant and will be administered as outlined in 24 CFR Part 982.555. A participant in the voucher program must be notified of the right to an informal hearing under certain circumstances concerning their participation in the program.

When an Opportunity for an Informal Hearing is Required

HPD will provide an opportunity for an informal hearing for the following decisions:

- A determination of the family's annual or adjusted income and the use of such income to compute the housing assistance payment;
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities;
- A determination of the voucher size under HPD's subsidy standards;
- A determination that a voucher program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under HPD's subsidy standards (i.e., the family is "over-housed"), or HPD's determination to deny the family's request for an exception from the standards;
- A determination to terminate assistance for a participant family because of the family's action or failure to act; and
- A determination to terminate assistance because the family has been absent from the assisted unit for longer than the maximum period permitted under HPD's policy and HUD rules.

Informal hearings regarding termination of assistance will be conducted prior to terminating assistance if such informal hearing was properly requested within the time limits, as specified below.

When an Opportunity for an Informal Hearing is not Required

HPD is not required to provide an opportunity for an informal hearing in any of the following circumstances:

- Discretionary administrative decisions by HPD;
- General policy issues or class grievances;
- Establishment of the schedule of utility allowances for families in the program;
- HPD's determination not to approve an extension or suspension of a voucher term;
- HPD's determination not to approve a unit or tenancy;
- HPD's determination that a unit is not in compliance with HQS. However, HPD must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family;
- HPD's determination that the unit is not in accordance with HQS because of the family size; and
- HPD's determination to exercise or not to exercise any right or remedy against the owner under a HAP contract.

Notification of Determination

For determinations of the family income, utility allowance, or unit size, HPD will notify the family that they may ask for an explanation of the basis of the determination, and, if the family does not agree with the determination, they may also request an informal hearing of the determination.

For determinations that a family is residing in a unit with a larger number of bedrooms than is appropriate for the family size, HPD's denial of a family's request for an exception from the subsidy standards, or HPD's termination due to a family's action, failure to act, or absence from the unit for longer than the maximum period permitted, HPD will promptly notify the family in writing. The notification will include the following information:

- The proposed action or decision of HPD and its effective date;
- The procedures for requesting an informal hearing if the family does not agree with the decision;
- The time limit for requesting the informal hearing; and
- To whom the informal hearing request should be addressed.

Time Limits

All requests for informal hearings must be made in writing (forms are provided for this purpose) and received by HPD, either by mail or in person, within 21 calendar days from the date printed on the notice. HPD will not accept phone call requests for an informal hearing. If the participant does not request an informal hearing in accordance with these procedures, HPD's determination will become final. Failure to request an informal hearing will not constitute a waiver by the family of their right to contest the determination in an appropriate judicial proceeding.

HPD will attempt to schedule all informal hearings within 14 calendar days of receipt of the request. All informal hearings will be conducted within a reasonable period of time (typically 30 days) of receipt of the request. Requests to reschedule an informal hearing will only be considered for documented emergency situations.

Informal Hearing Procedures

The Hearing Officer will conduct the informal hearing. The Hearing Officer will be an HPD employee other than the person who made or approved the determination under review, or a subordinate of that person. In certain cases, HPD may utilize more than one employee to serve as an informal hearing panel. In these cases, the panel will deliver the decision as one body.

The family or its representative may request a pre-informal hearing discovery of HPD documents including records and regulations relevant to the informal hearing. The family may make copies of any such documents at their own expense-;

Before any informal hearing, HPD must be provided the opportunity to examine any family documents that are directly relevant to the informal hearing at its office. HPD must be allowed to copy any such document at its own expense. If the family does not make a

document available for examination on request of HPD, the family may not rely on the document at the informal hearing.

The participant will be given the option of presenting oral and/or written objections to the determination in question. The family has a right to legal counsel or other representation at their own expense. Both HPD and the family will have the opportunity to present evidence and/or witnesses.

Issuance of Decision

The Hearing Officer will make a determination on whether the rule or regulation was correctly or incorrectly applied according to the information submitted at the informal hearing. A notice of the informal hearing findings shall be provided in writing to HPD and the participant within a reasonable period of time (typically 30 calendar days after the informal hearing) and shall include a brief explanation of the reasons for the final decision.

All information concerning the informal hearing will be retained in the family's file.

Effect of Decision

HPD is not bound by informal hearing decisions which:

- Concern matters in which HPD is not required to provide an opportunity for an informal hearing in accordance with 24 CFR Part 982.555(b);
- Contradict HUD regulations or requirements;
- Contradict federal, state or local laws; or
- Exceed the authority of the person conducting the informal hearing.

CHAPTER SEVENTEEN: PROGRAM INTEGRITY

PART I: Preventing, Detecting, And Investigating Errors And Program Abuse

If HPD makes a determination that a family, owner or HPD employee has abused the program, HPD will take action to correct the situation. HPD may at any time deny program assistance to an applicant or terminate program assistance for a participant if a preponderance of the evidence shows that any family member has willfully and intentionally committed fraud, bribery, or any other corrupt or criminal act in connection with a federal housing program. HPD's actions will vary based on the nature and severity of the abuse.

Fraud and abuse can consist of either a single act or a pattern of actions made with the intent to deceive or mislead, and which constitutes a false statement, omission, or concealment of a substantive fact. Fraud and abuse result in the payment of program funds in violation of program requirements.

In determining whether a case of fraud or abuse exists, HPD must recognize the differences between unintentional and intentional misreporting. HPD must also evaluate the special circumstances and seriousness of a case to determine whether further investigation for evidence of fraud or abuse is required. For example, failure to report required information due to a lack of understanding may be considered as an error or omission and not fraud or abuse. For owners, collecting a HAP payment for a vacated unit when the owner is not aware that the assisted family has vacated may also be considered an error or omission and not fraud.

Fraud allegations are received or discovered from many different sources. When information indicates that fraud may exist, the family, owner or HPD employee will be required to attend a hearing to review the issue. Based on the outcome of the hearing, HPD will decide whether or not to forward the case to HPD's Inspector General for further investigation. Referral to the IG does not prohibit HPD from making a decision to deny assistance to an applicant or terminate program assistance for a participant or owner.

PART II: Corrective Measures And Penalties

If an error has been made in determining family income, family share of the rent or family composition, HPD will promptly correct the error after notice to the family and the owner. For subsidy corrections, the notice will include an amendment to the HAP contract. For changes in family size, the correction may require the family to move to a new unit. Unless the owner requires a new lease, execution of a new HAP contract is not required. The specific corrective action that HPD takes depends upon the fault of the party in causing the error as more fully described below.

Family Payment Too High

- **Error or omission - fault of HPD:** HPD will refund the total amount due to the family from the Housing Choice Voucher administrative fee reserves. If the family

owed the owner rent, HPD may choose to pay the amount due or a portion thereof directly to the owner on behalf of the family.

- **Error or omission - fault of the family:** If the error is the fault of the family, HPD will not reimburse the family, but will process the change effective the first of the month following notification or discovery of the error or omission.

Family Payment Too Low

- **Error or omission - fault of HPD:** If the family share of rent is incorrectly set too low, the family and the owner are not responsible for repayment. HPD in this instance will give the family and owner notice of the change in family and HAP share to be effective immediately.
- **Error or omission - fault of the family:** If the family share of rent is set too low due to error or omission of the family, the family must repay HPD promptly within the terms of a repayment agreement. HPD will notify both the owner and tenant of the family and HAP share to be effective retroactively to the time of the reporting error. Failure of the family to abide by the terms of the repayment agreement may result in termination of assistance.

Family Size

- **HPD error - family receives a subsidy for a larger unit than the size of unit for which it is entitled:** HPD will encourage the family to move to an appropriately sized unit. If the family refuses to relocate or make a good faith effort to find alternative housing, HPD will adjust the payment standard for the family to the appropriately sized unit for which it qualifies. HPD will give proper notice to both the family and the owner of any change in subsidy, which will take effect at the next regular reexamination.
- **Misrepresentation by the family -- family receives a subsidy for a larger unit than the size of unit for which it is entitled:** The family must repay HPD immediately for the total amount of overpayment due or sign a repayment agreement. HPD may also decide to terminate assistance. If assistance is not terminated, HPD will adjust the subsidy to account for the new payment standard and provide the owner and the family with notification of the change.
- **Family receives a subsidy for a unit that is smaller than the size of unit for which it is entitled:** HPD will immediately notify the family and the owner of the error and issue the family a voucher for the correct unit size. If the current unit violates HQS space requirements and the family does not relocate within a reasonable period of time, HPD will terminate assistance.

Repayment Agreements

Repayment agreements are executed with participants who owe HPD money as a result of current or previous participation in the Housing Choice Voucher program. For example, if a family did not report an increase in family income, or is found, through third party verification to have a higher income than that reported by the family, HPD may calculate a retroactive payment for the full amount. However, HPD is not obligated to enter into a

repayment agreement with any tenant and may terminate program assistance for a family's violation of their program obligations.

If the tenant does not comply with the repayment agreement, HPD may terminate the tenant from the program. However, HPD will consider extenuating circumstances on a case-by-case basis.

If HPD determines that the family committed fraud or was grossly irresponsible, HPD may require the family to repay the entire amount in full or have its assistance terminated. In these instances, HPD may refer the case for criminal prosecution through the Inspector General.

Families will not be permitted to move to a new unit (except under portability or if a change in family composition requires it) if they are in default of the terms of their repayment agreement.

Repayment Agreement Standards

Families that enter into a repayment agreement with HPD will be required to adhere to the following payment standards:

- 1) A minimum of \$50 paid upon execution of the agreement;
- 2) Thereafter, the tenant's monthly payment must be at least \$25;
- 3) The remaining balance must be paid in equal monthly installments over a period not to exceed 24 months. At the family's request, the period may be shorter than 24 months.

CHAPTER EIGHTEEN: PROGRAM ADMINISTRATION

Administrative Fee Reserve

The Commissioner of HPD or any employee designated by the Commissioner may approve charges to the administrative fee reserve for either a House Choice Voucher program or other housing purpose. The agency does not maintain a maximum withdrawal amount from the reserve per occurrence or per fiscal year.

Housing Choice Voucher Notices

The Housing Choice Voucher program deems all notices that are mailed through the U.S. Postal Service to have been received three business days after mailing, unless the Postal Service returns the notice as undeliverable. HPD may also send some forms by certified mail.

Coordination with the New York City Housing Authority (NYCHA)

HPD and NYCHA each administer their own voucher program in the same jurisdiction. Wherever possible, the two agencies collaborate on program operations and attempt to maintain consistent policies for owners that have HAP contracts with both agencies. The items listed below are presented for informational purposes only. Both agencies maintain separate funding contracts with HUD and are not obligated to maintain the same discretionary policies and procedures for the operation of the Housing Choice Voucher program.

- **Fair Market Rents (FMRs):** HUD establishes one set of FMRs for the New York City metropolitan area that is used by both agencies.
- **Payment Standards:** HPD and NYCHA may establish different payment standards based on the FMR. Currently, HPD's payment standard is 110% of FMR, but this figure is subject to change. HPD collaborates with NYCHA in providing any requests for exception payment standards to HUD.
- **Income Limits:** HUD issues one set of income limits for the New York metropolitan statistical area that is used by both agencies to determine income eligibility for the HCV program.
- **Income Targeting:** In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year NYC will reserve a minimum of 75% of its new admissions under the HCV program for families whose income does not exceed 30% of the area median income. HUD refers to these families as "extremely low-income families." HUD will treat multiple PHAs serving one jurisdiction as a single PHA for income targeting purposes. HPD will cooperate with NYCHA to assure that aggregate admissions comply with the 75% requirement for the jurisdiction. Enhanced vouchers are exempt from this requirement.
- **HQS Policies and Guidelines:** HPD and NYCHA collaborate on HQS inspection guidelines (e.g., specification of tenant-caused damage and definition of emergency/life-threatening conditions) and requirements, but HPD maintains separate guidelines.
- **Utility Allowances:** HPD uses the analysis of NYCHA's Energy Department to update the utility allowance schedule as provided by HUD regulation.

- **Rent Reasonableness:** The two agencies confer on procedures for determining rent reasonableness and assist one another with information on standards for comparable, unassisted units.

Employee Conflict of Interest

Solicitation or Acceptance of Gifts

In accordance with Chapter 68 of New York City's Conflict of Interest Law and the Commissioner's Memorandum regarding Conflicts of Interest:

HPD employees shall not solicit or accept anything of value from any person or entity doing business with HPD, except that employees may accept:

- Gifts that are customary on family and social occasions (such as a birthday or wedding), as long as the basis for the gift is close personal friendship and the entire circumstances indicate that there is no actual conflict or appearance of impropriety; and;
- Invitations, meals, or travel expenses offered in connection with certain events, conferences, and meetings involving City business that may be considered gifts to the City and not to the individual employee.

HPD employees shall not solicit or collect any monetary or non-monetary donation or anything else of value (including, but not limited to, any campaign contribution or any donation of time or resources) on behalf of any person, entity, organization, candidate, or cause from any person or entity doing business with HPD.

Violation of the City's conflict of interest rules may result in demotion, suspension, or termination of employment. In addition, the Conflict of Interest Board may levy fines up to \$10,000 for each violation and recommend disciplinary action. Conflict of interest violations are punishable as misdemeanors under City law and can result in prosecution by the District Attorney's Office.

For Employees Applying For or Receiving House Choice Voucher Benefits

If an HPD employee or contract worker has applied for or is receiving Housing Choice Voucher assistance, the following policy and protocol will apply.

- Employees or contract workers may not work directly on their own cases or cases involving immediate family members. This means that employees or contract workers applying for Housing Choice Voucher assistance may not process their own application, schedule their briefing or be directly involved in the issuance of their voucher. For employees and contract workers already receiving assistance, they may not administer and process their own recertification. Employees and contract workers working in the HQS division may not perform the initial or annual inspection for an apartment that they will rent or currently rent.

- All applications for Housing Choice Voucher assistance and recertifications from existing employees or contract workers must be reviewed and approved by a DTR Director or higher before assistance is awarded or the recertification is completed.
- At least each quarter, unit directors must review the files of all employees and contract workers receiving Housing Choice Voucher assistance to determine if there are any irregularities that affect the employee's or contract workers' program status.

CHAPTER NINETEEN: ENHANCED VOUCHERS

HPD uses enhanced vouchers to preserve housing units that might otherwise be lost due to housing conversion actions such as mortgage prepayments, project-based opt-outs, HUD enforcement actions, and HUD property disposition. Enhanced vouchers are also known as “sticky” vouchers because the enhanced assistance only applies if the voucher holder stays in the conversion project. If the family moves outside the development, the voucher reverts to a regular voucher and the regular program rules and payment standards apply.

Some aspects of the enhanced voucher program are highlighted below. All other conditions are governed by the regular HCV program rules and regulations.

Selection

In a housing conversion action, HUD provides vouchers with a specific family in mind. HPD must first use these vouchers to assist those families affected by the conversion, regardless of their presence or position on the Housing Choice Voucher waiting list.

Eligibility

Only families residing in the project at the time of conversion are eligible for enhanced voucher assistance. In order to receive assistance in HPD’s enhanced voucher program, family annual income cannot exceed 95% of area median income (AMI) as determined by HUD. The family must be income eligible at the time of conversion. For eligibility purposes, time of conversion is the effective date of prepayment or voluntary termination of mortgage insurance.

If a resident family’s income is greater than 95% of AMI at the time of conversion, the family is not eligible for an enhanced voucher even if the family’s situation later changes. HPD may use the owner’s family income examinations if the certifications are less than 6 months old and HPD reviews a sample for accuracy. In this case, the annual recertification date would be calculated from the owner’s examination date, not HPD’s approval date.

Vouchers

Voucher bedroom sizes are based on HPD’s subsidy standards, regardless of the actual occupied unit. Changes in family composition and succession of family members in enhanced conversion projects will be governed by the same rules that apply to the regular housing choice voucher program.

Mobility

Since enhanced vouchers are tenant-based assistance, voucher holders may move as soon as they receive a voucher. Families may move to another unit in the project, outside the project, or outside HPD’s jurisdiction under portability. If a family moves from the conversion project, the normal payment standard for the jurisdiction applies to the voucher.

Lease Up

HPD may not approve any temporary or short-term leases between the family and the owner. The initial lease term must be for at least one year unless HPD has determined for

the housing choice voucher program that a shorter term would improve housing opportunities for the tenant and such shorter term is the prevailing local market practice.

Payment Standard

For eligible families that remain in the conversion project, the enhanced voucher payment standard equals the approved gross rent of the occupied unit (subject to rent reasonableness determinations). The normal HPD payment standard does not apply.

Housing Assistance Payment (HAP)

The HAP contract may not begin before the effective date of the rent increase (60 days after the conversion date).

If a family is income-eligible at the time of conversion but is in a “zero HAP” situation because the total tenant payment is greater than or equal to gross rent, then HPD must keep a record of family eligibility and inform the family that should their income decrease or the family’s rent increase within three years of the conversion date, it is the family’s responsibility to contact HPD. At such time, HPD may execute a housing assistance payment contract as long as all other program requirements are met.

Tenant Share—Enhanced Minimum Rent

Families with enhanced assistance remaining in the conversion project must pay at least the rent they were paying at the time of conversion, even if it exceeds 40% of the family’s adjusted monthly income. Families previously receiving project-based or tenant-based assistance must pay at least their past total tenant payment. The enhanced minimum rent only applies if the family remains in the conversion project.

The method for calculating the minimum rent changes if the family’s income subsequently decreases to a significant extent (15% or more) from the family’s gross income on the effective date of the eligibility event. In this instance, the family share will be recalculated so the family pays 30% of monthly adjusted income or the percentage of monthly adjusted income actually paid at the time of conversion, whichever is greater. This percentage of income will remain as the family’s enhanced voucher minimum rent regardless of subsequent changes in income.

Right to Remain

According to federal law, “a family that receives an enhanced voucher has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for housing choice voucher assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for a serious or repeated lease violation or other good cause. If an owner refuses to honor the family’s right to remain, the family may exercise any judicial remedy that is available under State and/or local law.”

Over-Housed Families

A family is “over-housed” if the size of the actual unit occupied exceeds the bedroom size listed on the family’s voucher. Over-housed families (at the time of conversion or at anytime afterwards) must move to an appropriate size unit in the conversion project if one is available. If no appropriate size unit is available in the project, HPD may execute a HAP

contract for the over-sized unit. The effective date of the HAP contract for the over-sized unit may not be earlier than the expiration date of the term of the family's voucher. The payment standard is the gross rent of the over-sized unit, and HPD will advise the family that the enhanced subsidy based on the over-sized unit's rent will only be paid for one year. During the one-year grace period, the family is encouraged to move to an appropriate size unit. If the family finds an appropriate size unit in the project, the payment standard will equal the gross rent of the new, appropriate size unit.

After one year, if the landlord accepts the rent amount normally charged for the unit size listed on the voucher even though the family continues to occupy the larger, over-sized unit, HPD may execute a HAP contract for the oversized unit. The payment standard is the gross rent for the unit size listed on the voucher. If the landlord does not accept this arrangement, then HPD's regular payment standard applies. A family remaining in the over-sized unit after one year must pay the additional cost out-of-pocket.

Exceptions to the rules on over-housed families may be granted on the basis of age, threat to physical or mental health, and medical conditions. The standards for appropriate documentation shall be the same as indicated in related sections in the Administrative Plan, unless determined otherwise by the Assistant Commissioner. Any exception must be approved by an HPD employee at the Director level or higher.

Rent Increases

Rent increases are governed by the terms of the lease and any applicable state or local laws. In addition, the owner is not permitted to increase the rent for at least 60 days from the conversion date. If the rent is increased for an enhanced voucher family, HPD will increase the payment standard to equal the new gross rent (See Chapter 9, Part II).

CHAPTER TWENTY: HOUSING CHOICE VOUCHER HOMEOWNERSHIP

HPD has established a Housing Choice Voucher Homeownership Option for eligible and qualified HPD voucher holders, pursuant to the HUD Final Rule dated August 24, 2000.

PART I: Qualifications for Participation

Current Voucher Holder

In order to participate in the homeownership option the applicant must be a current Housing Choice Voucher program participant, a Family Self Sufficiency (FSS) program participant, in full compliance with their lease and program requirements, and must not owe HPD any funds under a repayment agreement.

Income

The income of the adult family member(s) who will own the home at commencement of homeownership assistance must be, at a minimum, equivalent to 2000 hours of annual full time work at Federal minimum wage (approximately \$10,300 at \$5.15/hr rate.) Public assistance income may not be used for meeting this minimum requirement, *except for households in which the head or spouse is elderly or disabled*.

Once a family identifies a home to purchase, HPD or its designee reserves the right to determine whether family income and assets are adequate to sustain homeownership and other family expenses. Determinations are based on conventional underwriting standards, maintenance and operating expenses consistent with area-wide standards and condition of the property.

Assets

In order to build assets adequate to acquire and maintain a home, the HCV recipient or another adult household member must be a participant in or graduate of the HPD Family Self-Sufficiency program. Participants may also be required to enroll in a First Home Club and/or Home Buyers Club. The minimum homeowner downpayment is three percent of the purchase price, and at least one percent of the purchase price must come from the family's personal resources, which may include escrow funds.

Employment

One or more adult members of the household who will own the home at commencement of homeownership assistance must be employed full time (30 hours or more weekly) continuously during the year prior to commencement of homeownership assistance. HPD has discretion concerning breaks in employment. Households with a disabled member may receive an exemption as a reasonable accommodation upon request. Households in which the head of household or spouse is disabled or elderly are exempt from this requirement.

Previous Defaults

The household members who will have an ownership interest in the house must not have defaulted on a mortgage to purchase a home under the homeownership option of any PHA.

First Time Homeowners

The applicant must be a first time homeowner, meaning no family member may have held title to a principal residence in the previous three years. A single parent or displaced homemaker who, while married, owned a home with a spouse or resided in a home owned by a spouse is considered a first time homeowner for these purposes.

PART II: Process

Homeownership Participation Agreement

If the applicant meets the minimum program requirements, they will be required to sign a Homeownership Participation Agreement prior to referral to an HPD approved homeownership counseling agency. This agreement will describe what HPD will require for participation in the Housing Choice Voucher Homeownership Program.

Pre-Purchase Counseling

Once the applicant meets the minimum program requirements described above, they will be referred to an HPD approved homeownership counseling agency for pre-purchase counseling. Pre-purchase counseling topics will include home maintenance, budgeting and money management, credit counseling, financing options, and how to locate and negotiate the purchase of a house. Upon successful completion of the pre-purchase counseling, the applicant will receive a “Certificate of Completion,” which deems the family to be mortgage-ready.

Downpayment Lump Sum Option

If the downpayment lump sum option does take effect as per the October 8, 2002 Final Rule on Downpayment Assistance and Streamlining Amendments, HPD reserves the option of offering the downpayment lump sum option in lieu of continued monthly payments.

Timeframe for Utilization/Home Purchase

After receipt of a Certificate of Completion, the family will be issued a Homeownership Option Voucher and will have 180 days from the voucher date to find a home and enter into a Contract of Sale. If, after demonstrating to HPD or its designee a good-faith search effort, the family is unable to enter into a Contract of Sale before the end of the 180-day deadline, it may be granted up to two 90-day extensions. A good faith effort includes compliance with the Homeownership Participation Agreement, including but not limited to actively searching for housing, providing all household and financial documents requested to HPD or its designee, and actively participating in savings, Homebuyers Club, and FSS programs. If the family is unable to locate a suitable home, HPD will allow it to continue to receive assistance under the HCV rental program so long as all eligibility criteria continue to be met.

Home Inspections and Contract of Sale

Eligible housing types include those types permitted by HUD under 24 CFR Parts 5, 903, and 982, which at this time include single-family homes, cooperative units, and condominium units. When the family has identified a home it wants to buy, HPD will conduct a Housing Quality Standards inspection. If HPD finds the safety and condition of the home/unit acceptable, the family must obtain an independent professional home inspection. The inspection must cover major building systems and components, including

foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical and heating systems. A copy of the inspection report must be submitted for review to HPD and any HPD designee assisting the homebuyer. HPD reserves the right to disqualify the home for inclusion in the HCV homeownership program based on either report.

If HPD and/or its designee are satisfied with the results of the inspections, the family may enter into a Contract of Sale with the owner of the home to be purchased. The home must be either under construction or already existing before the Contract of Sale is executed. The Contract of Sale must include the home's price and terms of sale. The family must give a copy of the Contract of Sale to HPD within three days of execution.

Permitted Ownership Arrangements

The Homeownership Option may be utilized in two types of housing:

- A single-family house or condominium unit owned by the family in which one or more adult family members hold title to the home. Homes occupied under a lease-purchase agreement are eligible; and
- A cooperative unit in which one or more adult members of the family own shares in the cooperative.

Portability

Families determined eligible for the HCV Homeownership Option may exercise the option outside of New York City if the receiving PHA is administering a Housing Choice Voucher Homeownership Option and is accepting new families into its program.

Financing

The family is required to secure a fixed-rate, fully amortizing mortgage or mortgages for an amount(s) that will be supported by its total monthly gross income and the value of HAP payments. The mortgage(s) must be on terms permitted by HUD. An HPD-approved lender from either a conventional bank or a nonprofit lending institution must provide the mortgage loan(s). HPD must also review and approve the terms of the mortgage(s).

Depending upon the availability of funding and to the extent permitted by law, HPD may make available additional subsidy funds such as HOME or CDBG funds to further reduce the cost of homeownership. If at any time during the term of the mortgage(s) the HCV subsidy is reduced (for example, due to an increase in the family's income), the family will still be responsible for making full monthly mortgage payments.

Length and Continuation of Assistance

Housing Choice Voucher assistance will only be provided for the months the eligible family is in residence in the home. According to federal legislation, the maximum period a family may receive homeownership assistance is 15 years, if the primary mortgage has a term of at least 20 years; or 10 years, if the primary mortgage has a term of less than 20 years; *unless the family is "elderly or disabled."*

A homeownership family may sell one home and purchase another home with Housing Choice Voucher assistance provided there is no mortgage loan default and the family is in

compliance with the statement of homeowner obligations. The family is subject to a recapture provision as per the legislation that diminishes over the years of assistance.

The maximum term for homeownership assistance does not apply to an elderly family or a disabled family. In the case of an elderly family, this exception is only applied if the family qualifies as an elderly family at the commencement of homeownership assistance. In the case of a disabled family, this exception applies if at any time during receipt of the homeownership assistance the family qualifies as a disabled family. If during the course of homeownership assistance the family ceases to qualify as disabled or elderly, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (providing the family is otherwise eligible to receive Housing Choice Voucher homeownership assistance).

Defaults

If a family in the Homeownership Option defaults on its first or second home mortgage loan, the family will not be able to use its Homeownership Option Voucher to purchase another house, but may reapply, if eligible, for the Housing Choice Voucher rental program.

Homeownership Obligations

To receive financial assistance under the Housing Choice Voucher Homeownership Option Program, the family must execute a Statement of Homeowner Obligations prior to taking title to the home. To continue to receive homeownership assistance, a household must comply with the obligations, which may be revised by HPD as warranted, and are as follows:

- The family must comply with the terms of any mortgage and other legal documents that secure the debt used to purchase the home, and any refinancing of such debt;
- The family must maintain the home as its principal residence for the period of time the household is receiving assistance, and the home may not be the residence of other households. The family may not move more than once during any year period;
- The family must supply to HPD the required Housing Choice Voucher information regarding income and household composition on an annual basis in order to calculate the appropriate Housing Assistance Payment during the term of homeownership assistance;
- The family must immediately notify HPD if the household income changes and provide the information necessary to complete an interim recertification;
- The family must provide HPD with information on the following:
 - any mortgage or other debt used to purchase the home and any refinancing of such debt;
 - any satisfaction or payment of mortgage debt; any sale or other transfer of any interest in the home; and
 - the household's homeownership expenses.
- The family shall sign an authorization allowing HPD, its designees and all of the lenders holding mortgages to their home to disclose to each other information as it pertains to its mortgage application and other records, which each party may require;

- The family must immediately notify HPD if it becomes delinquent and/or defaults on a mortgage securing any debt incurred to purchase the home, and must agree to work with HPD's designated housing counselors to work out terms for becoming current;
- The family must, at annual recertification, document to HPD that it is current on mortgage, insurance, taxes and utility payments and certify that no additional debt or liens have been placed on the property; and
- An adult family member may be required to participate in ongoing post-purchase counseling and attend courses required by HPD during the first year of homeownership or as needed upon recommendation by the first or second mortgagor.

HPD reserves the right to recapture homeownership assistance over a ten-year period as detailed in the Homeownership agreement, the HUD Final Rule and 24 CFR Part 982.640.

HPD reserves the right to re-inspect the home during the period of housing assistance.

CHAPTER TWENTY ONE: MODERATE REHABILITATION PROGRAM

The Moderate Rehabilitation Program (Mod Rehab) is governed by federal statute, regulations at 24 CFR Part 882 and the housing assistance payments contract for the program. The Mod Rehab program provides project-based rental assistance for low-income families. The U.S. Congress repealed the program in 1991 and no new projects have been authorized for development since then.

The following information does not apply to the Moderate Rehabilitation-SRO (MOD-SRO) or Shelter Plus Care (SPC) programs. These programs are authorized by the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.). The MOD-SRO Program is governed by 24 CFR 882 Subpart H and the SPC Program is governed by 24 CFR 582

Mod Rehab Program Preference

HPD will establish a selection preference for Mod Rehab program units that are vacant and available for occupancy.

First preference will be given to applicants who:

1. Reside in a building planned for or currently under rehabilitation by one or more of HPD's affordable housing development programs; and
2. Meet all other income, eligibility and suitability criteria established by HPD for participation in the Housing Choice Voucher Program.

The order of priority placement for households who qualify for this preference shall be determined by HPD based on the need to relocate households on a timely basis to conform to rehabilitation or construction schedules.

Over-Housing or Over-Crowded Units: Mod Rehab Program

If HPD determines that a contract unit is not decent, safe, and sanitary by reason of increase in family size, or that a contract unit is larger than appropriate for the size of the family in occupancy, housing assistance payments with respect to the unit will not be abated. The owner must offer the family a suitable alternative unit should one be available and the family will be required to move.

If the owner does not have a suitable available unit, HPD will assist the family in locating other standard housing in the locality within the family's ability to pay and require the family to move to such a unit as soon as possible. In no case will a family be forced to move nor will housing assistance payments under the Contract be terminated unless the family rejects without good reason the offer of a unit which HPD judges to be acceptable.