

**Department of  
Housing Preservation  
& Development**

**Department of Housing Preservation and Development  
Housing Choice Voucher Program**

---

**Administrative Plan**

**April 15, 2022**

## Contents

<b>1</b>	<b>OVERVIEW OF THE PROGRAM AND THE PLAN .....</b>	<b>1-1</b>
1.1	Overview of HPD's Voucher Program .....	1-1
1.2	Purpose of the Administrative Plan .....	1-2
1.3	Covered Programs .....	1-2
1.3.1	Project Based Vouchers.....	1-2
1.3.2	Section 8 Moderate Rehabilitation Program .....	1-4
1.3.3	The Continuum of Care Program .....	1-4
1.4	Changes to the Administrative Plan .....	1-4
1.5	Contacting HPD .....	1-4
<b>2</b>	<b>FAIR HOUSING AND EQUAL OPPORTUNITY .....</b>	<b>2-1</b>
2.1	Nondiscrimination.....	2-1
2.1.1	Discrimination Complaints.....	2-1
2.2	Affirmatively Furthering Fair Housing .....	2-1
2.3	Program Accessibility and Accommodations .....	2-2
2.3.1	Program Accessibility.....	2-3
2.3.2	Additional Accommodations for Persons with Disabilities .....	2-3
2.4	Improving Access to Services for Persons with Limited English Proficiency.....	2-4
2.5	Violence Against Women Act (VAWA) .....	2-4
2.5.1	Terminating or Denying Assistance to Domestic Violence, Dating Violence, Sexual Assault or Stalking Victims and Offenders .....	2-4
2.5.2	Definitions of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.....	2-5
2.5.3	Victim Documentation .....	2-5
2.5.4	Terminating or Denying Assistance to an Offender .....	2-7
2.5.5	Emergency Move and Portability Policy .....	2-7
2.5.6	VAWA Self-Petitioner Status .....	2-8
2.5.7	Additional Protections .....	2-8
2.5.8	Confidentiality Requirements.....	2-8
2.6	Promoting Deconcentration.....	2-9
<b>3</b>	<b>LOCAL PREFERENCES AND SPECIAL ADMISSIONS.....</b>	<b>3-1</b>
3.1	Local Preferences .....	3-1
3.2	Special Housing Initiatives and Special Admissions .....	3-5
3.2.1	Enhanced Vouchers.....	3-5
3.2.2	Rental Assistance Demonstration (RAD) Tenant Protection Vouchers.....	3-5
3.2.3	Welfare-to-Work.....	3-6

3.2.4	HUD Veterans Administration Supportive Housing (VASH) Program .....	3-6
3.2.5	Family Unification Program (FUP) Vouchers .....	3-7
3.2.6	Mainstream Vouchers .....	3-7
3.2.7	HUD Housing Choice Voucher Community Choice Demonstration.....	3-8
3.2.8	Emergency Housing Voucher (EHV) Program.....	3-8
<b>4</b>	<b>APPLICATIONS, WAITING LIST AND TENANT SELECTION .....</b>	<b>4-1</b>
4.1	The Application Process.....	4-1
4.1.1	Outreach to Tenants .....	4-1
4.1.2	Advertising .....	4-1
4.1.3	Service Provider Strategies .....	4-1
4.1.4	Application Format .....	4-1
4.1.5	Application Submission .....	4-2
4.2	Waiting List .....	4-2
4.2.1	Waiting List Organization and Management .....	4-2
4.2.2	Multiple Families in the Same Household.....	4-3
4.2.3	Changes to Households Prior to New Admission .....	4-3
4.2.4	Opening and Closing the Waiting List.....	4-4
4.2.5	Maintaining the Wait List .....	4-4
4.2.6	Removal of Applicants from the Waiting List .....	4-5
4.2.7	Selection of Applicants from the Waiting List.....	4-5
<b>5</b>	<b>ELIGIBILITY .....</b>	<b>5-1</b>
5.1	Family .....	5-1
5.1.1	Definitions of Family and Household Members .....	5-2
5.1.2	Verifying Interdependence .....	5-3
5.1.3	Disability .....	5-3
5.1.4	Family Break-Up .....	5-4
5.1.5	Joint/Partial Custody of a Child or Children .....	5-6
5.1.6	Live-in Aides and Attendants.....	5-7
5.1.7	Guests .....	5-7
5.1.8	Family Absence from the Unit .....	5-8
5.1.9	Household Member Absence from the Unit .....	5-9
5.1.10	Continual Assistance.....	5-9
5.1.11	Reinstatement after Relinquishing Voucher.....	5-9
5.2	Income .....	5-10
5.2.1	Income Limits at Admission.....	5-10
5.2.2	Adjustments to Income.....	5-10
5.3	Income Targeting .....	5-13
5.4	Citizenship/Eligible Immigration Status.....	5-13

5.5	Mandatory Social Security Numbers .....	5-13
5.6	Privacy Rights .....	5-14
<b>6</b>	<b>VERIFICATION.....</b>	<b>6-1</b>
6.1	Verification Hierarchy .....	6-1
6.2	Age of Verification Documents .....	6-4
6.2.1	Age of Documents When They Are Received by HPD at Application .....	6-4
6.2.2	Admission - Regulatory Requirement .....	6-4
6.2.3	Recertification .....	6-4
6.3	Verification Factors and Required Documentation.....	6-5
6.4	Enterprise Income Verification.....	6-11
6.4.1	Authorization .....	6-12
6.4.2	Security .....	6-12
6.4.3	EIV Income Discrepancies .....	6-13
6.4.4	Underreporting Income and Assets .....	6-13
<b>7</b>	<b>SUBSIDY STANDARDS AND VOUCHER ISSUANCE .....</b>	<b>7-1</b>
7.1	Briefings and Family Obligations .....	7-1
7.1.1	Briefings .....	7-1
7.1.2	Family Obligations.....	7-1
7.2	Issuance of Vouchers and Subsidy Standards .....	7-2
7.2.1	Voucher Issuance .....	7-2
7.2.2	Voucher Term, Suspensions and Extensions .....	7-3
7.2.3	Subsidy Standards.....	7-3
7.2.4	Determining Family Unit (Voucher) Size.....	7-4
7.2.5	Exceptions to Subsidy Standards.....	7-5
7.2.6	Exceptions to Payment Standards .....	7-5
<b>8</b>	<b>HOUSING QUALITY STANDARDS.....</b>	<b>8-1</b>
8.1	Physical Standards .....	8-1
8.2	Bedrooms and Apartment Layout.....	8-1
8.3	Kitchen.....	8-2
8.4	Bathroom .....	8-2
8.5	Other Rooms Used for Living .....	8-2
8.6	Specific Apartment Items .....	8-2
8.6.1	Windows .....	8-2
8.6.2	Doors .....	8-3
8.6.3	Walls and Ceilings.....	8-3
8.6.4	Floors.....	8-3
8.6.5	Electrical .....	8-3
8.6.6	Heating .....	8-4

8.6.7	Plumbing .....	8-4
8.6.8	Access .....	8-4
8.6.9	Exits .....	8-4
8.6.10	Sanitary .....	8-4
8.6.11	Smoke and Carbon Monoxide Detectors .....	8-4
8.6.12	Lead-Based Paint.....	8-5
8.7	Emergency Conditions .....	8-5
8.8	Tenant Responsibility Defects .....	8-5
8.9	The Inspection Process.....	8-6
8.9.1	General Policies .....	8-6
8.10	Initial Inspections for New Program Units .....	8-7
8.11	Biennial Inspections .....	8-7
8.12	Special Inspections .....	8-8
8.13	No Access.....	8-8
8.14	Cancellation of a HQS Inspection by Tenant .....	8-8
8.15	Abatement of HAP and HAP Contract or Program Termination for HQS Failure .....	8-9
8.16	Owner-Caused Failures .....	8-10
8.17	Tenant-Caused Failures.....	8-10
8.17.1	No Access to Landlord for Repair of HQS Violations .....	8-11
<b>9</b>	<b>RENT REASONABLENESS DETERMINATIONS .....</b>	<b>9-1</b>
9.1	General Policy.....	9-1
9.2	When and How Rent Reasonableness Determinations Are Made .....	9-1
9.2.1	Limitations Upon Rent Subsidy - Maximum Family Share .....	9-2
9.2.2	Rent Reasonableness Methodology .....	9-2
9.2.3	Rent Regulated Apartments .....	9-2
9.2.4	Annual Adjustments to Rent – Rent Increases .....	9-2
9.2.5	Annual Adjustments to Rent – Rent Reductions .....	9-3
<b>10</b>	<b>TENANT SHARE AND SUBSIDY DETERMINATIONS .....</b>	<b>10-1</b>
10.1	Calculating Family Share .....	10-1
10.2	Enhanced Vouchers.....	10-1
10.3	Maximum Family Share at Initial Occupancy .....	10-2
10.4	Payment Standards.....	10-2
10.4.1	Increase in Payment Standard .....	10-2
10.4.2	Decrease in Payment Standard.....	10-2
10.5	Change in Family Voucher Size .....	10-2
10.5.1	Decrease in Family Composition .....	10-3
10.5.2	Increase in Family Composition .....	10-3
10.5.3	HPD Subsidy Standard Change .....	10-3
10.6	Application of Utility Allowances and Payment Standards .....	10-3

<b>11</b>	<b>GENERAL LEASING POLICIES AND HOUSING ASSISTANCE</b>	
	<b>PAYMENT (HAP) CONTRACT</b>	<b>11-1</b>
11.1	Initial Steps in the Leasing Process	11-1
11.1.1	Eligible Housing Types	11-1
11.1.2	Initial Family Share of Rent	11-2
11.1.3	Disapproval of the RFTA	11-2
11.1.4	Screening of Applicants for Family Behavior or Suitability	11-2
11.2	The Lease and Tenancy Addendum	11-3
11.2.1	Form of Lease	11-3
11.2.2	Initial Lease Term	11-3
11.2.3	Lease/HAP Renewal in Rent-Regulated Units	11-3
11.2.4	Right to Remain – Conversions and Opt-Outs	11-4
11.2.5	Changes in Lease	11-4
11.2.6	Separate Agreements	11-4
11.2.7	Security Deposits	11-4
11.3	Housing Assistance Payment (HAP) Contracts	11-5
11.3.1	HAP Payments	11-5
11.3.2	Overpayments	11-5
11.3.3	Termination of Contract and Payment	11-6
11.3.4	Family Move-out	11-6
<b>12</b>	<b>OWNERS</b>	<b>12-1</b>
12.1	Definition of Owner	12-1
12.2	Disapproval of Owner	12-1
12.3	Change in Ownership	12-2
<b>13</b>	<b>ANNUAL AND INTERIM RECERTIFICATIONS</b>	<b>13-1</b>
13.1	Annual Recertification	13-1
13.2	Interim Recertification	13-2
13.3	Recalculating Family Share and Subsidy Amount	13-2
13.3.1	Increases in Tenant Share of Rent	13-2
13.3.2	Decreases in Tenant Share of Rent	13-2
13.3.3	Increase in Family Size	13-3
13.3.4	Decrease in Family Size	13-3
<b>14</b>	<b>MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY</b>	<b>14-1</b>
14.1	Moves	14-1
14.1.1	Exceptions to Move Policy	14-1
14.1.2	Move Procedures	14-1
14.1.3	Move Voucher Term, Suspension and Extension	14-3
14.1.4	Costs Associated with Moving and Housing Search	14-3
14.2	Required Moves	14-3

14.2.1	Owner Non-Compliance .....	14-3
14.2.2	Unit Under Long-Term HAP Abatement .....	14-4
14.2.3	Violation of Space Standards .....	14-4
14.2.4	Unhoused Participants .....	14-4
14.2.5	Overhoused PBV Participants .....	14-4
14.3	Portability .....	14-4
14.3.1	Porting out of New York City .....	14-4
14.3.2	Voucher Extensions and Suspensions for Porting Out .....	14-6
14.3.3	Porting in to New York City .....	14-6
14.3.4	Voucher Extensions and Suspensions for Porting In .....	14-7
14.3.5	Porting with Special Purpose Vouchers.....	14-7
<b>15</b>	<b>DENIAL OR TERMINATION OF ASSISTANCE .....</b>	<b>15-1</b>
15.1	Forms of Denial/Termination of Assistance .....	15-1
15.2	Mandatory Denial of Assistance .....	15-1
15.3	Mandatory Termination of Assistance .....	15-2
15.4	Permissible Grounds for Denial or Termination of Assistance .....	15-3
15.4.1	Permissible Grounds for Denial.....	15-3
15.4.2	Permissible Grounds for Denial and/or Termination .....	15-3
15.4.3	Denial/Termination Due to Lack of Funding Availability .....	15-5
15.5	Screening and Termination for Drug Abuse and Other Criminal Activity .....	15-5
15.5.1	Screening of Applicants and New Household Members .....	15-6
15.5.2	Drug Related Criminal Activity.....	15-6
15.6	Notice of Termination of Assistance .....	15-6
15.7	HPD Discretion .....	15-6
15.8	Lease Violations.....	15-7
15.9	Termination of Tenancy by Owner .....	15-7
15.10	Procedures for Non-Citizen Households .....	15-8
15.11	Zero Subsidy Tenants (No Rent Hardship).....	15-8
15.12	Missed Appointments and Deadlines .....	15-9
15.13	Subsidy Reinstatement .....	15-9
<b>16</b>	<b>INFORMAL REVIEWS, CONFERENCES, AND INFORMAL HEARINGS. ....</b>	<b>16-1</b>
16.1	Conference for Participants and Applicants.....	16-1
16.1.1	Opportunity for a Conference .....	16-1
16.1.2	Mandatory Conference.....	16-2
16.1.3	Time Limits for Conferences .....	16-3
16.1.4	Conference Procedures .....	16-3
16.2	Informal Review for Applicants .....	16-3
16.2.1	When an Opportunity for an Informal Review is Required .....	16-3
16.2.2	Time Limits.....	16-4
16.2.3	Informal Review Procedures .....	16-4

16.2.4	Issuance of Decision .....	16-5
16.2.5	Final Review Decision .....	16-5
16.2.6	Substitute Hearing Officer .....	16-5
16.2.7	Preference Denial .....	16-6
16.3	Informal Hearing for Participants .....	16-6
16.3.1	When an Opportunity for an Informal Hearing is Required .....	16-6
16.3.2	When an Opportunity for an Informal Hearing is Not Required .....	16-6
16.3.3	Notification of Determination .....	16-7
16.3.4	Time Limits.....	16-7
16.3.5	Informal Hearing Procedures.....	16-8
16.3.6	Conduct at Hearings .....	16-8
16.3.7	Issuance of Decision .....	16-9
16.3.8	Substitute Hearing Officer .....	16-9
16.3.9	Effect of Informal Hearing Decision .....	16-9
<b>17</b>	<b>PROGRAM INTEGRITY .....</b>	<b>17-1</b>
17.1	Preventing, Detecting, and Investigating Errors and Program Abuse .....	17-1
17.2	Corrective Measures and Penalties.....	17-1
17.2.1	Family Payment Too High .....	17-1
17.2.2	Family Payment Too Low .....	17-2
17.2.3	Family Size .....	17-2
17.3	Repayment Agreements.....	17-3
17.3.1	Repayment Agreement Eligibility Criteria .....	17-3
17.3.2	HAP Overpayment and Repayment Amount Calculation .....	17-3
<b>18</b>	<b>PROGRAM ADMINISTRATION.....</b>	<b>18-1</b>
18.1	Administrative Fee Reserve .....	18-1
18.2	Housing Choice Voucher Notices.....	18-1
18.3	Coordination with Other Local PHAs .....	18-1
18.3.1	HPD Employee Conflict of Interest .....	18-2
18.3.2	For Employees Applying for or Receiving Housing Subsidy Administered by DTR .....	18-2
<b>19</b>	<b>ENHANCED VOUCHERS.....</b>	<b>19-1</b>
19.1	Selection .....	19-1
19.2	Eligibility .....	19-1
19.2.1	Vouchers.....	19-1
19.2.2	Mobility.....	19-2
19.2.3	Lease Up.....	19-2
19.2.4	Payment Standard .....	19-2
19.3	Housing Assistance Payment (HAP) .....	19-2
19.3.1	Tenant Share—Enhanced Minimum Housing Payments .....	19-2



19.4	Right to Remain .....	19-3
19.5	Overhoused Families .....	19-3
19.6	Rent Increases .....	19-4
<b>20</b>	<b>HOUSING CHOICE VOUCHER HOMEOWNERSHIP .....</b>	<b>20-1</b>
20.1	Qualifications for Participation .....	20-1
20.1.1	Current Voucher Holder .....	20-1
20.1.2	Income .....	20-1
20.1.3	Assets .....	20-1
20.1.4	Employment .....	20-1
20.1.5	Previous Defaults .....	20-1
20.1.6	First-Time Homeowners .....	20-2
20.2	Process .....	20-2
20.2.1	Homeownership Participation Agreement .....	20-2
20.2.2	Pre-Purchase Counseling .....	20-2
20.2.3	Down Payment Lump Sum Option .....	20-2
20.2.4	Timeframe for Utilization/Home Purchase .....	20-2
20.2.5	Home Inspections and Contract of Sale .....	20-2
20.2.6	Permitted Ownership Arrangements.....	20-3
20.3	Portability .....	20-3
20.4	Financing .....	20-3
20.5	Length and Continuation of Assistance .....	20-3
20.6	Defaults.....	20-4
20.7	Homeownership Obligations .....	20-4
<b>21</b>	<b>PROJECT BASED VOUCHERS.....</b>	<b>21-1</b>
21.1	Introduction .....	21-1
21.2	Applicability of Tenant-Based Voucher Program Policies to Project Based Voucher Program .....	21-1
21.3	Equal Opportunity .....	21-1
21.4	Program Size .....	21-1
21.5	Eligible Unit Types .....	21-1
21.5.1	Ineligible Unit Types.....	21-1
21.6	Limits on Number of PBV Units in Buildings.....	21-2
21.7	Exceptions to Caps on PBV Units at a Project .....	21-2
21.7.1	Requirements Applicable to Households Residing in Excepted Units .....	21-3
21.7.2	Relocation Assistance.....	21-3
21.8	Selection of PBV Owner Proposals .....	21-4
21.8.1	Notification of Owner Selection .....	21-5
21.9	Subsidy Layering.....	21-5
21.10	Site and Neighborhood Standards .....	21-6

21.11	Existing and Rehabilitated Housing .....	21-6
21.12	New Construction Housing .....	21-6
21.13	Environmental Review .....	21-7
	21.13.1 Dwelling Unit Standards .....	21-7
21.14	Accessibility .....	21-8
21.15	Inspections.....	21-8
	21.15.1 Pre-Selection .....	21-8
	21.15.2 Pre-HAP Contract .....	21-8
	21.15.3 Turnover .....	21-8
	21.15.4 Biennial .....	21-8
	21.15.5 Other.....	21-8
21.16	Special Requirements for Newly Constructed or Rehabilitated Housing.....	21-9
	21.16.1 Agreement to Enter into HAP (AHAP) .....	21-9
	21.16.2 Labor Standards.....	21-9
	21.16.3 Section 3 Requirements .....	21-10
	21.16.4 Owner Disclosure.....	21-10
21.17	HPD Acceptance of Completed Units.....	21-10
21.18	Housing Assistance Payment (HAP) Contract.....	21-10
21.19	Changes to HAP Contract to Substitute, Add or Subtract PBV Units .....	21-12
21.20	Vacancy Payments .....	21-12
21.21	Waiting List and Occupancy of PBV Housing.....	21-13
21.22	Leasing of Project Based Unit .....	21-15
21.23	Termination of Tenancy.....	21-15
	21.23.1 Tenant Absence from the Unit.....	21-15
21.24	Security Deposits .....	21-15
21.25	Overcrowded, Under-Occupied and Accessible Units .....	21-16
21.26	Family Right to Move .....	21-16
21.27	Rent to Owner.....	21-17
21.28	Rent Reasonableness.....	21-18
21.29	Rent Increases.....	21-19

## **APPENDIX A: EMERGENCY HOUSING VOUCHER PROGRAM**

# **1 OVERVIEW OF THE PROGRAM AND THE PLAN**

## **1.1 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 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 Public Housing Agencies (PHAs); households in NYC can apply for vouchers from both programs but may receive assistance from only one 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, and the City's Department of Homeless Services (DHS) and the Human Resource Administration (HRA).

Pursuant to special contracts offered by the Department of Housing and Urban Development (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 or prepays or refinances 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, Hurricane Sandy, and other emergency situations.

HPD administers the Housing Choice Voucher program in conformance with 24 CFR Part 5, 903, 982 and 985, 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 its subsequent amendments, and Title II of the Americans with Disabilities Act. HPD affirmatively furthers fair housing in the administration of the HCV program.

## **1.2 Purpose of the Administrative Plan**

The purpose of the Administrative Plan is to establish HPD's policies for carrying out the Housing Choice Voucher (HCV) 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.

## **1.3 Covered Programs**

HPD administers the Housing Choice Voucher (HCV) program (regular and enhanced vouchers, FSS, and Section 8 Homeownership, Project Based Vouchers), the Section 8 Moderate Rehabilitation program (Mod Rehab), and the Continuum of Care program (comprised of the Section 8 Moderate Rehabilitation Single Room Occupancy [Mod SRO] program and the Shelter Plus Care [SPC] program).

The policies described herein apply to all programs administered by HPD, unless superseded by any future policy documents such as a Rental Subsidy Program Administrative Plan. For enhanced vouchers and Project Based Vouchers, some special rules apply and are described in the applicable chapters (including but not limited to Chapter 19 for enhanced vouchers and Chapter 21 for Project Based Vouchers).

During periods of declared states of emergency, as certified by the Mayor/Governor or their designee, HPD may adopt HUD published regulatory and/or statutory waivers to respond to the emergency. Where such waivers are adopted, HPD will retain documentation in a memorandum to staff to identify the statute/regulation which is being waived, as well as the alternative requirement and period start and end dates for such waivers.

### **1.3.1 Project Based Vouchers**

HPD may convert up to 20% of its voucher authority under the Housing Choice Voucher program into Project Based Vouchers (PBV). This 20% limit does not apply to:

- Any PBV units under a PBV Housing Assistance Payments (HAP) contract executed as part of a Rental Assistance Demonstration (RAD) conversion; and

- Any PBV assistance awarded to a development that received HUD funded assistance in the previous five years in one of the following categories.
  - The unit received one of the following forms of HUD assistance:
    - Public Housing Capital or Operating Funds (Section 9 of the 1937 Act).
    - Project Based Rental Assistance (Section 8 of the 1937 Act). Project-based rental assistance under Section 8 includes the Section 8 moderate rehabilitation program, including the single-room occupancy (SRO) program.
    - Housing For the Elderly (Section 202 of the Housing Act of 1959).
    - Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).
    - The Rent Supplement (Rent Supp) program (Section 101 of the Housing and Urban Development Act of 1965).
    - Rental Assistance Payments (RAP) program (Section 236(f)(2) of the National Housing Act).
  - The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:
    - Section 236.
    - Section 221(d)(3) or (d)(4) BMIR.
    - Housing for the Elderly (Section 202 of the Housing Act of 1959).
    - Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).

Units that were previously receiving PBV assistance or HCV tenant-based assistance are not covered by this exception.

HPD may convert up to an additional 10% of its voucher authority under the Housing Choice Voucher program, for a total of 30% of its HCVs, into Project Based Vouchers (PBV) for units that are:

- Specifically made available to house households who meet the definition of homeless under Section 103 of the McKinney-Vento Homelessness Assistance Act;
- Specifically made available to house households that include at least one veteran;
- Located in low-poverty areas (census tracts with a poverty rate of 20% or lower); and/or
- In buildings that offer supportive services to elderly and/or disabled households.

HPD will administer a PBV program for its HUD Veterans Affairs Supportive Housing (VASH) program. This program will be administered as described in this section and in Chapter 21: Project Based Vouchers except for differences outlined in the Federal Register published on 5/23/2012.

### **1.3.2 Section 8 Moderate Rehabilitation Program**

The Moderate Rehabilitation (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.

### **1.3.3 The Continuum of Care Program**

The Continuum of Care program (comprised of what were formerly known as the Section 8 Moderate Rehabilitation Single Room Occupancy program [Mod SRO] and the Shelter Plus Care program [SPC]) is authorized by the McKinney-Vento Homeless Assistance Act and The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act. It is governed by federal regulations at 24 CFR Part 578, the grant agreements HPD signs with HUD, and the applicable contracts that HPD enters into with the housing operators (project-based rental assistance contract for SPC) or Mod SRO HAP contract for Mod SRO). HPD's Shelter Plus Care program provides project-based rental assistance for chronically homeless persons in permanent supportive housing, and the Mod SRO program provides rental assistance payments to non-profit and for-profit homeless housing providers on behalf of eligible homeless individuals.

## **1.4 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.

## **1.5 Contacting HPD**

Information about HPD's Housing Choice Voucher (HCV) program, including applicant and participant rights and responsibilities, frequently asked questions, and forms for Section 8 tenants are available on HPD's website at: [www.nyc.gov/hpd-section-8-tenants](http://www.nyc.gov/hpd-section-8-tenants).

Applicants and Participants can contact HPD in person at 100 Gold Street, New York, NY 10038, during posted business hours.

Applicants, Participants and Owners can contact HPD, by:

- Phone, at 917-286-4300;
- Email: a list of frequently used email addresses can be found at HPD's website at: [www.nyc.gov/hpd-section-8-contact](http://www.nyc.gov/hpd-section-8-contact); or
- Website: Document Upload Portal <https://a806-asap.nyc.gov/HPDPortal/#/login>.

## **2 FAIR HOUSING AND EQUAL OPPORTUNITY**

### **2.1 Nondiscrimination**

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

HPD will 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, legal source of income, prior record of arrest, or status as a victim of domestic violence, dating violence, sexual assault, or stalking.

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.

#### **2.1.1 Discrimination Complaints**

In the event that a person alleges discrimination in their housing search, the case will be forwarded to the Law Enforcement Bureau of the NYC Commission on Human Rights. Staff in this office will assist the client in filing a HUD-903 form and will conduct an investigation into the matter.

The New York State's Human Rights Law in 2019 prohibits owners from discriminating against tenants or applicants for housing based upon lawful sources of income, which includes a Section 8 voucher. The only exceptions to this law apply to one- or two-family homes occupied by the owner, same-sex room rentals (e.g., dormitories or boarding houses), and housing intended for seniors. HPD's briefing booklet and posters in the Client Services area inform Section 8 participants that they may file complaints with the Law Enforcement Bureau of the City's Commission on Human Rights.

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 120-day voucher is suspended for a period of 10 days, the total life of that voucher would be extended to 130 days.

### **2.2 Affirmatively Furthering Fair Housing**

HPD, with the assistance of other New York City agencies, identifies impediments to fair housing choice as described in the five-year Affirmatively Furthering Market Housing (AFFH) statement submitted by the City of New York to HUD's Office of Fair Housing and Equal Opportunity (FHEO). The New York City Consolidated Plan identifies activities undertaken by HPD to examine its programs to identify and overcome

impediments to fair housing. Examples of these activities include contracting with local nonprofit organizations for fair housing counseling, reviewing fair housing marketing plans, and providing trainings. HPD reaffirms its commitment to correct the effects of any impediments to fair housing. The identified impediments to fair housing include: residential segregation by race and ethnicity, discrimination by some housing industry entities, addressing the needs of an increasing local immigrant population and the unique needs of the approximately 1.9 million New Yorkers with disabilities.

HPD addresses identified impediments to fair housing through efforts to preserve, upgrade, develop and make accessible affordable housing for all New Yorkers. HPD acts as a catalyst for private sector investment and the economic revitalization of local communities with the greatest needs. HPD provides loans and other financial assistance, enforces housing quality standards, maximizes local management and ownership of City-owned residential buildings and provides Section 8 assistance for homeless and low-income individuals and families. In addition:

- HPD is committed to the policy of promoting fair housing to achieve the inclusion of individuals and families of all racial and ethnic groups as tenants and/or buyers in all publicly funded or assisted projects in accordance with applicable federal, state and local fair housing laws;
- HPD loan recipients are required to comply with Affirmative Fair Housing Marketing Regulations. Recipients submit marketing plans that detail the strategies to be employed to attract all prospective tenants, including the least likely to apply, in a nondiscriminatory manner. These documents require that the recipients attest to their awareness of applicable fair housing laws. Recipients are also required to maintain records that describe the strategies undertaken and their results, including an ethnic/gender breakdown of all occupants;
- HPD is one of a number of agencies that addresses and refers housing discrimination complaints. Clients who wish to make fair housing complaints are directed to the U.S. Department of Housing and Urban Development Housing Discrimination hotline (1-800-669-9777) and/or the New York City Human Rights Commission by calling 311; and
- As addressed in Section 2.3 (Reasonable Accommodations for Persons with Disabilities) of this chapter of the HPD's Administrative Plan, HPD makes reasonable accommodations for people with disabilities to ensure that they may fully access and use the voucher program and related services. Families must request a reasonable accommodation from HPD. HPD will review each request submitted.
- HPD will take affirmative steps to communicate with people who need services or information in a language other than English.

### **2.3 Program Accessibility and Accommodations**

HPD will make every reasonable effort to ensure that HPD's rental assistance programs are reasonably accessible to applicants and participants, including, but not limited to, persons with Limited English Proficiency (LEP), persons with disabilities, and persons claiming protections under the Violence Against Women Act (VAWA). Accommodations that assist applicants and participant comply with program requirements, such as phone briefings, additional support in completing documents, and additional time to complete a



recertification may be granted upon request, at HPD's discretion. Accommodations may be requested by contacting HPD (see contact information in Section 1.5). If necessary, HPD will initiate an interactive process to determine if and how the requestor's needs can be reasonably accommodated.

### **2.3.1 Program Accessibility**

HPD has established a set of procedures for some of the most common requests for accommodation. These are available to all applicants and participants, including, but not limited to, persons with Limited English Proficiency (LEP), persons with disabilities, and persons claiming protections under the Violence Against Women Act (VAWA). Applicants and participants must request these accommodations by filling out and submitting the relevant form available on HPD's website, within the required time frame, if applicable. These include, but are not limited to: requests for a voucher extension, emergency move requests, and an extension to correct a tenant-caused Housing Quality Standards failure. Requests will be granted at HPD's discretion.

### **2.3.2 Additional Accommodations for Persons with Disabilities**

In addition to the accommodations referenced in Sections 2.3 and 2.3.1, applicants and participants with disabilities may request Reasonable Accommodations through the process outlined in this section.

HPD may require additional documentation for Reasonable Accommodation requests. Requests requiring documentation include, but are not limited to:

- requests to change subsidy standard,
- requests to stay in place for overhoused participants,
- requests for reinstatement,
- requests to add a live-in aide,
- requests for rents that exceed HPD's Payment Standard or Exception Payment Standard,
- requests to move prior to a 12-month period of occupancy, or
- requests to rent an assisted unit from a relative.

For these requests, applicants and participants must complete the Reasonable Accommodation Request form available on HPD's website and submit it to HPD with supporting documentation from a medical professional. Any such supporting documentation must identify the requested accommodation, confirm the presence of a disability, and identify a connection between the individual's disability and the requested accommodation. HPD reserves the right to require that Reasonable Accommodation requests are resubmitted annually.

HPD may deny requests that are unduly burdensome to the agency; would alter the fundamental nature of any HPD rental assistance program; or would conflict with the legal constraints of any such rental assistance program.

## **2.4 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 January 2007, 72 Federal Register (2733, 2744) in addition to Executive Order 120 and 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.

## **2.5 Violence Against Women Act (VAWA)**

### **2.5.1 Terminating or Denying Assistance to Domestic Violence, Dating Violence, Sexual Assault or Stalking Victims and Offenders**

The Violence Against Women Reauthorization Act of 2013 (VAWA) provides that an applicant for or participant of housing assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. These VAWA related protections are available to all eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status.

In cases of family break up that result from domestic violence, dating violence, sexual assault or stalking, HPD will exercise its authority to deny or terminate assistance to a perpetrator and continue assistance to a victim by transferring the voucher or issuing a separate voucher under the Violence Against Women Act preference category (see Section 3.1 [Local Preferences] of this administrative plan) in accordance with the Section 5.1.4 (Family Break-Up) of this administrative plan. In the event that a perpetrator's subsidy is terminated in order to transfer it to the victim, the perpetrator will not receive a separate subsidy. HPD reserves the right to terminate the subsidy for a Head of Household perpetrator when a victim is issued a voucher under the Violence Against Women Act preference category (see Section 3.1 [Local Preferences]).

VAWA does not limit HPD's authority to terminate or deny the assistance of any participant or applicant if HPD can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

### **2.5.2 Definitions of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

In accordance with 24 CFR Part 5, Subpart L, below are definitions of key terms related to VAWA.

Domestic violence: includes but is not limited to violent acts, which may include felony or misdemeanor crimes of violence committed by:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

HPD considers violent acts to include, but is not limited to, use or threatened use of physical force that may cause physical or psychological injury or harm, threats against oneself or another person, harassment, emotional abuse, sexual abuse, bullying or intimidation or financial abuse.

Dating violence means violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship is determined based on a consideration of the following factors:
  - The length of the relationship;
  - The type of the relationship; and
  - The frequency of interaction between the persons involved in the relationship.

Sexual assault: means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking: means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their individual safety or the safety of others; or
- Suffer substantial emotional distress.

### **2.5.3 Victim Documentation**

When a participant family is facing termination of subsidy or an applicant family is facing denial of assistance because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or individual affiliated with the participant claims that they are the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault, or stalking, HPD will

require the individual to submit documentation affirming that claim. An affiliated individual is a spouse, parent, brother, sister, or child of that individual or an individual to whom that individual stands in loco parentis, or any individual, tenant, or lawful occupant living in the household of that individual.

HPD will accept one of three methods for certification of a claim:

- A completed HUD form 5382; and/or
- A federal, state, tribal or territorial or local police or court record; and/or
- Documentation signed and attested to by an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. Any third-party documentation provided must be accompanied by a completed Third Party Certification form or must be countersigned by the participant or applicant providing documentation. It must specify, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR § 5.2003.

The required certification and supporting documentation must be submitted to HPD within 30 calendar days after HPD issues its written request. The 30-day deadline may be extended at HPD’s discretion. HPD will hold the termination/denial action until the end of the deadline. HPD reserves the right to require additional documentation if the original documentation is not sufficient for HPD to determine whether to grant the request (e.g., emergency move, transfer of subsidy from Head of Household to family member). If the individual does not provide the required certification and supporting documentation within 30 calendar days, or the approved extension period, HPD may proceed with the original termination/denial of assistance reason.

HPD may request and accept additional documentation in cases where there is conflicting information in documentation provided. Conflicting information includes cases where there is a competing claim for VAWA protection from another family member. The applicant or participant is given 30 calendar days from the date of the written request to provide such documentation. Third party documentation of victim status may be requested if:

- More than one applicant or tenant provides documentation to show they are victims of domestic violence, dating violence, sexual assault or stalking, and the information in one person’s documentation conflicts with the information in another person’s documentation; or
- Submitted documentation contains information that conflicts with existing information already available to HPD.

HPD has the discretion to deny VAWA protections to the applicant or tenant(s) if the requested additional third-party documentation for conflicting information is not received. In some instances, this may lead to denial of assistance.

#### **2.5.4 Terminating or Denying Assistance to an Offender**

VAWA does not provide protection for offenders or perpetrators of domestic violence, dating violence, sexual assault or stalking. HPD may terminate or deny assistance to the perpetrator while continuing assistance or eligibility to assistance for the victim. This authority supersedes any local, state, or other federal law to the contrary. However, if HPD chooses to exercise this authority, HPD will follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

When the actions of a participant, applicant, affiliated individual or other family member result in HPD's decision to terminate or deny assistance, and another family member claims that those actions were directly related to domestic violence, dating violence, sexual assault, or stalking, HPD will request that the victim submit the required certification and supporting documentation in accordance with the stated timeframe in Section 2.5.3 (Victim Documentation). If the victim submits the certification and supporting documentation within the required timeframe, or any approved extension period, HPD will terminate or deny the offender's assistance. If the victim does not provide the certification and supporting documentation, as required, HPD will proceed with termination or denial of the entire family's assistance.

HPD will bypass the standard process and proceed with the immediate termination or denial of the family's assistance, if HPD can demonstrate an actual and imminent threat to residents of or employees of the owner of the assisted unit.

#### **2.5.5 Emergency Move and Portability Policy**

Under the Housing Choice Voucher Program (including in Project Based Voucher assisted buildings), HPD may provide a voucher and allow a move even if there is a violation of the lease. The move with continued assistance can be within New York City or outside under portability procedures described in Chapter 14. Individuals qualifying as victims of domestic violence in accordance with 24 CFR Part 5, Subpart L are eligible for a VAWA Emergency Move if they express that they do not feel safe and either:

- The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains in the original unit; or
- A sexual assault had occurred prior to the request to transfer (if the tenant did not express a feeling of being threatened or in danger, but there is a documented instance of sexual assault, that would also qualify the tenant for transfer).

HPD's Emergency Move Policy allows the tenant to request an emergency move if they are the Head of Household and provide documentation as described Section 2.5.3 (Victim Documentation). If the victim is not the Head of Household, then a discretionary administrative determination may be made by an HPD employee at the level of Director or higher (or their designee) to terminate the subsidy for the Head of Household and

issue a voucher to the victim. HPD does not have the authority to split one voucher into two vouchers; only one party may have use of the voucher.

HPD's VAWA related move policies and accommodations for participants and applicants are laid out in a Frequently Asked Questions format on HPD's Section 8 website for both Housing Choice Voucher and other HUD assisted project-based programs.

#### **2.5.6 VAWA Self-Petitioner Status**

HPD will review non-citizen applicant or participant requests for admission or continued occupancy as a result of being a self-petitioner under the Violence Against Women Reauthorization Act of 2013. A VAWA Self-Petitioner is a non-citizen applicant or participant who petitions the federal government and claims to be a victim of "battery or extreme cruelty," which includes domestic violence, dating violence, sexual assault and stalking perpetrated by their spouse, intimate partner or parent, who is a citizen or lawful permanent resident.

In order to establish eligibility for benefits through HPD, the VAWA Self-Petitioner must provide HPD with documentation from their VAWA petition to the federal government: an I-360 VAWA Self Petition, an I-130 Family-Based VISA Petition, or a USCIS Form I-797.

If an I-130 Family-Based VISA Petition is submitted, HPD may request evidence of battery or extreme cruelty in order to support the claim. Once the VAWA Self-Petitioner submits an I-360 VAWA Self Petition, an I-130 Family-Based VISA Petition, or a USCIS Form I-797, HPD will verify eligibility in the United States Citizenship and Immigration Services (USCIS) SAVE system by following the procedures per PIH Notice 2017-02 (HA).

Housing assistance and all other VAWA protections will be granted to the VAWA Self-Petitioner applicant or tenant throughout the approval process until the federal government makes a final determination of lawful permanent residency. If the federal government does not approve VAWA Self-Petitioner status, HPD will notify the individual and take action to terminate assistance. HPD will also inform the individual of local agencies that provide domestic violence and immigration support services.

#### **2.5.7 Additional Protections**

In certain circumstances, household members protected under VAWA may be eligible for a new voucher as described in Section 3.1 (Local Preferences).

#### **2.5.8 Confidentiality Requirements**

All information provided to HPD regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence, assault or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure:

- Is requested or consented to by the individual in writing,
- Is required for use in a subsidy termination proceeding, or
- Is otherwise required by applicable law.

The perpetrator has a right to examine HPD's documentation relevant to the termination or denial of an application. This examination may include access to documentation provided by the victim claiming VAWA protections as part of an informal review or informal hearing regarding denial of assistance or termination. To protect the victim's safety, any information that would reveal the location of the victim, or the location of any services that the victim is receiving must be maintained confidentially (i.e., redacted from the shared documentation). If the victim chooses not to give HPD permission to disclose any documents to the perpetrator, those documents will not be used in termination action against the perpetrator.

## **2.6 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. These areas may be promoted as areas of opportunity and the data organized by geographies that are easy for HCV clients to understand. 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.

At the voucher briefing, families are encouraged to search for housing outside areas of poverty and minority concentration areas. 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.

In 2018, HPD launched a pilot mobility program intended to help HPD Section 8 voucher holders access greater housing options in higher opportunity areas as defined below. One component of this program is the use of Exception Payment Standards (EPS), which enables HPD to pay more competitive rents in selected zip codes. Exception Payment Standards apply to all HPD Section 8 program applicants and participants living in the selected zip codes.

EPS values are set at the ZIP code level using HUD's Small Area Fair Market Rents (SAFMR), in accordance with the HUD final rule at 81 FR 80567. HPD has chosen to apply EPS in ZIP codes that are classified as high opportunity, based on meeting at least one of the following criteria:

- Low rates of poverty;
- Low felony crime rates; or
- Well-resourced schools.

Applicable ZIP codes and their specific EPS values can be found on HPD's website.

Municipalities outside of HPD's jurisdiction in nearby Westchester and Nassau counties maintain expanded housing opportunities for HPD's voucher holders. A listing of opportunity areas in neighboring jurisdictions is provided to Applicants at briefings.



### **3 LOCAL PREFERENCES AND SPECIAL ADMISSIONS**

#### **3.1 Local Preferences**

Federal regulations permit a Public Housing Authority (PHA) 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's Division of Tenant Resources only accepts applications from HPD Offices of Development and Asset and Property Management that meet the preference categories as outlined below, except for Special Admissions Programs and enhanced vouchers. Preference category eligibility is determined by the above Offices or other third-party government agencies and HPD's Division of Tenant Resources determines eligibility for the rent subsidy.

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 process.

HPD will verify all preference claims at the time the application is reviewed. Staff may re-verify a preference claim at the time of selection from the waiting list if they believe the family's circumstances have changed.

HPD's preference categories 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;
- Households in Special Circumstances;
- HPD Pilot Programs for the Expansion of Affordable Housing;
- Households with Non-elderly Members with Disabilities – Homeless, at Risk of Homelessness, Institutionalized or at Risk of Institutionalization; and
- Violence Against Women Act (VAWA) - Preference is limited to a household member whose family met eligibility under the Local Preferences above and also meets the VAWA eligibility set forth below.

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

Households that have a primary nighttime residence that is either:

- 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
- 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.

This preference includes households that maintain a precarious permanent housing situation, as certified by a government agency including HPD and New York City's Human Resources Administration (HRA), which puts them at risk of becoming homeless. Examples include families whose short-term subsidy will end imminently.

**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 alternate housing.

**HPD Building Renovation Households – Rent Restructuring:**

Households that reside in buildings that have been or will be renovated with financial assistance from HPD (generally within 24 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, plus 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. Households who would have a rent burden without rental assistance that no longer need supportive services in special needs housing programs.

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 24 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, or City or State supervised Mitchell Lama projects where residents are eligible for the Senior Citizens Rent Increase Exemption (SCRIE) or Disability Rent Increase Exemption (DRIE), but opt out to apply for HCV.

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 are 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 and/or households in other housing emergency circumstances. Only a very limited number of admissions each year will be made under this preference category, based on voucher availability. Special circumstance cases require submission of a written petition by the applicant or advocate along with documentation of the special circumstance and must have the written approval of the Executive/First Deputy Commissioner, and/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 pilot will also be used to expand housing opportunities to families with at least one child under 13 living in a census tract with a family poverty rate of 30% or higher on the New York City Housing Authority's waitlist who qualify for HUD's Community Choice Demonstration. HPD may expand eligibility to include families with children under 18 on NYCHA's waiting list if there are not enough qualifying households. The Community Choice Demonstration is a program designed to address barriers to accessing "low-poverty neighborhoods with high-performing schools and other strong community resources"<sup>1</sup>.

**Households with Non-elderly Members with Disabilities – Homeless, at Risk of Homelessness, Institutionalized or at Risk of Institutionalization:**

Households that include a non-elderly family member aged 18-61 with a disability as defined by HUD, who is transitioning out of institutional or other segregated settings, is at serious risk of institutionalization, is homeless or is at risk of becoming homeless. A limited number of vouchers will be made available under this preference category, based on voucher and funding availability.

**Violence Against Women Act (VAWA):**

Applicants and Participants – Eligibility under this preference is only available to members of households that initially met HPD's Local Preference requirements, and who additionally request an accommodation under VAWA from HPD as outlined below.

Applicants – Heads of Household (HOH) and Non-HOH (household members listed on the application) who:

- Are listed as a household member on an application for admission to HPD's Housing Choice Voucher, Mod-Rehab, Continuum of Care, Mod SRO, or NYC 15/15 rental subsidy programs that has been accepted by the Division of Tenant Resources (DTR) and:

---

<sup>1</sup>[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/communitychoicedemo](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/communitychoicedemo)

- Is a Non-HOH who has been removed from an active applicant household within the past 180 days; or
- Whose application has not subsequently been denied, and
- Are determined by HPD to be eligible for this preference based on a referral to HPD by a New York City Family Justice Center (FJC) on the basis of the applicant's status as a victim of domestic violence, dating violence, sexual assault, or stalking.

Application requirements may be streamlined for Violence Against Women Act (VAWA)-eligible applicants.

Participants – HOH and Non-HOH who:

- Are current or former participants/household members who have been assisted within the last 180 days, under HPD's Housing Choice Voucher, Mod-Rehab, Continuum of Care, Mod SRO, or NYC 15/15 rental subsidy programs; and
- Are determined by HPD to be eligible for this preference based on a referral to HPD by a New York City Family Justice Center on the basis of the participant's (or former participant's) status as a victim of domestic violence, dating violence, sexual assault, or stalking.

Participants under this category will be treated as continually assisted and therefore application requirements may be streamlined.

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

<b>Preference</b>	<b>HPD/Example Agency Programs</b>
Homeless Households and Programs for Near Homeless	Client and Housing Services SRO Human Resources Administration Domestic Violence Homeless Placement Services
HPD Building Renovation – Relocation	Third Party Transfer Multi-family Preservation Loan Program Affordable Neighborhood Cooperative Program
HPD Building Renovation – Rent Restructuring	Affordable Neighborhood Cooperative Program Housing Rehabilitation Program Third Party Transfer Year 15 Participation Loan Program Multi-family Preservation Loan Program
In Place – Homeless and Special Needs Housing	SRO Moving On
In Place – Homeless Prevention Strategies – Households with Rent Burden	Mitchell Lama Rent Burden; Coop and Rental Asset Management Year 15 Third Party Transfer Participation Loan Program

Preference	HPD/Example Agency Programs
Special Circumstances	As described in more detail above
HPD Pilot Programs	Community Choice Demonstration Program Previous examples have included: NYCHA pilot
Households with Non-elderly Members with Disabilities – Homeless, at Risk of Homelessness, Institutionalized or at Risk of Institutionalization	NYC Mayor’s Office for Persons with Disabilities and the Center for Independence of the Disabled, NY referred applicants
Violence Against Women Act (VAWA)	Family Justice Center referred applicants and participants who meet HPD’s eligibility criteria for this preference

Per HUD regulations, a Project Based Voucher program participant who is eligible to move with continued assistance will receive absolute preference for the next available Housing Choice Voucher.

### **3.2 Special Housing Initiatives and Special Admissions**

HPD may develop special housing initiatives that receive limited local preference. These special initiatives are targeted for specifically named households and may be based on HPD priorities or HUD targeted funding. In addition, Special Housing Initiatives or Special Admissions may include a defined number of Housing Choice Vouchers that will be allocated to households meeting specific described criteria. Examples of Special Housing Initiatives and Special Admissions vouchers are detailed in Sections 3.2.1 through 3.2.6, below.

#### **3.2.1 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 a type of Tenant Protection Voucher 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 Chapter 19: Enhanced Vouchers for more information).

#### **3.2.2 Rental Assistance Demonstration (RAD) Tenant Protection Vouchers**

Through the Fiscal Year 2013 (FY13) Appropriation, Congress created RAD to enable certain eligible projects to convert Tenant Protection Vouchers into Project Based Vouchers or project-based rental assistance through an authorized process. Project eligibility criteria are determined by the RAD Final Implementation Notice Revision 4 issued by HUD on September 5, 2019, or in any subsequent revisions. The program will be administered consistently with the Project Based Voucher program unless HUD provides explicit guidance indicating variance from PBV regulations, including but not limited to guidance within the FY13 Appropriation Act, the FY18 Appropriation Act and the Housing Opportunity Through Modernization Act of 2016. If the family moves outside

the development after one year of receipt of the PBV voucher, the voucher reverts to a regular housing choice voucher and regular HCV program rules apply.

Projects that convert to PBV through the RAD process must meet applicable service-based preference requirements described in Section 21.21.

### **3.2.2.1 Rental Assistance Demonstration (RAD) for Mod SRO conversions**

Mod SRO projects converting their assistance to PBV through the RAD process will maintain an admissions preference for homeless families (including homeless individuals – see section 5.1.1). This homeless preference does not apply to residents currently living in developments undergoing conversions, because by definition, by being currently housed, these residents are not homeless and will continue to be housed with assistance after conversion.

### **3.2.3 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;
- 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
- Able to demonstrate that Housing Choice Voucher assistance was critical to the success of an adult household member obtaining or retaining employment.

### **3.2.4 HUD Veterans Administration Supportive Housing (VASH) Program**

HUD VASH vouchers are available for eligible veterans who are homeless as defined by the McKinney Vento Homeless Assistance Act. The Veterans Administration (VA) Medical centers in New York City will determine program eligibility for households and refer eligible households to HPD. Turn-over vouchers are dedicated to house other VA referred eligible households. Unless waived by HUD regulations, the program will operate with similar procedures as the HCV program. HPD administers a HUD VASH Project Based Voucher program (PBV-VASH), as described in Chapter 21 of this Plan (except for differences outlined in the Federal Register as published on March 23, 2012).

HCV regulatory requirements modified for VASH program participants include, but are not limited to:

- Waiver of screening requirements for criminal background (except for Sex Offender Registration) or debts owed to PHAs;
- Addition of VA case management compliance for continued eligibility in the program;
- Ability to port (transfer) outside of HPD's jurisdiction to another PHA where VA case management services are available per Section 14.3.5 (Porting with Special Purpose Vouchers);

- Voucher search time of at least 120 days;
- Extension of voucher term may require consent of HUD VASH Coordinators;
- In the case of a family break-up at any time during program participation and application, the VASH voucher will remain with the Veteran;
- In the case of a family break-up where the Veteran is no longer in the program, the VASH voucher will transfer to the remaining household members; and
- Qualifying veterans in PBV-VASH assisted units will be given a tenant-based VASH voucher (when available) if they would like to move out of the project with continued rental assistance. At HPD's discretion, if tenant-based VASH vouchers are not available, the household may receive a regular tenant-based HCV voucher.

In addition to these modifications, HPD will coordinate closely with HUD VASH case managers as a means of providing Reasonable Accommodation in cases where there is a risk of termination from the program. HPD may accept new applicants for the VASH program based on VASH funding and voucher availability. In accordance with program requirements and with HUD and VA approval, HPD may convert its allocation of VASH tenant-based vouchers to Project Based Vouchers.

### **3.2.5 Family Unification Program (FUP) Vouchers**

HPD has been allocated a limited number of Family Unification Program vouchers for families and youth who meet eligibility criteria. Per HUD program requirements, applications for the Family Unification Program vouchers will be referred to HPD through the New York City Administration for Children's Services (ACS) and the New York City Coalition on the Continuum of Care and will depend on voucher and funding availability. Referring agencies will determine into which category eligible households fall. This includes:

- Families with current involvement in the child welfare system, for whom the lack of adequate housing is either a primary factor in the imminent placement of the family's child(ren) in out-of-home care, or a delay in reunification with their child(ren) from out-of-home care; and
- Youth ages 18-24, who have either left foster care or will leave foster care with a transition plan within 90 days, and who are homeless or at risk of becoming homeless. For this youth population, assistance is limited to 36 months.

Turn-over vouchers are dedicated to house other FUP-eligible households. Unless waived by HUD regulations, the program will operate with similar procedures to the HCV program.

### **3.2.6 Mainstream Vouchers**

HPD has been allocated a limited number of Mainstream vouchers for eligible households to lease affordable private housing of their choice. Eligible households must include a non-elderly family member aged 18-61 with a disability as defined by HUD, and who is transitioning out of institutional or other segregated settings, is at serious risk of institutionalization, is homeless or is at risk of becoming homeless. HPD may accept new applicants directly for the Mainstream voucher program based on voucher and funding availability or from partnering referral sources, including the New York City

Mayor's Office for People with Disabilities and the Center for Independence of the Disabled, NY's New York Connects Program (CIDNY).

Turn-over vouchers are dedicated to house other Mainstream-eligible households. HPD will notify applicants on its waitlist of the availability of vouchers. Unless waived by HUD regulations, the program will operate with similar procedures to the HCV program.

### **3.2.7 HUD Housing Choice Voucher Community Choice Demonstration**

Through HUD's Housing Choice Voucher Community Choice Demonstration (Community Choice) Notice of Funding Opportunity competition, HPD was awarded vouchers to assist 1,950 households. Community Choice is a mobility counseling program to help families with children access "low-poverty neighborhoods with high-performing schools and other strong community resources"<sup>2</sup>. Although the program primarily serves current HCV program participants who are interested in moving, approximately 111 families will be new applicants to the HCV program. These 111 vouchers will be available to families with children under the age of 13 who are living in census tracts with a family poverty rate of 30% or higher and currently on the waiting list at the New York City Housing Authority (NYCHA). HPD may expand eligibility to include families with children under 18 if there are not enough qualifying households. HPD will accept new applicants on NYCHA's waitlist list who choose to enroll in the Community Choice Demonstration based on voucher and funding availability.

Key features of Community Choice include tenant support, owner support, and Exception Payment Standards. Tenant and owner support can include workshops, financial counseling, transportation costs, security deposits, owner bonuses, brokers' fees, moving costs, and case management. This program is part of a randomized control trial study with program design and evaluation that has been determined and finalized by HUD.

### **3.2.8 Emergency Housing Voucher (EHV) Program**

#### **Background**

The American Rescue Plan (ARP), enacted on 3/11/2021 (P.L. 117-2m Section 3203) allocates \$5B for a ten-year Emergency Housing Voucher (EHV) program to be distributed across the country based on need and geographic diversity. HPD was preliminarily awarded \$28M to support 2,050 vouchers. The program is designed to operate like the Housing Choice Voucher program with waivers to streamline operations, with additional housing search assistance and allows for referrals from partnering agencies and organizations. EHV's target four categories of households (homeless, at risk of homeless, households who fit into the VAWA eligibility criteria, and those who were recently homeless and are at high risk of housing instability). Determining

---

<sup>2</sup> [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/communitychoicedemo](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/communitychoicedemo)



qualifying eligibility is the responsibility of the local Coalition on the Continuum of Care (CoC) followed by direct referrals to PHAs.

Under the EHV program, HPD is required to enter into a Memorandum of Understanding (MOU) with the CoC. The MOU lays out the roles and responsibilities for the CoC and housing authorities, including HPD. HPD has executed an MOU with the CoC, the Human Resources Administration (HRA) and the New York City Housing Authority (NYCHA) describing each entity's roles and responsibilities under the EHV program. Assistance is for 10 years and turnover vouchers cannot be issued after September 2023.

In the EHV program, HUD implemented significant changes to the admission process and to general operations of the Section 8 Housing Choice Voucher (HCV) program, as laid out in Public and Indian Housing Notice 2021-15 (Notice PIH 2021-15). Except as addressed by this chapter, Appendix A of this Plan, and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHV's.

#### Partnering Agencies

Through the Coordinated Assessment and Placement System (CAPS), the CoC will identify EHV-eligible households. Referring Agencies working through CAPS will, with consent from the applicant, refer EHV-eligible households to the Public Housing Authorities (PHAs), which consist of HPD and NYCHA, and assist these household to submit an EHV program application through NYCHA's online application portal. In partnership with NYCHA, HPD, and HRA, the Referring Agencies<sup>3</sup> will provide assistance, resources, and information to increase the share of applicants who enter into a lease ("leasing up").

HPD's Division of Tenant Resources (DTR) and NYCHA's Leased Housing Department will receive applications through the NYCHA online portal. The PHAs will work together with Referring Agencies to successfully lease up voucher holders, and will track and monitor their EHV programs and evaluate progress along the way to ensure full voucher utilization and compliance with the fair housing obligations and other applicable legal requirements. All Referring Agencies and PHAs may adjust the outreach, referral and leasing processes for eligible households as needed in response to early implementation to the program.

---

<sup>3</sup> The Referring Agencies are expected to include: NYC Department of Homeless Services (DHS), NYC Human Resources Administration (HIV/AIDS Service Administration [HASA], Emergency Intervention Services [EIS], Coordinated Assessment and Placement System [CAPS], HOMEBASE), NYC Department of Housing Preservation and Development (HPD), NYC Mayor's Office on Criminal Justice (MOCJ), NYC Health + Hospitals (H+H), NYC Mayor's Office to End Domestic and Gender-Based Violence (ENDGBV), NYC Department of Youth and Community Development (DYCD), NYC Agency for Children's Services (ACS)

As in past similar initiatives, the PHAs, along with the Referring Agencies, will regularly conduct coordination phone calls and distribute reports to ensure that the process is running smoothly. HPD and NYCHA will endeavor to expedite the leasing process to ensure no voucher holder misses out on an apartment due to inspection delays.

Referring Agencies and the PHAs will cooperate to facilitate the completion and submission of EHV applications and provide housing search and other assistance. In order to monitor progress towards meeting program goals, NYCHA, HPD, and HRA will regularly share aggregate information or upload information into an EHV portal that will provide status updates to Referring Agencies to ensure they have the information and status of applicants they identity.

Households who are determined eligible for EHV vouchers will receive support from the point of eligibility determination from Referring Agencies through successful lease-up from Housing Search Support Agencies<sup>4</sup>.

### **Eligibility**

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

1. Homeless as defined in 24 CFR 578.3;
2. At risk of homelessness as defined in 24 CFR 578.3;
3. Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
4. Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

At the time of application, a Referring Agency must complete and submit the *Emergency Housing Voucher Program Referral Form and Consent for the Release of Information* to establish eligibility under the above criteria. Failure to provide this document will result in denial of assistance for failure to meet program eligibility criteria. HPD staff will confirm that this document is collected and filed and will rely on it as verification of meeting one of the four eligibility criteria above.

When the number of applicants referred by Referring Agencies exceeds the EHV's available at HPD, HPD will maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

---

<sup>4</sup> HPD's Housing Ambassador Program, HRA's Public Engagement Unit (PEU)

The EHV waiting list is not subject to HCV policies regarding opening and closing the HCV waiting list. HPD will work directly with the CoC and other Referring Agency partners to manage the number of referrals and the size of the EHV waiting list.

HPD will refer any applicant on the waiting list who indicates they qualify for HPD's VAWA preference to the NYC Mayor's Office to End Domestic and Gender-Based Violence (ENDGBV), the CoC or the applicable Referring Agency. The Referring Agency will determine if the family is eligible (based on the qualifying definition for EHV assistance for those fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking or another eligible category as applicable) for an EHV.

HPD will refer any applicant on the waiting list that indicates they qualify for the homeless preference to the CoC. The CoC will determine whether the family is eligible for an EHV (based on the qualifying definition for EHV assistance for homelessness or another eligible category as applicable). The CoC will also determine if the family is eligible for other homeless assistance.

Up to date information and resources on the EHV program are available at <http://nyc.gov/ehv>.

## **4 APPLICATIONS, WAITING LIST AND TENANT SELECTION**

### **4.1 The Application Process**

#### **4.1.1 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 Accommodations for applicants with disabilities known to HPD who are unable to visit the office, such as phone briefings. HPD will only accept applications through HPD programs and will not accept applications directly from the public unless indicated otherwise in this Administrative Plan.

#### **4.1.2 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.

#### **4.1.3 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.

#### **4.1.4 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.

Applications must contain 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 Social Security numbers for all members of the household who have been issued or are eligible to be issued a Social Security number;
- Proof of age for all members of the household;

- Proof of eligible immigration status for every family member that declares eligible non-citizen immigration status (HPD may request further documents 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);
- Debts Owed to Public Housing Agencies and Terminations form;
- Absent Parent Affidavit(s), if applicable;
- Declaration Package; and
- Any other information requested by HPD that HPD deems necessary to determine program eligibility in conformance with applicable statute, regulation and HUD notices.

Additionally, applicants may submit an Optional Supplement to Application for Federally Assisted Housing form.

Participants in a rental subsidy program already administered by HPD's Division of Tenant Resources (DTR), the New York City Housing Authority or those considered continually assisted under a Rental Assistance Demonstration (RAD) conversion may at HPD's discretion, submit an abridged application package if they were participants within the past five years. Examples include the Family Unification Program and applicants on the New York City Housing Authority waitlist selected to participate in HUD's Community Choice Demonstration. This application will consist of an annual recertification package and a simplified one-page application for the Housing Choice Voucher program. These applicants are not exempt from attending a mandatory briefing for the Housing Choice Voucher program.

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 at the New York City Department of Investigation for appropriate action.

#### **4.1.5 Application Submission**

All applications are submitted through the intermediaries noted in Chapter 3: Local Preferences and Special Admissions and as designated by special projects. HPD will return all incomplete applications to the applicant, through the intermediary. For programs with no intermediary, HPD will return the application to the family with a letter outlining the missing items and a deadline by which the items must be returned.

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.

### **4.2 Waiting List**

#### **4.2.1 Waiting List Organization and Management**

When an application is reviewed by HPD's Division of Tenant Resources (DTR) staff and determined eligible, it is placed on the appropriate waitlist based on the applicable preference category. 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 will maintain a single waiting list for the tenant-based program, and separate waiting lists for projects using Project Based Vouchers. HPD will offer all applicants for tenant-based voucher assistance the opportunity to be placed on the PBV waiting list at the time of application. Criteria for occupancy of particular PBV units will be established based on the services provided by the development.

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. Applicants will be notified in writing of their denials 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 criminal activity or failure to submit requested documents.

#### **4.2.2 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.

#### **4.2.3 Changes to Households Prior to New Admission**

HPD will accept changes to family composition at the time of application from households in accordance with the policies laid out below as long as the family continues to meet preference eligibility criteria. If a family breaks up, please refer to Section 5.1.4 (Family Break-Up) for HPD's policy.

##### **4.2.3.1 Increase in Family Size After Application Submission**

Requests to add household members to family composition may be submitted at any time prior to new admission. Additions based on marriage, domestic partnership, birth, adoption, or court-awarded custody will be approved if supportive documentation is submitted. Requests to add other household members will be reviewed on a case-by-case basis and must be accompanied by documents demonstrating an interdependent relationship among household members. If a family requests to add a household member once a voucher has been issued, and the change results in an increase in voucher size, the remaining voucher search time will apply. HPD may use its discretion to authorize additional search time on a voucher.

##### **4.2.3.2 Request to Change Head of Household**

At any time prior to New Admission, the Head of Household can request to change the Head of Household to another member listed as part of the household on the original application. HPD will review the request and will consider the following factors when making the determination:

- Whether the Head of Household requested to relinquish the subsidy and/or will remain on the household composition;
- Whether the proposed Head of Household was listed on the original Section 8 application; and
- Whether there is still a member of the family remaining on the household composition that meets preference.

#### **4.2.4 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 may close the waiting list if a determination is made that new applicants would be unable to receive assistance within a reasonable period of time (usually 12 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.

#### **4.2.5 Maintaining the Wait List**

HPD will update its waiting list (including any active PBV waiting lists) periodically to ensure that the pool of applicants reasonably represents families still actively interested in Section 8 HCV assistance. Updating will entail requests for information from households on the waiting list and will enable HPD to keep current household information regarding address, family composition, income category and preferences.

When updating the waiting list:

- HPD will save an electronic non-editable copy of the pre-updated waiting list; and
- HPD will request updated information by mail.

Before removing an applicant from the waiting list due to the applicant's failure to respond to the initial contact letter within 30 calendar days, a second letter will be mailed to the applicant. If the applicant does not respond to the second notice within 15 calendar days, the name of the applicant will be removed from the waiting list.

HPD will mail waiting list update notices to applicants that have been on the waiting list for 12 months or more. The notice will be sent in the order in which applicants appear on the wait list. The letter will:

- Include the name and address of the Head of Household;
- Advise the family to provide HPD with updated contact information in writing;
- Advise that the family will be removed from the waiting list if they cannot be reached at the address on file for the family or if they fail to provide an update;
- Indicate that the purpose of the contact is:
  - To determine applicant interest in remaining on the waiting list; and
  - To offer the family an opportunity to update any information previously provided to HPD; and
- Require the applicant to provide return correspondence indicating their wish to remain or be removed from the wait list.

However, if a letter is returned by the Post Office with a forwarding address, HPD will update the information on file and re-mail the letter to the new address. In such cases, an applicant's name will not be removed from the active waiting list and determined ineligible unless the applicant fails to respond to this notice. If an applicant notifies HPD within a year of being removed from the waitlist and provides appropriate documentation of extenuating circumstances, HPD can use its discretion to restore the family to the waitlist.

In addition, if Form HUD-92006, "Supplement to Application for Federally Assisted Housing" has been completed, HPD will notify the contact person or organization provided by the applicant (see section of form entitled "Reason for Contact") before removing the applicant's name from the active waiting list.

#### **4.2.6 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 when 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 30 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.

#### **4.2.7 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, and at least annually, HPD will project the number of applicants to be selected from each preference category. This projection will 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 will be considered sufficient justification for waiting list placement and voucher selection.

## 5 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 who claim citizenship or eligible immigration status;
- 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 15: Denial and Termination of Assistance); and
- A full-time student enrolled at an institution of higher education is not eligible if they are the Head of Household and:
  - Are under the age of 24;
  - Are not a veteran;
  - Are not married;
  - Do not have dependent children;
  - Are not residing with their parents in an HCV assisted household;
  - Are not a person with disabilities receiving HCV assistance as of November 30, 2005; and
  - Are not otherwise individually eligible, or have parents who, individually or jointly, are not eligible on the basis of income to receive assistance under Section 8 of the 1937 Act.

### 5.1 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 the individuals who are included in the family at the time of application. Applicants are required to report all changes to family composition within 30 days. Changes in family composition must be updated at the time of annual recertification or within 30 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.

### 5.1.1 Definitions of Family and Household Members

Family	A family is a single person or a group of two or more persons with or without children who maintain an interdependent relationship (see definition in Section 5.1.2 [Verifying Interdependence]) and whose income and resources are available to meet the family's needs. Families must declare or document as necessary a family relationship or have a history as a family unit. Family includes the above regardless of actual or perceived sexual orientation, gender identity, or marital status. A family may also include a live-in aide as part of the household under the provisions described below.
Family Members	Family members include husband, wife, son, daughter, unborn child (pregnancy must be documented), 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 are 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.
Elderly Family	An elderly family is 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.
Disabled Family	A disabled family is 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 displaced family is 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.

<p>Remaining Family Member</p>	<p>A remaining family member is a family member who remains in an assisted unit when the Head of Household is no longer associated with the unit.</p> <p>To be considered a remaining family member, the person must: a) have been authorized by HPD to reside in the assisted unit for at least 180 days prior to the dissolution of the family, death of the Head of Household, or departure of the Head of Household, and b) have resided in the assisted unit for at least 180 days prior to the departure of the Head of Household. Note: if the Head of Household departs from the unit less than 180 days after new admission, a member of the original household member may be considered a remaining family member.</p> <p>While a live-in aide can be part of the household, the aide is not considered a family member or a remaining family member.</p> <p>In order for a minor child to continue to receive assistance as a remaining family member, the child must have been awarded emancipated minor status by a court of law.</p> <p>Remaining family member status may be provided to a person who gains legal custody of a minor remaining in an assisted unit who has not been awarded an emancipated status only if the legal custodian meets all eligibility requirements.</p>
--------------------------------	--

### 5.1.2 Verifying Interdependence

Although no single factor will be determinative, evidence that HPD will consider in determining whether such emotional and financial commitment and interdependence exists may include 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.

### 5.1.3 Disability

In accordance with 42 U.S.C. Section 423, a disabled person is defined as a person with a physical, mental or emotional impairment that: is expected to be of long-term and indefinite duration; substantially impedes their 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 Chapter 6: Verification).

#### **5.1.4 Family Break-Up**

##### **5.1.4.1 After New Admission**

Participant families who separate while being assisted under the Housing Choice Voucher Program will be assessed on a case-by-case basis to determine which family members will remain assisted under the program. The HPD policy will be that:

- The head, co-head, or remaining family member of the household who has full legal custody of any minor children will retain the use of the tenant-based voucher;
- In cases where the head and co-Head of Household have a joint legal custody arrangement for minor children, the Head of Household of the household in which the minor children reside more than 50% of the time (defined as 183 days in a year with 365 days and 184 days in a year with 366 days) will retain use of the voucher unless mutually-agreed upon in writing otherwise by the parents or decreed by a court of law;
- If a break-up is the result of a divorce or separation under a settlement or judicial decree, HPD will follow any court determination of which family members keep the voucher assistance.
  - If legal custody of minors has not been established, refer to HPD's custody policy in the Section 5.1.5.1 (Joint/Partial Custody of a Child or Children After New Admission) for establishing who retains use of the voucher.
- In cases where the Head of Household departs from the household due to the dissolution of the family, death of the Head of Household, or departure, leaving minor children, an adult that has custody of the children is eligible to become the new Head of Household and will be subject to all HPD eligibility and admission requirements;
- In cases where there are two adult co-Heads of Household with no minor children, the original Head of Household will retain the use of the tenant-based voucher;
- In cases where a non-related adult has been added to the household, the original Head of Household will retain use of the tenant-based voucher;
- In cases where there are no children in the household and the Head of Household moves out of the assisted unit or dies, a remaining adult household member may retain use of the tenant-based voucher if that adult has been part of the household for at least 180 days, is in compliance with all program rules and regulations and meets all other program eligibility and continued occupancy requirements;
- In the event of death of a sole household member, the tenant-based voucher cannot be transferred;
- In the event of incarceration or detention of the Head of Household, a remaining adult household member may be eligible to become the new Head of Household upon request with the consent of the former Head of Household. If the former Head of Household has been absent for more than 180 days, no consent is required;
- In order for a minor to continue to receive assistance as a remaining family member, the court has to have awarded emancipated minor status to the minor

- or HPD has to verify that Social Services and or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period of time; and
- For PBV participants, HPD will also consider physical and/or legal possession of the assisted unit.

In addition to the above, HPD will consider the role of domestic violence, dating violence, sexual assault, or stalking in the family breakup and follow Violence Against Women Act (VAWA) policy when determining who will retain the subsidy. If minor children were a part of the household when the domestic violence, dating violence, sexual assault, or stalking occurred, HPD will also consider which household member has the children residing with them more than 50% of the time (defined as 183 days in a year with 365 days and 184 days in a year with 366 days).

Transfer of subsidy to a new Head of Household under any of the circumstances listed above is dependent on new Head of Household complying with HPD eligibility and admission requirements, including but not limited to attending a mandatory family briefing before the transfer of the subsidy is complete. Transferring subsidy to a new Head of Household after new admission does not require income eligibility screening for the new Head of Household.

#### **5.1.4.2 Prior to New Admission**

Prior to receiving subsidy, when an applicant family splits into two otherwise eligible families and the new families both claim rights to apply for subsidy, HPD will decide who shall retain the right to apply for the subsidy (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 legal custody of the children;
  - If legal custody of minors has not been established, refer to HPD's custody policy in Section 5.1.5.2 (Joint/Partial Custody of a Child or Children Prior to New Admission) for establishing who retains use of the voucher;
- Which family unit retains any disabled or elderly members;
- Restrictions that were in place at the time the family applied;
- The role of violent or criminal activity or incarceration; and
- Recommendations of social service agencies or qualified professionals such as child protective services.

In addition to the above, HPD will consider the role of domestic violence, dating violence, sexual assault, or stalking in the family breakup and follow Violence Against Women Act (VAWA) policy when determining who will retain the subsidy. If minor children were a part of the household when the domestic violence, dating violence, sexual assault, or stalking occurred, HPD will also consider which household member has the children residing with them more than 50% of the time (defined as 183 days in a year with 365 days and 184 days in a year with 366 days).

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 assistance for failure to supply information requested by HPD.

### **5.1.5 Joint/Partial Custody of a Child or Children**

#### **5.1.5.1 After New Admission**

After admission to the program, additions to family composition for children 17 years old or younger must have legal custody agreements to prove residency status. Children will be considered members of the household only if there is a joint or partial custody agreement that indicates residence in the assisted unit more than 50% of the time (defined as 183 days in a year with 365 days and 184 days in a year with 366 days). Affected participants are required to notify HPD at the time of family composition change and must provide legal custody agreements at the time legal documents are finalized.

In cases of divorce or separation when both parents are seeking to maintain the Housing Choice Voucher and both try to claim the child as a dependent, the parent with physical custody will maintain the voucher until legal custody documents establish residence. Physical custody may be established by:

- Mutual agreement (through notarized statement) by both parents or legal guardians; or
- Statement of a social service provider or government agency (through notarized statement from at least one parent and letters from social service providers or a government agency) that child(ren) reside(s) with the Head of Household more than 50% of the time (defined as 183 days in a year with 365 days and 184 days in a year with 366 days).

In cases where a court action awards custody to a parent who did not previously have physical custody, the subsidy may remain with the children and will be issued to the parent with legal custody.

HPD reserves the right to require documentation of legal custody.

#### **5.1.5.2 Prior to New Admission**

Children who are 17 years old or under who are subject to a joint custody agreement but live in the unit more than 50% of the time (defined as 183 days in a year with 365 days and 184 days in a year with 366 days) will be considered family members. When both parents are on the waiting list separately and both try to claim the child as a dependent, the parent with legal custody of the children will be able to list the child as a dependent.

Applicants will be required to provide legal custody agreements at the time of application to prove the residency status of the child(ren). If legal custody has not yet been established, the adult household member with physical custody of minor children will retain use of the voucher pending a court determination. Physical custody may be established by:

- Mutual agreement (through notarized statement) by both parents or legal guardians; or

- Statement of a social service provider or government agency (through notarized statement from at least one parent and letters from social service providers or a government agency) that child(ren) reside(s) with the Head of Household more than 50% of the time (defined as 183 days in a year with 365 days and 184 days in a year with 366 days).

In cases where a court action awards custody to a parent who did not previously have physical custody, the subsidy may remain with the children and will be issued to the parent with legal custody.

HPD reserves the right to require documentation of legal custody.

#### **5.1.6 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 (defined by HUD as someone who is at least 50 years of age but less than age 62), 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).

The definition of live-in aide applies to a single specific person. Written verification of the above (including the hours the care needs to be provided) is required from a reliable, knowledgeable professional such as a doctor or licensed social worker. Relatives are not automatically excluded from being live-in aides, but they must meet all 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 as a Reasonable Accommodation will be in accordance with 24 CFR Part 8 and Section 2.3.2 of this Administrative Plan.

#### **5.1.7 Guests**

A guest is defined as a person temporarily staying in a unit with the consent of a member of the HCV household. A guest may not reside in the unit for longer than 90 days cumulatively during a year without being considered a part of the household. To add a guest as a member of the household, the Head of Household must submit a written request to add a household member to HPD and receive approval from HPD.

Any guest who stays beyond 90 days and for whom HPD has not received a request to add a household member will be considered an unauthorized household member. HPD



may ask the household to provide verification that the guest is not residing permanently in the subsidized unit.

#### **5.1.8 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” unless a family’s household composition consists of one, or a “sole” household member. Any absence for more than 30 consecutive days must be reported to HPD. The Head of Household must also provide notice to HPD upon return to the assisted unit. The family must be able to provide proper documentation for the reasons for the absence from a verifiable source including that the household is likely to return to the unit within 180 days. An HPD employee at the level of Director of higher (or their designee) must approve these requests.

After 90 consecutive days of absence by the entire family, assistance may be terminated unless absence is related to:

- Prolonged hospitalization or rehabilitation;
- Absence beyond the control of the family (e.g., documented death in the family, other family member illness);
- Incarceration or detention;
- Attendance at school for an otherwise eligible Head of Household;
- Family members serving in the armed forces; or
- Employment assignment where the assignment is temporary.

HPD may at its discretion consider other reasons a family may be absent from the assisted unit beyond 90 consecutive days. In no instance may the entire family be absent from the assisted address for a period of more than 180 total days per year.

According to program requirements, the family’s assistance may be terminated if, at any time, HPD receives documentation that the family has relinquished, abandoned, or been evicted from the unit.

After termination of subsidy as a result of the entire family’s absence from the unit, under the following circumstances, subsidy may be re-instated to the family prospectively:

- Upon return to the assisted unit and execution of a HAP contract after documented continuous long-term stay in a nursing home or medical facility as a result of a disability for no longer than three years.
- In limited circumstances where the family is not able to return to the previously assisted unit and has identified an alternative unit.

Reinstatement of subsidy under either circumstance would only be considered if the household member is already released or has a scheduled release date from the medical facility or nursing home. Additionally, households must complete an annual recertification package to update income and family composition.

#### **5.1.9 Household Member Absence from the Unit**

The Head of Household is required to notify HPD of any family member absence from the unit that is more than 30 consecutive days. The Head of Household must also provide notice to HPD when the family member returns to the assisted unit. Any family member will be considered permanently absent from the unit if they are away for more than 90 consecutive days unless the absence is related to:

- Prolonged hospitalization or rehabilitation;
- Absence beyond the control of the family (e.g., documented death in the family, other family member illness);
- Incarceration or detention for up to 180 days;
- Prolonged full-time attendance at a school away from home;
  - The full-time student will continue to be considered a family member for more than 180 days unless the family declares that the student's absence is no longer temporary;
- Placement of children in foster care;
  - HPD will make best efforts to coordinate with, ACS, NYCHA, and DHCR to maintain proper tracking of subsidies for foster children.
- Joint custody agreements;
- Service in the Armed Forces; or
- Employment assignment where the assignment is temporary.

HPD may at its discretion consider other reasons a household member may be absent from the assisted unit beyond 90 consecutive days. After HPD is informed of a family member's permanent absence that family member's income will not be counted in the household's income determination. Family members must be able to provide proper documentation of absence. In cases where the absent member is the Head of Household, HPD's family break up policy will apply.

#### **5.1.10 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. For Violence Against Women Act (VAWA) Preference category as described in Section 3.1 (Local Preferences), the interruption could last for up to 180 days.

#### **5.1.11 Reinstatement after Relinquishing Voucher**

A household that voluntarily relinquishes their voucher may request that the voucher be reinstated within 180 days of the date of the relinquishment. HPD will review requests on a case-by-case basis and reserves the right to refuse reinstatement if the household was in violation of their lease or in the process of having their subsidy terminated at the time of relinquishment. Requests will be considered pursuant to voucher and funding availability. Requests for reinstatement after 180 days will not be considered.

## 5.2 Income

### 5.2.1 Income Limits at Admission

Household income at the time of initial eligibility determination and admission cannot 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 (AMI) as determined by HUD. This 95% income limit applies to moderate-income families residing in a low vacancy area (3% 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 AMI.
- **Rental Assistance Demonstration (RAD):** HPD may provide assistance to eligible households with income up to 80% AMI at initial tenancy under RAD. Income eligibility is limited to 50% AMI for leasing turnover units in RAD Project Based Voucher units.
- **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 where:
  - 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,
  - The household meets all other program eligibility and suitability requirements.

The 80% threshold also applies to applicants that are either homeowners or homeless at the time of application.

### 5.2.2 Adjustments to Income

#### 5.2.2.1 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. Medical expenses are defined as indicated in the IRS Publication 502. If a family has medical

expenses and no disability assistance expenses, the allowable medical expense is that portion of total medical expenses that exceeds 3% of annual income.

#### **5.2.2.2 Childcare Expenses**

Expenses for the care of children under 13 years of age may be deducted from income only when it allows an adult family member to be employed, to actively seek employment, or to further their education. Childcare expenses deducted to permit employment must be reasonable and may not exceed the amount of employment income that is included in annual income.

#### **5.2.2.3 Disability Assistance Expenses**

Allowable disability assistance expenses include only those costs associated with attendant care or auxiliary apparatus (e.g., wheelchair, medical equipment) 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 3% of gross income.

#### **5.2.2.4 Income from Full-time Students**

In accordance with HUD, HPD will not include in annual income the earnings in excess of \$480 for each full-time student 18 years and older, excepting the Head of Household or spouse/partner. However, financial aid amounts exceeding tuition, fees, and other required charges must be included in annual income with the exception of financial aid paid to a student over 23 with dependent children, or to a full-time student residing with their parents. For the purposes of the Housing Choice Voucher program, "full-time" students are defined as those students who can document that they are considered as attending full-time at their institution or school. HPD reserves the right to request documentation of enrollment.

#### **5.2.2.5 Reporting Minimal or No Income**

There is no minimum income requirement. However, staff must use good interviewing and investigative skills, including the HUD Enterprise Income Verification (EIV) system when available, to determine whether an applicant actually has income but is not fully reporting it. The Head of Household for any non-elderly, non-disabled family reporting minimal or no income (defined as less than \$2,000 gross income annually) may 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. In addition, HPD may require the Head of Household for any non-elderly, non-disabled family claiming minimal or no income to produce an IRS Tax Return Transcript or IRS Verification of Non-filing Letter.

HPD also reserves the right to require submission of the Statement of Income and Expenses by the Head of Household if the family's income is deemed unreasonably low to cover basic needs based on family size. Failure to provide such information will be grounds for denial or termination of assistance. HPD reserves the right to require non-elderly, non-disabled participants who claim zero income, or an amount deemed unreasonably low to cover basic needs based on family size, to recertify at HPD's discretion.

#### **5.2.2.6 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.

#### **5.2.2.7 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.

#### **5.2.2.8 Rounding of Income and Deductions**

Generally, HPD will round to the nearest whole dollar at the final calculation for each income/deduction source.

HPD will round as follows for the following income and deductions:

- Social Security Income: When income is verified through EIV, HPD will use the amount listed in EIV. In instances where the family disputes EIV reported SS or SSI benefits or when EIV data is not available, HPD will use the full amount listed on the SSA Proof of Income Letter and round the final result of the calculation once annualized.
- Other Income/Deduction Sources which include direction on rounding: Where the income/deduction verification document has direction on rounding of income/deductions, HPD will follow the direction on the verification document to calculate annual income and/or deductions.
- Income/Deduction Sources with NO direction on rounding: If the income/benefit/deduction verification document does not include any direction concerning rounding, HPD will calculate income/benefit/deductions by annualizing the entire weekly, bi-weekly or monthly income/benefit/deduction. Once the annual amount is calculated, HPD will round to the nearest whole dollar. For example, if the weekly income is \$300.10, annual income is  $\$300.10 \times 52 = \$15,605.20$  which is rounded to \$15,605.

#### **5.2.2.9 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. In such an instance, HPD may assign the fair market value to the asset. As permitted by regulation, HPD may adopt a minimum threshold to ignore small amounts that would not be counted toward income.

#### **5.2.2.10 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.

### **5.3 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 do not exceed the higher of 30% of the area median income as defined by HUD or the Federal poverty level. 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.

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.

### **5.4 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. HPD reserves the right to grant deferrals, up to the maximum allowable time under federal regulations, on any decisions related to citizenship and eligible immigration status.

### **5.5 Mandatory Social Security Numbers**

Families are required to provide verification of Social Security numbers (SSN) for all family members claiming citizenship or eligible immigration status 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.

Children under six years old who have joined the household within the past 180 days and applicants of the Moderate Rehabilitation Single Room Occupancy (SRO) program will be granted 90 days to furnish an SSN. Children under six may be issued an alternate ID through HUD's Public and Indian Housing Information Center (PIC) system during the 90-day period.

Applicants without Social Security cards may provide other acceptable government forms of documentation that identify the Social Security number including unemployment benefit letters and Social Security award letters.

## **5.6 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.

## 6 VERIFICATION

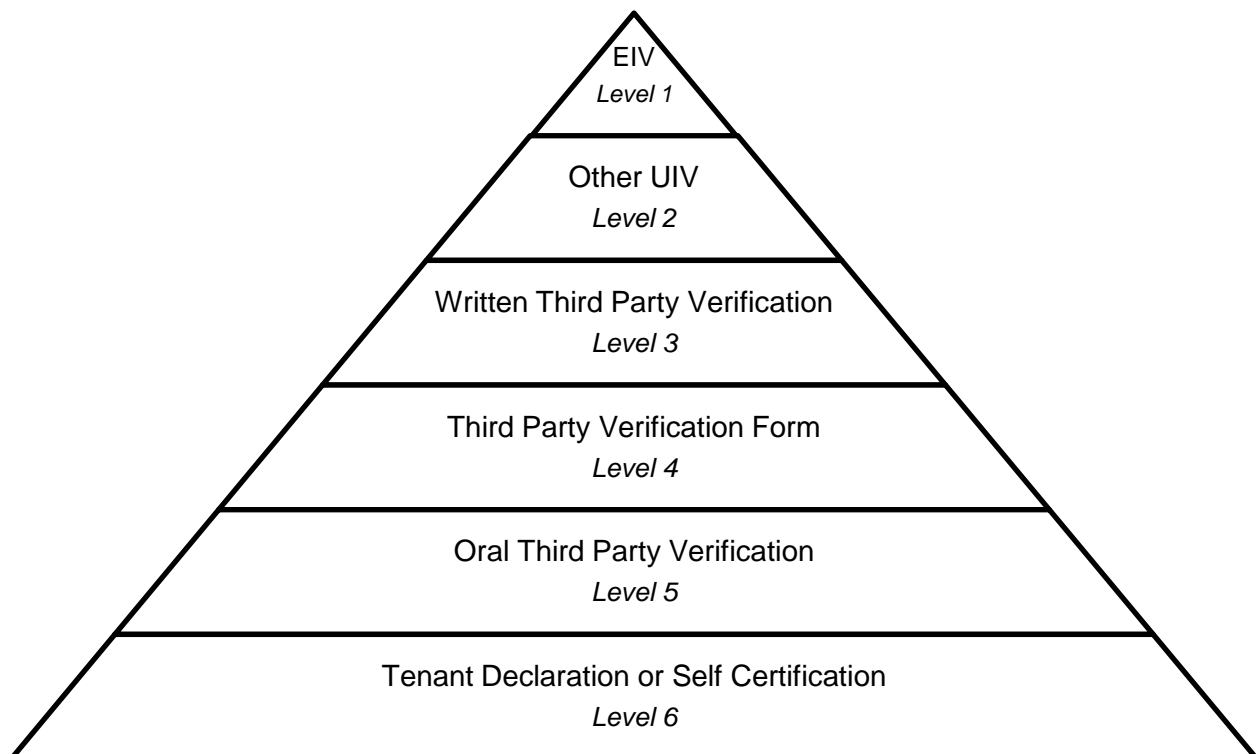
### 6.1 Verification Hierarchy

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 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 original (HPD will keep photocopies and return the originals). The documents must not be damaged, altered or in any way illegible.

HPD uses HUD's verification hierarchy to verify tenant information. Third party verification is considered to be the most effective means of verifying information provided by the family, and there are several acceptable methods of obtaining third party verification. If it is not available, HPD will follow the hierarchy and attempt additional means.





*Level 1: HUD Enterprise Income Verification (EIV) system*

Used to verify Social Security income and identify differences in other types of reported income for program participants.

*Level 2: Upfront Income Verification (UIV) using other non-HUD systems*

If the relevant information is not available to verify on EIV, HPD staff should use other UIV tools to verify information.

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 Department of Housing and Urban Development (HUD), NYC Human Resource Administration, and the NYC Administration for Children's Services. HPD will either access these agency's systems directly or accept computer printouts from these agencies.

*Level 3: Written Third Party Verification*

Documents that originate from a third-party source (e.g., pay stubs, W2s, bank statements, SSA benefit letters). Written third party documents are required to verify certain types of information, as listed in Section 6.3 (Verification Factors and Required Documentation).

*Level 4: Third-Party Verification Form*

Standardized form that HPD accepts from an outside source if higher levels are not available.

*Level 5: Oral Third-Party Verification*

In the event that third party written verification cannot be obtained, staff will obtain oral verification via a telephone call or in-person meeting.

*Level 6: Tenant Declaration or Self-Certification*

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 or participant of the reported information.

Certain items **cannot** be verified through self-certification:

- Social Security;
- Supplemental Security Income;
- Public Assistance;
- Unemployment Income;
- Veterans Benefits;
- Court-ordered child support;
- Government pensions;
- Unreimbursed medical expenses;
- Full time student status;
- Disability status; or
- Workers' compensation benefit.

If third party verification is received after self-certification or oral verification has been accepted as provisional verification, and there is a discrepancy, HPD will use the third-party verification.

Pursuant to HUD's Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs published effective March 12, 2018, families on 100% fixed income may declare their income and will not need third party verification of their fixed income in some years. Instead, HPD will recalculate family income by applying the published Cost of Living Adjustment (COLA, as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics) to the previous year's household income. However, full verification will be required every three years. COLA increases may also be applied to the following when updated documentation is not available: Social Security and SSI payments, and Medicare premiums when Medicare recipients are eligible for the statutory hold harmless provision.

Fixed income is defined as:

- Social Security payments including Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, State, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

All fixed income sources must be verified through a third party every three years. In the interim years, HPD may accept existing participants' declaration of fixed income when a participant family is on 100% fixed income.

Additionally, all families are required to report all assets annually. All assets must be verified through a third party every three years. In the interim years, HPD may accept existing participants' declaration of the value of individual assets with a value of \$5,000 or less. HPD's reexamination documentation can serve as the declaration of the value of the assets and its resulting income. In these instances, HPD does not need to request supporting documentation (e.g., bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets. This verification of asset methodology applies only to existing participants and only in interim years.

If an employer or asset manager charges a fee for third party verification of income, HPD can deem it "unavailable." In addition, HPD will follow HUD's guidance on exceptions to third party verification requirements, which states that it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. HPD will determine the minimal impact threshold based on the cost of staff hours and the passbook rate and will update the threshold periodically as necessary. At recertification, if a participant household claims total household assets below this threshold, HPD will send a request for Additional Information (AI) if third party verification is not provided, but if there is no response or an unacceptable response to

the AI, HPD will accept tenant declaration of asset value rather than sending a pre-termination notice.

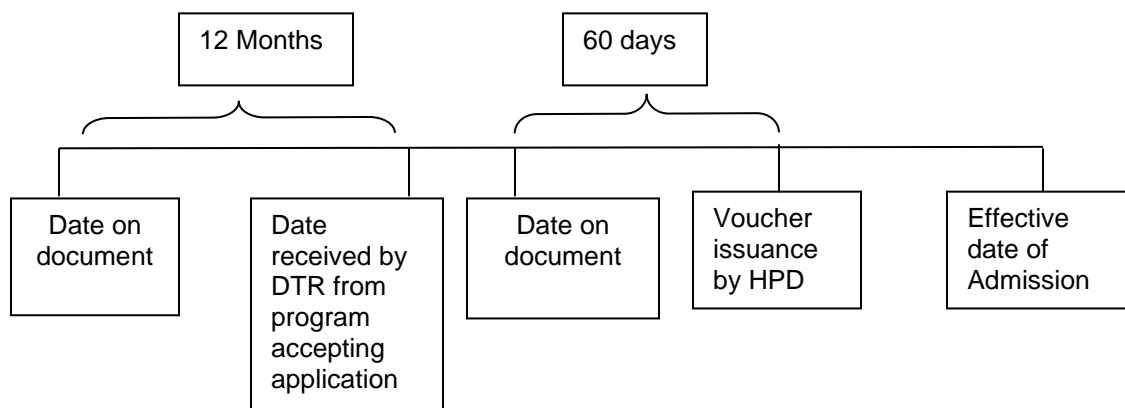
Finally, households with income that is fully excluded (e.g., food stamps, income earned by live-in aides) may provide a declaration of that income as sufficient documentation. The declaration of the income in the application and reexamination documents will be acceptable. Income that is partially excluded (such as employment income for full time students) will continue to be subject to HUD prescribed verification requirements as described in this chapter unless this requirement is waived by HUD at HPD's request.

HPD reserves the right to request additional documentation as necessary.

## 6.2 Age of Verification Documents

### 6.2.1 Age of Documents When They Are Received by HPD at Application

HPD's practice is to require that verification documents be dated within 12 months from the date they are submitted to HPD's Division of Tenant Resources (DTR) by the HPD program receiving the application. Older documents may be used when and if they represent the most recent scheduled report (e.g., annual or semi-annual pension reports or other such items that are provided at least annually.)



### 6.2.2 Admission - Regulatory Requirement

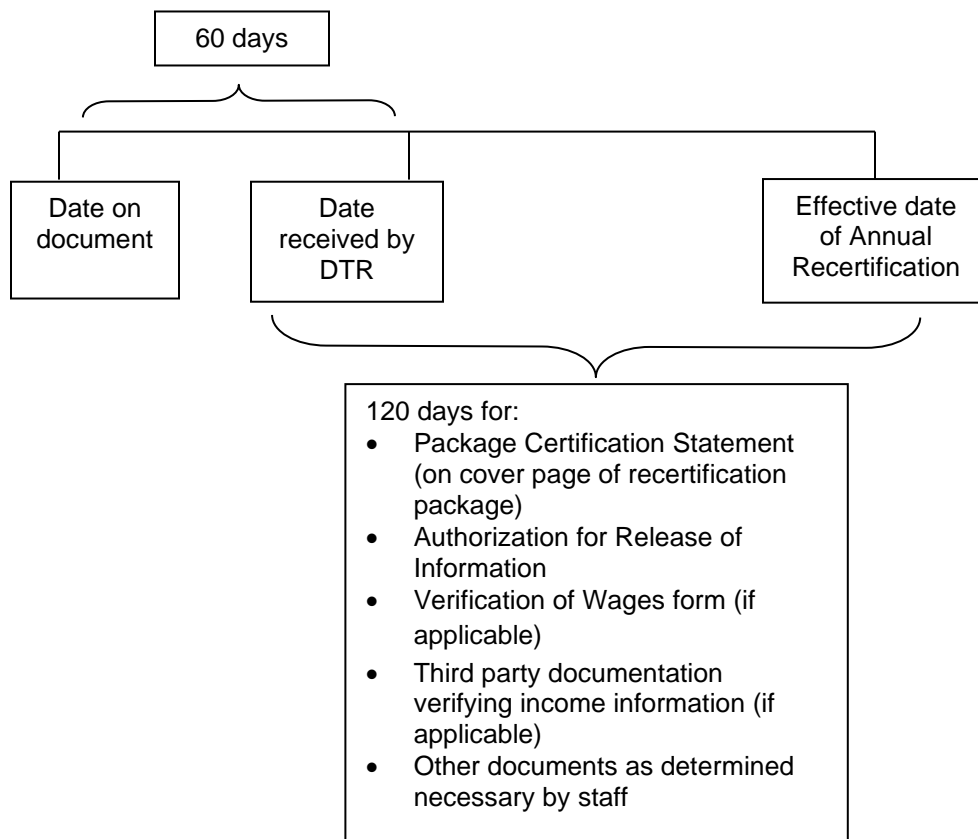
The timing of verification is critical at admission. Income, asset, and expense verification documents must be dated within 60 days of the date a voucher is issued. Therefore, if more than 60 days has elapsed between the date of verification and the issuance of a voucher for initial admission, the item must be re-verified. Older documents may be used when and if they represent the most recent scheduled report (e.g., annual or semi-annual pension reports.)

### 6.2.3 Recertification

Certain verification documents are usable for calculation purposes for 120 days from the time they are received in the office until the earlier of the effective date of the recertification and the date the recertification was processed (see chart below for details). An HPD employee at the level of Director or higher (or their designee) may

choose whether to request updates to other verification documents and forms after 120 days from the date they are received in the office on a case-by-case basis. The documents listed on the chart below must be updated after 120 days. If at the time of recertification, a participant's Authorization to Release Information form will expire beyond the 120-day window, HPD will require a new form to be completed.

All verification documents must be dated within 60 days of the date they are provided to HPD. HPD will accept documents dated up to one year 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.



### 6.3 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. HPD may request three years of IRS transcripts for tax returns and W-2 forms when investigating misrepresentation of family composition and/or income.

For applicants claiming eligible immigration status, verification of eligible immigration status occurs at the same time as verification of other factors of eligibility. Upon request, HPD may grant an extension, up to the maximum allowable time under federal regulations, for families to submit evidence of eligible immigrant status.

<b>Household Composition – Legal Identity (required for each listed household member)</b>	
<b>Verification Factors</b>	<b>Form of Documentation</b>
Name	A form of government issued identification such as a birth certificate or driver's license. An employment identification card may also be accepted. Photo identification is required for all adults, although HPD reserves the right to accept alternative identification. HPD does not require that households provide photo identification when a household member turns 18.
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 (if 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.
Dependent Child or Guardianship	Birth certificate that demonstrates relationship to adult in household. Guardianship requires documentation of court-ordered guardianship and/or verification from a social service or government agency.
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 licensed social worker
Full-Time Dependent Student	Current school records documenting a student's status as full-time at a degree or certificate granting institution. This requirement applies only to household members 18 years and older.
Identity Theft (if claimed to explain EIV discrepancy)	Police report and either IRS identity theft affidavit or Social Security Administration report of identity theft.

<b>Income</b>	
<b>Verification Factors</b>	<b>Form of Documentation</b>
Employment Income	<p>HPD will check the Enterprise Income Verification database (EIV) to verify sources of income and benefits.</p> <p>Most recent paycheck stubs (consecutive: six for weekly pay, three for bi-weekly or semi-monthly pay, two for monthly pay); employer-generated salary report or letter stating current annual income, 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 are required.</p> <p>Verification forms for employment income must specify: 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>
Self-employment, Gratuities, Seasonal or Sporadic Income	Form 1099, 1040/1040A or Schedule C of 1040 in U.S. Internal Revenue Service (IRS) tax transcript format showing amount earned and employment period. Additionally, signed self-certifications, IRS letter of non-filing or full income tax returns may be required.
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.
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; or IRS Form 1040 schedule E.
Dividend and Interest Income	<p>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.</p> <p>Households must declare and provide verification of assets and the resulting income in HPD's application packages. Existing participants with assets valued at \$5,000 or less may declare the value of their assets. HPD reserves the right to request verification. Applicants must provide verification documents for all assets declared on their application.</p>
Interest from Sale of Real Property	Amortization schedule with amount of interest earned in next 12 months.
Unemployment Compensation	Benefit letter signed by administrating agency; copies of checks or records from agency stating payments, dates, and pay period and benefit schedule.

<b>Income</b>	
Social Security and Supplemental Security Income (SSI)	<p>Printout from Enterprise Income Verification System (EIV), or the annual award letter signed by administrating agency.</p> <p>For tenants receiving SSI or SS that are being recertified early in the year before receiving their benefit letters, HPD will apply the published Cost Of Living Adjustment to the prior year's benefit when determining anticipated income from these sources.</p> <p>For households where 100% of household income is fixed income such as SS or SSI, HPD will apply any published cost of living adjustments to the previously verified income amount. Additional third-party verification will only be required from the household once every three years, when all fixed income must be verified.</p>
Public Assistance Benefits	<p>Original benefit letter signed by administrating 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; copy of Welfare Management System (WMS) report; if applicable, maximum shelter allowance schedule with ratable reduction schedule provided by applicant.</p>
Recurring Contributions or Gifts	<p>Copies of checks received by the applicant or a letter from the person providing the gift that contains the following information: name of the person providing the gifts; the value of the gifts; the regularity (dates) of the gifts; and the purpose of the gifts.</p>
Family Assets	<p>Passbooks, checking or savings account statements, certificates of deposit, stock or bond documents or other financial statements; documents related to retirement funds; opinions from attorneys, stockbrokers, bankers and real estate agents verifying penalties and reasonable costs incurred to convert assets to cash.</p> <p>Existing participants with a total asset of \$5,000 or less may provide a self-certification indicating asset value and income at annual recertification. HPD reserves the right to request additional documentation. Every three years, HPD will require third party verification of all assets, including those valued at \$5,000 or below. The minimal impact policy as described in Section 6.1 (Third Party Verification) will apply.</p> <p>All documents verifying value of asset and expenses associated with converting the asset to cash must be submitted to HPD.</p>

<b>Income</b>	
Real Property	<p>Copies of real estate tax statements; copies of real estate closing documents that indicate distribution of sales proceeds and settlement costs; mortgage statements, a copy of a deed, utility bills for rental property and any other documents to establish the current value of any property.</p> <p>In a situation where an asset is owned by more than one person, only the percentage owned by the participant will be counted as the asset.</p> <p>In a situation where an applicant or participant has any ownership interest in property, even if in name only, the property will be calculated as owned by the participant or applicant. Documentation of change in ownership will be required to remove the property from calculation.</p>
Trust	<p>In the event that a participant is the owner of a trust but does not receive income from that trust, proper documentation such as a “trust instrument” that explains that the participant does not, or cannot, receive income from the trust, must be submitted.</p>
Disability Income/Workers Compensation	<p>Benefit letter from administrating 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.</p>
Pension	<p>Benefit letter from administrating 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.</p> <p>For households where 100% of household income is fixed income such as a pension, HPD will apply any published cost of living adjustments to the previously verified income amount. Additional third-party verification will only be required from the household once every three years, when all fixed income must be verified.</p>
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"> <li>• A copy of the separation or settlement agreement or divorce decree stating the amount and type of support and payment schedules;</li> <li>• A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement;</li> <li>• A notarized affidavit from the award recipient indicating the amount received;</li> </ul> <p>A public assistance notice of action showing amounts received by the human resource/social service agency for child support.</p>
Education Scholarships	<p>Award letters showing the scholarship’s purpose, amount and dates of the awards.</p>



Allowable Deductions from Income	
Type of Deduction	Form of Documentation
Medical Expenses	<p>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 that itemize medical expenses that are expected to continue over the next 12 months; copies of cancelled checks that verify payments to a live-in aide; receipts or ticket stubs that 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.</p> <p>HPD will check the Enterprise Income Verification database (EIV) to verify Medicare health insurance premiums.</p>
Childcare Expenses	<p>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.</p>
Assistance to Persons with Disabilities	<p>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:</p> <p><u>Attendant Care:</u></p> <ul style="list-style-type: none"> <li>• Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided; and</li> <li>• Certification of family and attendant and/or copies of cancelled checks family used to make payments.</li> </ul> <p><u>Auxiliary Apparatus:</u></p> <ul style="list-style-type: none"> <li>• Receipts for purchase or proof of monthly payments and maintenance expenses for auxiliary apparatus; and</li> <li>• In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.</li> </ul>

<b>Citizenship or Eligible Immigration Status</b>	
<b>Status</b>	<b>Form of Documentation</b>
Citizens or Nationals of the United States	A U.S. birth certificate; U.S. passport; resident alien/registration card; valid, un-expired U.S. Passport, Certificate of Citizenship, Certificate of Naturalization, U.S. Citizen Identification Card. HPD reserves the right to rely on Declaration of Citizenship.
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"> <li>• Resident Alien Card (I-551);</li> <li>• Arrival-Departure Record (I-94);</li> <li>• Employment Authorization Document (I-766);</li> <li>• Receipt issued by the United States Citizen Immigration Services (USCIS) for issuance of replacement of any of the above documents that shows individual's entitlement has been verified; or</li> <li>• Other acceptable evidence: if other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.</li> </ul> <p>HPD will copy the documents and return them to the family. HPD will verify the status through the USCIS SAVE system. If this primary verification fails to verify the status, HPD will request within 10 days that the USCIS 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>

#### 6.4 Enterprise Income Verification

HPD uses the Enterprise Income Verification (EIV) system 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.

At admission and when adding a member to the household, HPD will also use EIV to review reports related to:

- **Existing tenants** - To determine if a tenant is receiving subsidy in another housing program. Federal regulations prohibit individuals from receiving rental assistance if they are receiving another housing subsidy (24 CFR 982.551). See also Section 7.1.2 (Family Obligations).

- **Prior debts owed to another PHA** - To determine if a tenant owes money to another PHA and is therefore ineligible for assistance from HPD. If applicants owe HPD or another PHA any debt, they will be denied assistance. Those with Repayment Agreements will be denied until any debt owed is fully satisfied.
- **Adverse Termination from another PHA** - To determine if a tenant was terminated from another housing program for a reason that would make them ineligible to receive assistance from HPD. Adverse termination reasons of Criminal Activity – Drugs (see Section 15.5.2 [Drug Related Criminal Activity]), Criminal Activity – Sex Offender and Failure to Report Income are examples of reasons that may lead to denial of subsidy.

At the end of participation of an assisted family, HPD will use EIV to enter the reason for termination of subsidy, unless the tenant voluntarily gives up the subsidy or was no longer experiencing rent hardship (tenant share equals contract rent).

#### **6.4.1 Authorization**

Signed Alternative to HUD-9886 form or HPD's Authorization for the Release of Information/Privacy Act Notice 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 U.S. Privacy Act.

#### **6.4.2 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; and
- 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 kept in the file for use during the conference or informal review.

#### **6.4.3 EIV Income Discrepancies**

If EIV data shows a significant difference from tenant-reported income (defined by HPD as a difference of \$2,400 or more in annual income), or a source of income not reported by the tenant, HPD will request third party verification from the source of income. In instances where an income discrepancy has been verified through a third party, the family is responsible for all periods of unreported income independent of HPD's actions.

In addition, HPD may require the tenant to provide tax returns or historical income documentation that shows patterns of employment, paid benefits, etc. HPD will use HUD guidance and use a non-EIV source to verify income in tenant share to determine misrepresented income. For differences greater than \$5,000 annually between the annual income last reported to HPD and the income earned for the same period as reported by a third-party source of information, HPD will review level of HAP overpayment and:

- Sign a Statement of Understanding with the household;
- Enter into a Repayment Agreement with the household;
- Refer the household to the Department of Investigation; and/or
- Terminate subsidy for the household.

EIV cannot be used to calculate current employment and/or unemployment income. 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.

#### **6.4.4 Underreporting Income and Assets**

Cases of suspected fraud will be referred to the Section 8 Program and Integrity Compliance (PIC) Unit. Serious cases (those involving verified discrepancies exceeding \$5,000) 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 income (including that generated from unreported assets), HPD will take actions in accordance with HPD's Repayment Agreement guidelines, e.g., adjusting future HAP payments, requiring a Repayment Agreement, or termination (see Sections 17.2 [Corrective Measures and Penalties] and 17.3 [Repayment Agreements] for more information).

HPD will determine retroactive HAP overpayment as far back as HPD has documentation of family unreported income. HPD may choose not to seek verification if doing so would not be cost effective, as described in Section 6.1 (Third Party Verification).

## **7 SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

### **7.1 Briefings and Family Obligations**

#### **7.1.1 Briefings**

Upon selection of the family from the waiting list, HPD will conduct an oral briefing with the Head of Household. HPD reserves the right to conduct this briefing in person, by phone or through an online service. 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. The proxy must provide Power of Attorney documentation.

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: Fair Housing and Equal Opportunity).

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 or pieces of information. Applicants who miss more than one briefing may have their application rejected and will be required to re-apply for admission. HPD will not issue a voucher to a family unless the Head of Household has attended the briefing and signed the voucher.

#### **7.1.2 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 correcting a Housing Quality Standards (HQS) breach caused by the family;
- Receive written approval to move from HPD and notify the owner/landlord and HPD in writing before the family moves out of the subsidized unit, or terminates the lease on notice to the owner;
- Promptly notify HPD of any planned absences from the unit greater than 30 days;
- Promptly give HPD a copy of any owner eviction notice;
- Use the assisted unit for its 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

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.

## **7.2 Issuance of Vouchers and Subsidy Standards**

### **7.2.1 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 for which the family is eligible. 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 Housing Assistance Payment (HAP) contract become effective.

Individuals with a disability may have a proxy or power of attorney sign the voucher paperwork on their behalf if proper documentation is provided indicating their inability to come to HPD to sign the paperwork in person and naming the proxy.

HPD aims to use all of its voucher and budget authority, 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 based on funding availability. 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.

### **7.2.2 Voucher Term, Suspensions and Extensions**

The initial voucher term will be 120 calendar days. HPD may grant extensions to certain voucher holders in documented special circumstances, including cases where doing so will be in furtherance of goals associated with HPD housing development programs. HPD will also grant extensions if needed as a Reasonable Accommodation to make the program accessible to and usable by a person with disabilities. An HPD employee at the level of Director or higher (or their designee) must approve these extensions.

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 request is denied, the applicant will be issued a voucher with the number of days left on the original voucher at the time of the RFTA submission.

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 and the family is still eligible. HPD is not required to notify a family that their voucher has expired.

For information on voucher terms when moving, see Chapter 14: Moving with Continued Assistance and Portability.

### **7.2.3 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. Generally, HPD’s subsidy standards provide for the smallest number of bedrooms needed to house a family without overcrowding. According to HUD’s HQS space requirements, a unit is not overcrowded as long as it has at least one bedroom or living/sleeping room for each two persons. Families may choose a unit smaller than their voucher size, provided the unit is not overcrowded. However, subsidy standards are based on the smaller of the actual unit size or the size listed on the voucher.

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

#### 7.2.4 Determining Family Unit (Voucher) Size

The unit size on the voucher will be determined solely by the number of people in the household. HPD does not determine who shares a bedroom/sleeping room. The table below establishes the occupancy standard for families.

Size of Family	Family Voucher Size
1 or 2	1
3 or 4	2
5 or 6	3
7 or 8	4
9 or 10	5
11 or 12	6

Within these parameters, the following guidelines will apply:

- Any single 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 and will be issued a separate bedroom;
- 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 (six months) a year;
- Foster children will be included in determining unit size only if they will be in the unit for at least 180 days (six months) a year (this does not apply to families receiving assistance through the Family Unification Program);
- A child who is temporarily away from home (for less than 180 consecutive days) due to placement in foster care or another non-permanent situation may be considered a member of the family and included in determining voucher size;
- In the case of documented pregnancy by a member of the household, HPD will consider the unborn child as a household member for the purpose of determining the appropriate size unit; and
- Space may be provided for a family member who is away at school but who lives with the family during school recesses.

A reduction to the subsidy standard due to change in family composition or as a result of policy changes will be effective immediately. The payment standard associated with the unit will be impacted at the one-year anniversary of the regularly scheduled annual certification. During periods of funding shortfall, HPD reserves the right to implement subsidy standard changes with at least 30 days' notice to affected families. Changes to HPD's subsidy standards will apply to all households in the HCV program except existing Project Based Voucher participants and homeowners.



### **7.2.5 Exceptions to Subsidy Standards**

HPD may grant an exception to these subsidy standards if the exception is justified by the health or disability of family members. An HPD employee at the level of Director or higher (or their designee) must grant all such exceptions to this policy. All requests for exceptions must be made in writing and be submitted to HPD. All such requests must be accompanied with an HPD Reasonable Accommodation form completed by a licensed medical professional. HPD reserves the right to request that Reasonable Accommodation requests are resubmitted annually. HPD also reserves the right to accept other medical documentation from a licensed medical professional that establishes a clear connection between the exception being requested and the condition meriting accommodation.

HPD will automatically increase a voucher size only in cases where additions of household members are due to birth, adoption, marriage, domestic partnership, or court-awarded custody or the HPD-approved presence of a live-in aide. Additions under other circumstances must be approved in advance 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 contract rent for the unit size selected.

The utility allowance used to calculate gross rent is based on the lower of:

- The voucher size issued to the family; or
- The unit size of the unit selected by the family.

### **7.2.6 Exceptions to Payment Standards**

In accordance with HUD regulations, HPD has implemented exceptions to the payment standard to promote de-concentration of poverty. Exception Payment Standard (EPS) values are set at the ZIP code level and use HUD's Small Area Fair Market Rents (SAFMR) for certain ZIP codes in New York City, in accordance with the HUD final rule at 81 FR 80567. HPD has chosen to set EPS using SAFMR in ZIP codes that are classified as high opportunity, based on meeting at least one of the following criteria:

- Low rates of poverty;
- Low felony crime rates;
- Well-resourced schools; or
- Contain a census tract considered higher opportunity under HUD's Community Choice Demonstration program

Additionally, as a Reasonable Accommodation for households with disability, HPD may grant an exception to the payment standard up to 120% of the FMR. A Reasonable Accommodation may be requested as described in Section 2.3 (Reasonable Accommodations for Persons with Disabilities) of the Administrative Plan.

## **8 HOUSING QUALITY STANDARDS**

HPD is required by federal legislation and HUD regulations to ensure that each unit occupied by a subsidized household is “decent, safe and sanitary.” To meet this requirement, HPD conducts a Housing Quality Standards (HQS) inspection prior to providing assistance on behalf of a participant and biennially throughout the term of assisted tenancy. HPD reserves the right to conduct inspections more frequently. With HUD approval, HPD may use alternative methods to conduct inspections that ensure units meet HUD’s housing quality standards. An HPD inspector trained in Housing Quality Standards will conduct inspections. Inspected units will receive a designation of “pass,” or “fail.”

### **8.1 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.

### **8.2 Bedrooms and Apartment Layout**

At a minimum, a dwelling unit must have a living room, a kitchen area and a bathroom. (Single Room Occupancy units are exempt from this requirement). A studio apartment is considered a living/sleeping room. The unit must also have at least one living/sleeping room for every two household members. Single Room Occupancy units may only house one person in the living/sleeping room. Each living/sleeping room must also have:

- Two working dual outlets; or one working dual outlet and one working light fixture; and
- A window if the room is used primarily for sleeping.

Payment standards are based on the legal bedroom size; i.e., sleeping quarters that are not legally considered bedrooms do not count as bedrooms in determining payment standard.

### **8.3 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 (Single Room Occupancy units excepted): All burners must be working and all knobs to turn the burners on and off must be present. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and if microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building in order for such substitutions to be approved;
- A refrigerator of appropriate size based on the number of household members. For example, countertop 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.

### **8.4 Bathroom**

The bathroom must be contained within the unit and have the following items:

- 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.

### **8.5 Other Rooms Used for Living**

Other rooms used for living are defined broadly, and include bedrooms, dining room, entrance hall, and 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.

### **8.6 Specific Apartment Items**

#### **8.6.1 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 windowpanes;
- Dangerously loose, cracked windowpanes (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; or
- Broken window balance.

### **8.6.2 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.

### **8.6.3 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 HQS failure. Unsound or hazardous means:

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

### **8.6.4 Floors**

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

### **8.6.5 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 and 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.

#### **8.6.6 Heating**

The unit 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.

#### **8.6.7 Plumbing**

- The kitchen and bathroom must have hot and cold running water;
- The unit 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.

#### **8.6.8 Access**

- The unit must have its own entrance;
- Any entrance in the building with six or more steps must also have a handrail at least three feet high;
- Doors and windows that are accessible from the outside must have legal, working locks; and
- Double cylinder locks are considered an automatic HQS failure and a hazardous condition. Apartments or buildings with double cylinder locks will automatically fail HQS.

#### **8.6.9 Exits**

- The unit must have an unblocked, acceptable, alternative means of egress in case of a fire (e.g., 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 an automatic HQS failure; 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.

#### **8.6.10 Sanitary**

- The unit 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 and animal waste.

#### **8.6.11 Smoke and Carbon Monoxide Detectors**

- A smoke detector and a carbon monoxide detector are required in every unit, except where exempted by local law. Building owners are responsible for installing the detectors in accordance with the law, while tenants are responsible for maintaining them in working order. Detectors are to be properly installed and located in the hall of the unit near the bedrooms and on every floor if the dwelling has multiple floors. Detectors may be battery or hard-wire operated, and smoke

and carbon monoxide detectors may be separate devices or a combined detector;

- If a detector is present but is inoperable (due to the need for a battery or if the tenant has removed the smoke detector for cooking or other purposes) the failure 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.

#### **8.6.12 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 are also required to comply with applicable local laws, such as the NYC Childhood Lead Poisoning Prevention Act of 2003, also known as Local Law 1 of 2004, as amended, and HPD's implementing rules, which are available online at <https://www1.nyc.gov/site/hpd/section-8/landlords-inspections.page>. HPD will adopt the applicable local lead law, where it is stricter than the federal standard.

If a unit or public area fails an HQS inspection for a presumed lead-based paint condition, the owner's responsibilities under federal and local regulations will be detailed in HPD's "Notice of Failure and Notice of Violation" package. The owner's responsibilities for correction will depend on the building type and the location of the hazard. Where local law does not apply, federal rules regarding correction and ongoing maintenance will apply.

HPD partners with the New York City Department of Health and Mental Hygiene (DOHMH) to address lead-based paint investigations related to children with elevated blood lead levels. DOHMH investigations may result in HQS failures. If DOHMH issues a Commissioner's Order to Abate (COTA), HPD will issue a notice of failure for lead-based paint hazards. The owner will have a 30-day period to correct the failure.

#### **8.7 Emergency Conditions**

HPD, at its discretion, may determine certain HQS defects to be emergencies. The owner must repair these defects within 24 hours. The following list provides examples of the type of household defects that HPD considers emergency HQS failures. Depending on their severity, other conditions may be cited as emergency HQS failures requiring a 24-hour correction period including:

- Gas leaks;
- Smoking/sparking electrical outlets or wiring; or
- Building in imminent danger of collapse.

#### **8.8 Tenant Responsibility Defects**

HPD distinguishes between tenant responsibility to repair and owner responsibility to repair HQS defects on the inspection failure notices provided to both the tenant and owner. Unless provided for in the lease agreement, owners are not responsible for the correction of HQS defects that HPD determines are the tenant's responsibility to repair. Damages to the unit in excess of normal wear and tear by a household member will be

considered the tenant's responsibility to repair. 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.

Examples of Tenant Responsibility to Repair Failures include:

- No electricity when the tenant is responsible for the payment of utilities;
- No gas to the unit when the tenant is responsible for this utility per the lease agreement;
- No heat in conformance with local code when tenant is responsible for this utility per the lease agreement;
- A fire escape blocked, or exit blocked by tenant;
- The heavy accumulation of refuse or debris in the unit;
- No battery in the smoke/carbon monoxide detector or the smoke/carbon monoxide detector is inoperable; or
- Not providing access to a specific room in the assisted unit.

## **8.9 The Inspection Process**

### **8.9.1 General Policies**

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

- Initial inspection prior to entering into a HAP contract with an owner;
- Biennial inspection;
- Re-inspections to confirm that deficiencies have been corrected;
- Verification Inspection;
- Quality control inspection; and
- HQS complaint inspection.

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

The Housing Choice Voucher program will notify both the tenant and the owner of the scheduled inspection date for all inspections except random verification inspections and HQS complaint inspections. For occupied units, the tenant is responsible for providing access to the unit. If two scheduled HQS inspections are missed in a 12-month period, HPD may terminate the family from the program for failure to uphold their family voucher obligations. For initial inspections of vacant units, owners are responsible for providing access and failure to do so may result in rejection of their Request for Tenancy Approval (RFTA—see Chapter 11: General Leasing Policies and Housing Assistance Payment (HAP) Contract).

HPD inspectors will document on the appropriate form all defects that may cause the unit to fail to meet HQS standards and will indicate whether those failures are deemed to be the owner or the tenant's responsibility to repair, or both. HUD regulation

982.404(a)(3) requires that the PHA verify that HQS failure items have been repaired. HPD will verify correction of failure items by reinspecting or by obtaining verification through an alternative means. HPD will require re-inspections for tenant caused failure items. At other times at HPD's discretion and/or at the request of the owner or tenant, HPD will verify non-emergency failure items that the owner is responsible to correct through certifications signed by the owner. HPD reserves the right to require re-inspection or to accept self-certification for emergency failure items that are the owner's responsibility to correct.

If a unit fails an HQS inspection, notification of the failure and a list of the defects will be provided to the tenant and the owner, and a copy will go into the tenant's file. The failure letter will provide the owner (or tenant, if the defect is the tenant's responsibility to repair) with the date that the condition must be corrected by and certified as corrected. If applicable, the letter will also provide the date of the re-inspection of the unit. The letter will also notify the owner that HAP will be abated in accordance with HPD policies and HUD regulations if repairs are not corrected and certified as corrected within 24 hours in the case of emergency failures, or 30 days in the case of non-emergency failures. If the unit fails re-inspection, housing assistance payment will be abated, and the owner must notify HPD once the defects have been corrected.

#### **8.10 Initial Inspections for New Program Units**

Initial inspections will be scheduled upon approval of a RFTA. An initial inspection that passes HQS will be valid for up to two years. 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. The participant or applicant will receive, when possible, notification of the failure and will have the option of either searching for alternative housing or waiting for the deficiency to be corrected if the owner indicates that the defect will be corrected within a reasonable time. It is the owner's responsibility to notify HPD that the failure has been corrected.

Access to vacant units for the initial inspection is the responsibility of the owner. If an owner misses two appointments, HPD may cancel the RFTA and allow the tenant to look for alternative housing with the time remaining on their voucher.

#### **8.11 Biennial Inspections**

HPD must conduct an HQS inspection of each unit under contract at least biennially. HPD reserves the right to conduct inspections more frequently. HPD will notify the family in writing at least 10 days prior to the inspection.

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, or 24 hours if emergency failures are involved. The notice will inform the owner that HAP payments will be suspended the first of the next month if the defect has not been corrected within 30 days or, for emergency failures only, within 24 hours. It is the owner's responsibility to notify HPD that the HQS failure has been corrected. HPD reserves the right to accept inspection results from "passed" alternate inspections as allowed under HUD



Implementation of Fiscal Year 2014 Appropriations Provision on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances (FR-5778-N-01). Alternate inspections that may be accepted include inspections conducted by other agencies for HOME, Low Income Housing Tax Credit (LIHTC) or by HUD's Real Estate Assessment Center (REAC). With HUD approval, HPD may add to the list of alternate accepted inspections.

### **8.12 Special Inspections**

Tenants, owners and interested third parties may report HQS complaints to 311. HPD's Division of Code Enforcement will attempt to inform the owner of the reported failure conditions and then attempt to confirm with the tenant if conditions have been corrected. HPD will attempt to conduct an inspection if the tenant states that failure conditions remain. If HPD fails to gain access, the tenant will be notified to contact HPD and arrange an inspection should the failure conditions remain.

The Housing Choice Voucher program recommends that families immediately report hazardous situations to HPD's Division of Code Enforcement by calling 311 or calling 911 for immediately life-threatening conditions. An HQS complaint inspection will be considered critical if the defect creates an immediately hazardous situation. Inspections by HPD's Division of Code Enforcement may be used to verify the existence or correction of an emergency hazard. 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 of 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.

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.

### **8.13 No Access**

Tenants are required by Federal regulations to allow access to an inspector in order to conduct an HQS inspection. If a tenant fails to provide access to the entire unit to an HPD inspector two times in a 12-month period, it is considered a breach of family obligation and may result in the termination of HCV housing subsidy to the family. If the tenant fails to provide access to a specific room, it will be considered a tenant caused failure.

If the tenant fails to provide access to an HPD inspector to verify that HQS violations have been corrected, HPD must take enforcement action (abatement for landlord caused failures and termination of subsidy for tenant caused failures).

### **8.14 Cancellation of a HQS Inspection by Tenant**

Once in a 12-month period, tenants may cancel a scheduled inspection with more than 48 hours' notice. Request for cancellation of an inspection with less than 48 hours' notice will not be honored. A tenant will not be allowed more than one opportunity to reschedule an inspection within a 12-month period without documentation of good cause.

### **8.15 Abatement of HAP and HAP Contract or Program Termination for HQS Failure**

For owner-caused non-emergency failures in occupied units, owners will be given the option of certifying the correction of HQS failure items. An HPD-provided “Notice of Housing Quality Standards Failure” (NOF) form must be completed and signed by the owner and submitted in its entirety to HPD via certified mail or in person at the local Code Enforcement borough office in which the unit is subsidized within 30 days of the failed inspection to avoid abatement on the first of the month following the 30-day correction period. Most failure items or violations may also be certified through HPD’s e-certification system.

If the owner does not certify the correction of the failures within 30 days, HPD will abate HAP. The HAP abatement will take effect the first of the month following the 30-day correction period and will continue until all HQS deficiencies have been corrected and verified via receipt of a self-certification form or a verification inspection. After 180 days of HAP abatement, HPD must automatically terminate the HAP contract with the owner.

Non-certifiable items such as tenant responsibility to repair failures will continue to be automatically re-inspected after a 30-day correction period for non-emergencies and after a 24-hour correction period for emergencies. For an initial/vacant unit, it is the landlord’s responsibility to notify HPD that corrections have been made and to request a second inspection.

For units with owner caused emergency failures, if the owner fails to notify HPD that emergency failure items have been corrected, HAP will be abated on the first of the month following the initial 24-hour correction period. The owner must notify HPD in writing in order for a verification inspection to occur. If the unit then passes, retroactive payments will be made to the date the repairs were documented, so long as notification of repair occurs within 60 days of the repair.

If a vacant unit fails the verification inspection, HPD will cancel the RFTA per Section 8.10 (Initial Inspections for New Program Units).

For tenant-caused failures, if corrections are not made by the verification inspection, HPD will begin termination procedures, per Section 8.17 (Tenant-Caused Failures).

HPD reserves the right to re-inspect any self-certified failure items for verification purposes. In the case of lead-based paint hazards, where safe work practices are required, HPD may conduct quality assurance monitoring to verify that owners are compliant with ongoing maintenance requirements. If a random re-inspection reveals that correction to a self-certified failure was not completed, the unit will fail inspection and HPD will abate payments retroactively to the first of the month following the original certification deadline for the failure item.

Self-certification is not accepted for the following failure types:

- Tenant responsibility to correct failures;
- If a tenant disputes that the defect has been corrected;
- Vacant units; or
- Initial inspections.

HPD reserves the right to accept Certification Statements from owners for emergency conditions. All emergency failures will automatically be scheduled for verification inspections.

### **8.16 Owner-Caused Failures**

When an owner fails to correct an HQS failure within the allotted timeframe, 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. The notice of abatement states that the tenant is not responsible for HPD's portion of any abated rent.

The abatement will continue until all HQS deficiencies have been corrected and verified via receipt of self-certification of HQS corrections or by re-inspection. Reinstatements may be made retroactive, effective the date HPD received an email from the owner certifying the deficiency was resolved (for no access to heating cases), or effective the date work was completed, based on a work order. It is the owner's responsibility to notify HPD that deficiencies have been corrected. If the unit is in long-term HAP abatement (defined as abatement for more than 180 days), HPD must automatically terminate the contract. 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. As funding allows, HPD will provide the tenant with a new voucher, provided that the family remains eligible for assistance and can provide evidence that the family is 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 or 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.

### **8.17 Tenant-Caused Failures**

When the tenant causes an HQS failure, HPD will provide the tenant with a notice of the defect and the required timeframe to correct the defect.

If the family causes a hazardous HQS failure requiring immediate correction, 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. If defects are not corrected within the above timeframe, HPD will follow its termination of subsidy procedure to terminate the tenant's participation in the program. When a unit fails inspection for heavy accumulation of refuse or debris in the

unit, HPD may make a referral to a community-based organization (CBO) for assistance and offer an additional 60 days to resolve the failure.

#### **8.17.1 No Access to Landlord for Repair of HQS Violations**

If the tenant fails to allow access to a landlord in order to make repairs, a landlord must document at least two attempts to gain access. HPD requires that landlords send a tenant at least one certified mailed letter in order to document attempts to gain access to the unit.

Once owners submit documents to the HQS unit, HPD will send tenants a notice urging them to provide access to the owner in order to make repairs. The family will not be granted an emergency move voucher based on HQS failure if they do not allow access to the landlord in order to make repairs. Once the repairs are made and the repairs have been verified by HPD staff, HPD may allow retroactive payment of HAP (if abatement has been placed) to the date the owner documented an attempted access to make repairs.

## **9 RENT REASONABLENESS DETERMINATIONS**

### **9.1 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 and listed below. In all cases, the rent to owner may not exceed the rent charged by the owner for comparable unassisted units on the premises (including rent stabilized and rent controlled units).

As part of a Reasonable Accommodation Request, and on a case-by-case basis, HPD may consider rent requests that exceed HPD’s Payment Standard or Exception Payment Standard (see section 2.3.2 for more information).

### **9.2 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 10% decrease in the published Fair Market Rent (FMR) published by HUD 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;
- If directed by HUD; and
- Whenever HPD deems necessary.

HPD will determine that the proposed rent:

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

HPD’s reasonable rent determination will consider:

- Location;
- Quality;
- Size;
- Unit type;
- Age of the unit;
- Amenities;
- Housing services;
- Maintenance; and
- Utilities provided by the owner.

Each participant file will contain documentation that a rent reasonableness review 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.

### **9.2.1 Limitations Upon Rent Subsidy - Maximum Family Share**

The maximum family share at initial occupancy is a limitation on approved 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. Request for Tenancy Approvals (RFTAs) submitted by families that would violate this family share requirement will not be approved.

### **9.2.2 Rent Reasonableness Methodology**

For all units receiving regular Housing Choice Voucher subsidy, HPD will perform rent reasonableness as follows:

- HPD will review the rental information provided by the owner in the Landlord Package, including form HUD-52517 (RFTA); and
- HPD will compare the requested rent amounts with comparable market rate unassisted units. HPD will obtain comparable rents from sources such as rent rolls, leases provided by the owner, online databases, the New York City Housing and Vacancy Survey, newspaper listings, and any other independently verifiable source of information.

Owners must provide to HPD any information requested by HPD on rents charged by the owner for other units in the premises or elsewhere. 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 family.

### **9.2.3 Rent Regulated Apartments**

In rent reasonableness determinations for rent regulated units, the legal rents must be confirmed by the authorizing agency (DHCR, HUD or HPD). HPD will not approve rents that exceed the legal rent amounts. Further, HPD will not approve rents for regulated units if market rate comparable rents do not substantiate the requested amounts.

### **9.2.4 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 60 calendar days before the proposed effective date of the rent increase (a form is available on the HPD website for this purpose). All rent increases are subject to funding availability, and HPD may not approve a rent increase to an owner if the unit fails HQS due to landlord-caused deficiencies.

For all units, HPD will perform a rent reasonableness analysis using the same methodology as for approving initial rents. The adjusted rent to the owner will equal the lesser of:

- The reasonable rent as determined by HPD;
- The amount requested by the owner;
- If granted approval by HUD, the rent adjusted by the annual adjustment factor published by HUD; and
- The amount specified in any regulatory agreement or other rent restriction, if applicable.

HPD will notify both the owner and the participant in writing when HPD approves 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.

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

#### **9.2.5 Annual Adjustments to Rent – Rent Reductions**

In rent-regulated units, should the governing agency issue a rent reduction order, owners must report these decreases to HPD within 30 days. HPD will conduct a rent reasonableness review and adjust unit rent accordingly.

In any case where HPD becomes aware that the current rent exceeds the maximum allowable rent for a unit, HPD may complete a rent reasonableness determination and reduce unit rent accordingly.

## **10 TENANT SHARE AND SUBSIDY DETERMINATIONS**

### **10.1 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
- \$0 (the "minimum rent" or the minimum total tenant payment established by HPD).

For tenants who are responsible for paying for their own utilities, their share is first applied to the utility expense, up to the amount of the utility allowance in effect, and the remainder goes to the owner as rent. If the utility allowance exceeds the tenant share, HPD will pay the difference in the form of a Utility Assistance Payment (UAP). HPD reserves the right to make this payment directly to the utility company or make payments on a quarterly basis.

HPD will grant an exception to the quarterly payments of utility assistance (UAP) 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 at risk of a turn-off because it is unable to pay utility allowance monthly;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death of an income earner in the family has occurred; or
- Other circumstances determined by HPD or HUD on a case-by-case basis.

### **10.2 Enhanced Vouchers**

HPD will calculate rent payments for families receiving enhanced HCV assistance as described in Section 10.1 (Calculating Family Share) except in the case of the \$0 minimum rent. Families receiving Enhanced HCV assistance have a special statutory minimum rent requirement that provides that they pay the greater of 30% of their income or the amount they were paying toward housing payments (rent plus utilities, if applicable) at the time of conversion, even if it exceeds 40% of the family's adjusted monthly income. See Section 19.3.1 (Tenant Share – Enhanced Minimum Housing Payments).



### **10.3 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).

### **10.4 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 generally uses HUD's Small Area Fair Market Rents (SAFMR) to establish exception payment standards (EPS). However, certain EPS areas have a SAFMR that is lower than the metropolitan region FMR. In those cases, HPD will set the exception payment standard using the FMR, at a higher percentage than the overall payment standard.

HPD may establish the payment standard amount for a unit size at any level between 90% and 110% of the published FMR or SAFMR. Based on funding availability and other relevant considerations, HPD may periodically revise the payment standard amounts and FMR/SAFMR percentages. HPD will post a notice on its website 30 days in advance of payment standard revisions.

HPD, NYCHA and the NYS Department of Homes and Community Renewal (HCR) may establish different payment standards and exception payment standards. Should HPD consider an exception payment standard, it will be done in collaboration with these agencies.

#### **10.4.1 Increase in Payment Standard**

If the payment standard amount is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning at the one year anniversary of the regularly scheduled annual certification.

#### **10.4.2 Decrease in Payment Standard**

A decrease in the payment standard amount will be applied on the one-year anniversary of the regularly scheduled annual certification. With HUD approval, HPD reserves the right to apply HPD's new payment standard with a minimum of 60 days' notice to the family.

### **10.5 Change in Family Voucher Size**

Households may experience a change in the size of the voucher they are issued. These changes may be a result of change in household composition or changes to HPD's subsidy standards. A family must obtain HPD approval to add any family member to the household before the new member occupies the unit, except for additions due to marriage, domestic partnership, birth, adoption, or court-awarded custody. In these cases, the family must report changes at the time of annual recertification or within 30 days of the change, whichever is sooner.

### **10.5.1 Decrease in Family Composition**

If there is a decrease in family size, the voucher size will be adjusted at the next regularly scheduled annual recertification. Decreases can occur for a variety of reasons including death, divorce, or household members leaving the current address. In such cases, the Head of Household will be required to provide documentation of a decrease in family size. Documentation will depend on the reason for the household change but could include certificate of death, divorce, decree or proof of a new address for a former member of the household. If other documentation is not available, HPD will use its discretion to assess whether alternative documentation can be used to show that the former household member no longer resides in the subsidized unit. At the time of annual certification, an assisted family will receive notice if they are occupying a unit that is larger than the voucher size issued to the family.

The payment standard for the household will be reduced to the one associated with the family's new voucher size at the one-year anniversary of the regularly scheduled annual certification. 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. Changes in family composition must be updated at the time of annual recertification or within 30 days of the change, whichever is sooner.

### **10.5.2 Increase in Family Composition**

If there is an increase in family size, the voucher size will be adjusted immediately following approval of the addition. The payment standard will be updated to the one associated with the new voucher size at the regularly scheduled annual certification. However, if the participant is experiencing a hardship, as evidenced by the rent disagreement process or correspondence informing HPD of hardship, the payment standard will be updated when the voucher size is changed in Elite.

Household members may only be added after HPD approval except in instances of domestic partnership, marriage, birth, or adoption. For any member to be added to the household, required documentation must be provided by the family. Changes in family composition must be updated at the time of annual recertification or within 30 days of the change, whichever is sooner.

### **10.5.3 HPD Subsidy Standard Change**

In addition to departure or addition of household members, the voucher size for assisted households may change as a result of changes to HPD's subsidy standards.

## **10.6 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.

With HUD approval, HPD reserves the right to apply the new allowance with a minimum of 30 days' notice. For example, during an interim recertification, if the utility allowance was revised since the last regular recertification, HPD would apply the new utility allowance.

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 that was in effect at the last regular recertification. With HUD approval, HPD reserves the right to apply changes to the payment standard with a minimum of 60 days' notice to families affected by a decrease in payment standard.

## **11 GENERAL LEASING POLICIES AND HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT**

### **11.1 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 Landlord Package, including a completed Request for Tenancy Approval (RFTA);
- A copy of the proposed lease, including the HUD-prescribed tenancy addendum; and
- A copy of the shareholder's agreement or deed, in the case of an owner-occupied unit (e.g., Mitchell Lama Co-op).

Both the owner and voucher holder must sign the RFTA (except in cases where the owner signs a building wide RFTA), and the family may not submit more than one RFTA at a time.

HPD will review the proposed lease and the RFTA, considering the following factors:

- Whether the unit is an eligible type of housing;
- Whether the unit meets HUD's Housing Quality Standards (HQS);
- 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.

#### **11.1.1 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.

### **11.1.2 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.

### **11.1.3 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.

### **11.1.4 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.

For victims of domestic violence, poor credit and rental history can be indirect consequences of their status as a victim of violence and should not prohibit their ability to lease apartments in the Section 8 program.

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 practice of providing relevant household locations to prospective owners if the family's whereabouts must be protected due to domestic violence or witness protection.

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.

## **11.2 The Lease and Tenancy Addendum**

### **11.2.1 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 unit 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.

### **11.2.2 Initial Lease Term**

Initial lease terms in the voucher program will be for a minimum of 12 months unless HPD approves a shorter term. Leases will generally be effective on the first or the fifteenth of the month. 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 participants 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.

### **11.2.3 Lease/HAP Renewal in Rent-Regulated Units**

Once an owner has accepted a participant's voucher and signed a Housing Assistance Payment (HAP) 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.

#### **11.2.4 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.

#### **11.2.5 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 RFTA, 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, including within 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.

#### **11.2.6 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.

#### **11.2.7 Security Deposits**

The owner may collect a security deposit from the tenant. HPD may prohibit security deposits in excess of legal limits, private market practice, or in excess of amounts charged by the owner to unassisted tenants.

### **11.3 Housing Assistance Payment (HAP) Contracts**

Per HUD regulations, HAP contracts will be executed after the following events:

- Tenant is issued a voucher;
- Tenant locates a unit prior to voucher expiration;
- Rent reasonableness analysis is conducted and rent is determined eligible;
- Landlord package is approved and landlord has been validated to receive payments; and
- Unit passed HQS inspection.

The effective date of a HAP contract will be at least seven days after the HAP generation date and will be on either the 1<sup>st</sup> or the 15<sup>th</sup> of the month.

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 policy includes contracts that may have been executed by the owner but were not returned within the 60-day term.

#### **11.3.1 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 five 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 additional HAP registers through the Comptroller's Office during the month, as necessary. These adjustments typically account for regular HAP payments that begin mid-month and arrears payments due to owners for items such as retroactive rent increases.

#### **11.3.2 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, HPD may exercise its 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;
- Payments mistakenly made (for example, two payments in one month) because of a record-keeping or other error; and
- Change of ownership.

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

### **11.3.3 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.

### **11.3.4 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. The owner must notify HPD when made aware of the family's move out of the assisted address within 30 days.

## **12 OWNERS**

### **12.1 Definition of Owner**

An owner is defined as any person or entity that has a deed or other indicator of ownership to a property and is legally authorized to lease or sub-lease the subject dwelling unit. A principal or interested party in a partnership or cooperation will be considered an owner, 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 by providing a copy of the deed or title registered with the City Register, or a copy of the tax receipt verifying payment of local property taxes for the assisted property. A legal owner can legally authorize an agent to lease.

### **12.2 Disapproval of Owner**

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 must 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; or
- The owner is a parent, child, grandparent, grandchild, sister or brother of any voucher family member residing in a unit that they own. HPD may 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 by an HPD employee at the level of Director or above (or their designee).

HPD may use its discretion to disapprove an owner for a Housing Choice Voucher assisted tenancy under the following circumstances:

- Violations of obligations under one or more HAP contracts;
- History of Housing Maintenance Code “C” violations;
- 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; or
- The owner fails to pay state or local real estate 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 (or their designee).

### **12.3 Change in Ownership**

Owners of properties with any HPD assisted tenants must notify HPD of their intent to sell the assisted address at least 30 days in advance of the anticipated closing date and notify HPD when a contract for sale has been executed. This requirement for advance notice includes any transaction that transfers ownership of the property from one entity to another, even where the individuals or the corporations may be similar or related. Proper notice to HPD will include the anticipated date of sale, the name of and the contact information for the purchaser.

Upon notice to HPD of a pending sale, a review and reconciliation of payments to the owner will be completed. The seller will be notified of any debts of payments due and will be requested to satisfy them prior to the date of sale. HPD will hold subsidy payments based on the anticipated date of sale reported by the seller. If the date of sale changes or the sale will not proceed as anticipated after being reported to HPD, the seller will be responsible for reporting that change to HPD promptly. Failure to do so will lead to an interruption in subsidy payments.

Upon completion of the sale, HPD may approve the assignment of a HAP contract at the purchaser's written request. The purchaser will be responsible for submitting the change of ownership request and request for assignment of the HAP contract(s) within 30 days of the date of sale. HPD may also deny approval of assignment of the contract to the purchaser for any of the reasons listed above.

To assign the HAP contract, the purchaser must submit a City of New York Substitute Form W-9, current IRS-issued tax identification number documentation, a copy of the property deed, and a completed Request for Assignment of HAP Contract to the Owner Services Unit. HPD will process a change of ownership only if the written request is accompanied by proper documentation of ownership of the property.

If the purchaser submits a complete request to change ownership within 30 days of the sale of the property, HPD may choose to provide up to 60 days in retroactive payments to the date of sale, provided that no rental subsidy payments were made to the seller after the date of sale. If HPD is not notified of the sale 30 days in advance, and as a result, HAP payments have been issued to the seller after the date of the sale, HPD will not issue payments for this time period to the purchaser. The purchaser will be directed to contact the seller for those funds.

If the change in ownership request that is submitted is determined to be incomplete, HPD will request additional information and provide a 30-day deadline for a response. If the owner fails to respond by the provided deadline, upon completion of the required documents, HPD may make the rental subsidy payments prospective from the date that all required documentation is supplied to HPD.

## 13 ANNUAL AND INTERIM RECERTIFICATIONS

### 13.1 Annual Recertification

HPD conducts annual recertifications of income and family composition by mail and/or in person. HPD may elect to conduct a recertification of income and family composition more frequently than annually. Generally, 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;
- Authorization for the Release of Information/Privacy Act Notice;
- Declaration of Employment Status;
- Declaration of All Income;
- Verification of Wages;
- Verification of Assets;
- Verification of Un-reimbursed Medical and Pharmacy Expenses (where applicable);
- Verification of Un-reimbursed Disability Expenses (where applicable);
- Verification of Student Status (where applicable);
- Verification of Absent Parent (where applicable);
- Bank account verification;
- Verification of Child Care Expenses (where applicable);
- Request to Add a Household Member (where applicable); and
- Request to Remove a Household Member (where applicable).

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 **30 calendar days of receipt** by the participant, which is deemed by the Housing Choice Voucher program to be five calendar 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 15: Denial or Termination of Assistance).

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.

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.

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

### **13.2 Interim Recertification**

Participants are required to report all changes in their household composition within 30 days of the change, at their next annual recertification and at HPD’s request. Participants are also required to report any increases of income in the household at their next annual recertification and at HPD’s request. Participants may elect to report decreases in income at any time. When a participant reports a change in household size or a decrease in income outside of the annual recertification, the date of the notification will be noted and the participant will be advised to complete a form either by mail or in person, and to submit verification of the change.

An interim recertification will be conducted for changes in household size, a change in Head of Household, or decreases in income reported prior to the annual recertification. HPD may elect to conduct an interim certification as needed to reflect changes in income detected through EIV. In this instance, HPD may send a recertification package for completion and submission. HPD will not reduce the family share of rent when the family reports a loss of welfare benefits due to fraud or a failure to participate in self-sufficiency or work activity. HPD will conduct an interim certification as needed to reflect changes in income for households whose income is less than \$2,000 and households who report new income as a replacement of prior income. Family Self-Sufficiency participants may request an interim recertification as a result of an increase in income to establish or update escrow credit. At an interim certification, HPD verifies only reported change in income.

### **13.3 Recalculating Family Share and Subsidy Amount**

HPD will notify the participant and the owner of any changes in the tenant share of the rent and the housing assistance payment as indicated below.

#### **13.3.1 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 30-day notice. If there has been misrepresentation of income by the tenant, HPD may make the rent change effective on the first day of the month following completion of the recertification (no 30-day notice provided), or retroactive to the date it would have been effective had it been reported accurately and timely. The family will be liable for any overpaid housing assistance payment and may be required to sign a Repayment Agreement to continue receiving assistance.

#### **13.3.2 Decreases in Tenant Share of Rent**

Decreases in the tenant share of rent will become effective on the anniversary date of the annual recertification. If an interim change is reported and sufficient verification

documentation is submitted (as defined in Chapter 6 of this Plan) within 90 days of the change being reported, the decrease will become effective retroactive to the first of the month following date the change was reported. If documentation is not submitted within this time frame, the decrease will become effective on the first of the month following the date documentation is received. If sufficient documentation of a decrease in income is provided, but the scheduled recertification effective date is more than 30 days in the future, HPD may complete an interim certification on the first day of the following month. If a recertification package is not complete by the anniversary date, the rent change will be effective the first of the month following submission of all required documents.

### **13.3.3 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. The family must report these additions at the time of annual recertification or within 30 days, whichever is sooner. Approval from landlord or management of an addition to the household is not required.

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 and qualify for a larger voucher size will also be provided a new 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.

### **13.3.4 Decrease in Family Size**

Decreases in family size must be reported within 30 days of the decrease, or at the time of annual recertification, whichever is sooner. When the family size decreases, the new family size must be used to determine the payment standard amount for the family beginning at the one-year anniversary of the regularly scheduled annual certification. With HUD approval, HPD reserves the right to implement the new payment standard with 60 days' notice to the family. If the family is "overhoused" according to HPD subsidy standards, the family will be required to relocate to an appropriately sized unit or pay the additional cost out of pocket to remain in the oversized unit.

Owners in the Enhanced Voucher program must report vacancies to HPD as they occur but at least quarterly. Owners must prioritize housing overhoused residents before leasing available units to any other residents.

If the family failed to report a change in composition within 30 days, any difference in the allowable subsidy due to a reduced voucher size may 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.

If an assisted family breaks up, refer to the Section 5.1.4 (Family Break-Up) for HPD's policies on which family member retains the voucher.



## **14 MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY**

### **14.1 Moves**

A family is not permitted to move during the initial lease term. Thereafter, families may request to move only once every 12 months. Requests may be approved as funding allows and 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 tenant is not in the process of subsidy termination with HPD and 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; 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.

#### **14.1.1 Exceptions to Move Policy**

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 (see Chapter 2: Fair Housing and Equal Opportunity). HPD may also grant an exception if the family becomes overcrowded, as defined by HUD's HQS standards, if the unit has had two consecutive owner-caused HQS failures, or if the unit has been in owner-caused HQS failure status for 90 days.

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 to HPD for approval prior to transfer.

#### **14.1.2 Move Procedures**

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

- The family must submit to HPD a request to move in writing;
- The family must provide 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 180 days, the family will be required to complete a recertification package;

- Families that are eligible to move will be issued a move package that contains a Housing Choice Voucher briefing booklet, a Housing Choice Voucher, an apartment listing and search log, and an HPD landlord package;
- 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; and
- Families may not move or transfer out of an assisted unit to a new unit with continued assistance until they receive written approval from HPD.

With HUD approval, during times of limited funding availability, HPD may restrict moves with continued assistance to units with a contract rent that is the same or lower than the previously assisted unit. During such times, families may only move to units that have a similar or lower rent than the previously assisted unit.

Once HPD has determined that funds are available, HPD will inform those households who were previously denied due to funding availability that they are eligible to move. Participants must follow the move procedures outlined in this section.

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. Failure to complete the move process once the HAP contract is signed is a violation of family obligations under the tenancy addendum and may result in termination of subsidy.

If a tenant who has requested a move and processed the necessary paperwork to change units subsequently decides not to move, or if their move is delayed, the tenant must notify HPD immediately so that current and future landlord accounts can be properly credited. Tenants who fail to notify HPD after such change of plans may be denied future move requests. Per federal regulations, it is a violation of family obligations to legally occupy two units and HPD will consider this act as grounds for termination.

HPD will process all move requests in the order that they are received, but reserves the right to prioritize requests depending upon special circumstances or emergency situations. This includes the following reasons:

- As an accommodation for VAWA;
- As an accommodation for health or accessibility issues;
- Risk of foreclosure;
- Status as an intimidated victim and/or intimidated witness;
- Stoppage of utilities due to hazardous conditions;
- Parties are in Housing Court proceedings in which the landlord is attempting to gain possession of the apartment;
- Residing in a unit with an HQS failure or with rent burden;
- Due to court stipulation/order waiving rent arrears;
- Overcrowded households; or
- Households where a child(ren) under age six reside, and where there is a presumed or confirmed lead paint condition.

As long as these tenants are in compliance with program regulations and their leases, these vouchers will be prioritized.

#### **14.1.3 Move Voucher Term, Suspension and Extension**

The initial move voucher term will be 120 days. HPD may approve extensions to certain move voucher holders in documented special circumstances, including cases where doing so will be in furtherance of goals associated with HPD housing development programs. HPD will also grant extensions if needed as a Reasonable Accommodation to make the program accessible to and usable by a person with disabilities. An HPD employee at the level of Director or higher (or their designee) must approve these extensions.

HPD will suspend the voucher term (i.e., “stop the clock”) upon receipt of a Request for Tenancy Approval (RFTA) provided by a participant, up until the time that HPD approves or denies the request. If the request is denied, the participant will be issued a voucher with the number of days left on the original voucher at the time of the RFTA submission.

Requests for voucher extensions must be made in writing by completing the extension request form prior to the expiration of the voucher.

If a household is moving because HPD is not currently paying any subsidy (a no rent hardship or zero subsidy scenario), the end of the move voucher term will be linked to the effective date of subsidy termination and, as a result, may be less than 120 days.

#### **14.1.4 Costs Associated with Moving and Housing Search**

HPD does not generally provide financial assistance to applicant or participant households for fees related to moving or the housing search process. However, HPD may provide financial assistance to households in specific programs with designated move assistance funding, when available, such as *Housing Choice*: HPD’s Mobility Counseling Program.

### **14.2 Required Moves**

Families that fit into one of the categories in this section are required to move to a new assisted unit under HPD policy. When one of the conditions listed below is present, the family will receive a Required Move Notice. In order to maintain subsidy, these families must request and pick up their required move voucher and any extensions and locate a new unit within the voucher term. Failure to comply with required move processes may result in termination of the family from the program.

#### **14.2.1 Owner Non-Compliance**

When either an assisted unit or owner of the unit is not in compliance with federal regulations, HPD will terminate the HAP contract and offer the family the opportunity to move with assistance. To continue receiving subsidy, families must move to an acceptable unit within the voucher term and in accordance with HPD’s move policies. Failure to comply with HPD’s move policies is grounds for termination of assistance (see Chapter 15: Denial or Termination of Assistance).

#### **14.2.2 Unit Under Long-Term HAP Abatement**

If an assisted unit is under HAP abatement for HQS failures for more than 120 days, HPD will offer the family the opportunity to request a move voucher. Families must search for a new unit during the voucher term, locate a unit within the voucher term and complete a move once a unit has been approved by HPD to continue to receive subsidy.

#### **14.2.3 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 offer the family a move voucher to enable the family to find an acceptable unit within the voucher term. If the family does not find an acceptable unit by the expiration date of the voucher, the family may request additional time to continue their housing search by submitting a request in writing. Additional time to search for an appropriately sized unit will be granted on a case-by-case basis, and in consideration of factors such as:

- Documented attempts to search for housing; and/or
- Extenuating circumstances that may have prevented the family from finding an acceptable unit.

If an acceptable unit is available for rent by the family, HPD 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.

#### **14.2.4 Unhoused Participants**

Families may leave an assisted unit for multiple reasons. If a move or port voucher has been issued to a family that is not living in an assisted unit, this family is considered a required mover and must use the issued voucher within the voucher term or approved extension to maintain subsidy. (See Section 14.3 [Portability] for portability definition and policy.)

#### **14.2.5 Overhoused PBV Participants**

If a family in a Project Based Voucher (PBV) assisted unit is overhoused, they will be added to the development's overhoused waitlist and be offered a right-sized unit by management when one becomes available. If the family does not accept the unit offer, the required move policies and procedures apply. The family must follow the procedures in Section 21.26 (Family Right to Move) of this administrative plan and move with a tenant-based HCV voucher to continue to receive subsidy.

### **14.3 Portability**

Portability is a term used to describe a family's ability to either take their HPD-issued voucher and rent a dwelling unit outside New York City or to rent a dwelling unit in New York City with a voucher issued by another Public Housing Authority.

#### **14.3.1 Porting out of New York City**

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 Authority (PHA) with tenant-based assistance.

Continued assistance is bound by the eligibility requirements, subsidy standards, payment standards and other policies of the ‘receiving’ PHA. HPD will be responsible for determining a household’s income eligibility within the “receiving” PHA. Portability can be exercised immediately upon receipt of the voucher and does not require an initial lease up in HPD’s jurisdiction.

Requests for portability by existing participants may be approved as funding allows and 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 tenant is not in the process of subsidy termination with HPD, and 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 legal determination allowing the owner to evict the tenant;
- Tenant obtains a general release form from the assisted property’s owner; or
- Tenant qualifies for an exception to HPD’s move policy as described in Section 14.1.1 (Exceptions to Move Policy).

HPD may deny permission to port if:

- The family has violated a family obligation;
- The family owes HPD money;
- The family is not an applicant or participant in the Housing Choice Voucher program. Section 8 Moderate Rehabilitation (MOD Rehab) or Continuum of Care (SRO MOD and Shelter Plus Care) applicants or participants do not have assistance that is portable;
- The family owes the property owner money; or
- The family is a voucher-holding family (i.e., not an active participant) and they are not income eligible in the jurisdiction to which they wish to port.

The receiving PHA has the option of administering the family’s portable voucher or absorbing the family into its own program. Under the first option (“administer”), the household remains formally a participant in the initial PHA and the receiving PHA bills the initial PHA for the family’s housing assistance payments and the fees for administering the family’s voucher. Under the second option (“absorb”), the family is formally transferred to the receiving PHA and the receiving PHA pays for the family’s assistance out of its own program funds. The initial PHA, under the second option, has no further relationship with the family.

Per the requirements of the NYC Comptroller’s Office, a receiving PHA that chooses to administer a portable voucher must submit a substitute W-9 form and proof from the IRS of its EIN number to enable HPD to make payments as billed by the receiving PHA.

In cases where a family who ported out and is being administered by a receiving PHA requests to return to HPD’s jurisdiction, HPD will consider whether the family is in good standing with the owner and in compliance with the participant’s current lease. If the

participant is in good standing, HPD will reissue a Housing Choice Voucher to the family so that they can move back into HPD's jurisdiction with assistance. The family must submit a Request for Tenancy Approval (RFTA) within the voucher term to continue to receive assistance.

#### **14.3.2 Voucher Extensions and Suspensions for Porting Out**

HPD may approve extensions to a voucher issued to an applicant or tenant family porting out of HPD's jurisdiction under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA;
- The family decides to return to the HPD's jurisdiction and search for a unit; or
- The family decides to search for a unit in more than one jurisdiction.

In the cases above, HPD's policies on voucher extension and suspensions will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

Once the receiving PHA issues the family a voucher, the receiving PHA's policies on extensions of the voucher term apply. HPD will allow extensions as long as the receiving PHA notifies HPD in writing of any extensions granted to the term of the voucher.

In cases where suspension of the term of the voucher will delay the initial billing submission, the receiving PHA must notify HPD of the delayed billing before the billing deadline and document that the delay is due to the suspension of the voucher term. If the receiving PHA meets these requirements, then HPD will extend the billing deadline by 30 days. If HPD has not received the portability form within the new 30-day deadline, the initial billing is late.

#### **14.3.3 Porting in to New York City**

Families may port in to HPD with a voucher issued by a PHA in another jurisdiction. HPD refers to this as porting in. In these cases, HPD is the receiving PHA and the PHA from which the family came is the initial PHA.

Subject to funding availability, participants in other jurisdictions may choose to port to New York City and use their voucher under portability rules. HPD's procedures and preferences for selection among eligible applicants do not apply, and HPD's waiting list will not be used. However, the family's unit, or voucher, size is determined in accordance with HPD's subsidy standards, and the amount of the family's housing assistance payment is determined in the same manner as for other households in HPD's voucher Program. Additionally, HCV applicants in other jurisdictions will be subject to HPD's income limits and other eligibility criteria.

When a family ports in to HPD's jurisdiction, HPD will issue the family a portability voucher. HPD will notify the family of a scheduled mandatory briefing within two weeks after receiving the family's completed paperwork from the initial PHA, if the information is in order, the family has contacted HPD, and the family complies with HPD's procedures.

If the initial PHA's voucher expires before HPD issues the porting family a voucher, HPD will contact the initial PHA to determine if it will extend the voucher term. HPD will only issue a voucher to a family porting in if the family receives an extension of their voucher from the Initial PHA. If HPD issues a voucher to the family, it will be for at least 30 days.

#### **14.3.4 Voucher Extensions and Suspensions for Porting In**

If a porting in applicant or participant family needs additional time to search for housing, they must request that additional time from HPD before the expiration of their voucher. Voucher extensions will be made on a case-by-case basis for a maximum of 30 days and in consultation with the initial PHA. HPD will suspend the voucher term (i.e., "stop the clock") upon receipt of a Request for Tenancy Approval (RFTA) provided by an applicant or participant, up 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 or participant's search time will be extended for a period of time equal to the number of days elapsed between the submission of the RFTA and the denial of the request. If at the time of the extension request, HPD has decided to absorb a port in family, HPD's extension policy will apply.

#### **14.3.5 Porting with Special Purpose Vouchers**

HPD will administer special purpose vouchers (e.g., VASH Vouchers) in accordance with HUD-established policy in cases where HUD has established alternative program requirements of such special purpose vouchers. For example, under VASH, HPD will follow the VASH screening requirements when a VASH family ports to HPD.

When a VASH participant requests to port out of NYC, the Veteran's Affairs (VA) VASH staff will be consulted regarding the request and the request may only be approved with their consent. HPD will work with the VA VASH staff to confirm that case management services are available in the new jurisdiction or that the family is discharged from the service requirement, at which point, HPD may issue a regular HCV to the family.

## **15 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.

### **15.1 Forms of Denial/Termination of Assistance**

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

- Denying 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 move and portability procedures.

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

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

### **15.2 Mandatory Denial of Assistance**

HPD must deny Housing Choice Voucher assistance to an applicant under any of the following circumstances:

1. If the family does not meet the program eligibility criteria (e.g., preference category, Project Based Voucher building requirement, enhanced conversion residence requirements);
2. If the Head of Household is a full-time student enrolled at an institution of higher education and:
  - is under the age of 24,
  - is not a veteran,
  - is not married,
  - does not have dependent children,
  - is not residing with their parents in an HCV assisted household,
  - is not a person with disabilities receiving HCV assistance as of November 30, 2005,
  - is not otherwise individually eligible, and
  - has parents who, individually or jointly, are ineligible on the basis of income to receive assistance under Section 8 of the Housing Act of 1937;
3. If any family member has ever been convicted of manufacturing or producing methamphetamine on the premises of federally-assisted housing;
4. If any member of a household is subject to a lifetime registration requirement under a State sex offender registration program;



5. If any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR Part 5;
6. If no family member can establish either citizenship or eligible immigration status (i.e., at least one member of the family must establish either citizenship or eligible immigration status); or
7. If a family member has been evicted from federally assisted housing for drug-related criminal activity within the past three years. However, HPD may admit the family if HPD determines that the person who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program; or that the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned). See Section 15.5.2 (Drug Related Criminal Activity).

### **15.3 Mandatory Termination of Assistance**

HPD must terminate program assistance for a participant under any of the following circumstances:

1. If the family is under a HAP 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 situations are commonly referred to as "zero subsidy" or "no rent hardship" cases);
2. If the family is absent from the assisted unit for more than 180 consecutive days under any circumstance;
3. If the Head of Household is a full-time student enrolled at an institution of higher education and:
  - is under the age of 24,
  - is not a veteran,
  - is not married,
  - does not have dependent children,
  - is not residing with their parents in an HCV assisted household,
  - is not a person with disabilities receiving HCV assistance as of November 30, 2005,
  - is not otherwise individually eligible, and
  - has parents who, individually or jointly, are ineligible on the basis of income to receive assistance under Section 8 of the 1937 Act;
4. If any family member has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
5. If the family is evicted from the assisted unit for serious or repeated violation of the lease, as defined in Section 15.8 (Lease Violations) of this Plan;
6. If any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR Part 5; or
7. If a member of an assisted household was subject to a lifetime sex offender registration requirement at admission and was admitted any time after June 25, 2001 and the family subsequently refuses to remove the ineligible family member from the household.

8. If a PBV contract terminates, resulting in a formerly assisted unit no longer being assisted. This termination cannot be appealed.
9. If a household assisted by the FUP Youth program has received assistance for 36 months. This termination cannot be appealed.

#### **15.4 Permissible Grounds for Denial 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:

##### **15.4.1 Permissible Grounds for Denial**

HPD may deny program assistance to an applicant under any of the following circumstances:

1. If HPD has previously terminated Housing Choice Voucher assistance for any member of the family;
2. If the Head of Household has previously been terminated from a federal housing program for adverse termination reasons:
  - Criminal Activity – Drugs (within the past three years). See Section 15.5.2 (Drug Related Criminal Activity); or
  - Failure to Report Income;
3. If any member of the family listed on the application has been evicted from federally-assisted housing in the last five years;
4. If HPD determines that the applicant or any member of the family listed on the application is receiving subsidy in another housing program;
5. If any family member owes any debt to HPD or another Public Housing Authority;
6. If the family has previously breached a Repayment Agreement with HPD; or
7. If a Project Based Voucher (PBV) applicant family would not be appropriately housed (i.e., would be overhoused or overcrowded) in any PBV units in the project for which the family is applying based on HPD's subsidy standards.

##### **15.4.2 Permissible Grounds for Denial and/or Termination**

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

1. If any household member or guest engages in illegal use of a drug in the assisted unit;
2. If any member of the family commits drug-related criminal activity, or violent criminal activity;
3. If 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;
4. If a participant owes rent or other debt to HPD or another PHA in connection with any federal housing program;
5. If the family has breached a Repayment Agreement with HPD or another PHA;

6. If the family, a guest or apparent agent of 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.
  - Oral or written threats and physical gestures that communicate intent to abuse or commit violence, or use of animals as weapons may be cause for termination or denial.
7. If the family, a guest or apparent agent has engaged in 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 HPD, including an HPD employee or contractor or agent;
8. If the family has misrepresented household members, or any other reported information on or accompanying a Housing Choice Voucher application or annual recertification or has misused federal funds at HPD;
9. If HPD discovers a family's second occurrence of misrepresented income (including income from assets) by \$5,000 or more;
10. If HPD determines that the family has misrepresented income resulting in an overpayment of HAP subsidy, and HPD determines based on program policies that the estimated repayment period for overpayment of HAP subsidy would be five years or longer;
11. If HPD has received documentation that the family has had their subsidy terminated from HPD or another PHA because of misrepresentation of income or family composition or misuse of federal funds;
12. If the family failed to attend an income or household composition discrepancy conference;
13. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
14. If the Head of Household refuses to enter into, or breaches a Repayment Agreement with HPD;
15. If the family has violated one of the family obligations listed on the voucher, HPD briefing booklet, and HPD's Administrative Plan;
16. If the family has failed to provide information requested by HPD or the family has failed to attend their scheduled briefing with HPD;
17. If the family has not reimbursed HPD or another 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;
18. If the family fails to complete a required move as described in Chapter 14; Moving with Continued Assistance and Portability;
19. If the family is absent from the assisted unit for more than 180 cumulative days per year;
20. If a Project Based Voucher (PBV) applicant or participant refuses to move into a PBV unit in which the family would be appropriately housed (i.e., would not be overhoused or overcrowded);
21. If the family is absent from the assisted unit for more than 90 consecutive days without prior written approval to move by HPD as described in Chapter 5: Eligibility.

22. If, at any time, HPD receives documentation that the family has relinquished, abandoned, or been evicted from the unit.
23. If the family, as determined by HPD, has knowingly permitted another individual who is not an approved member of the family to reside (on a permanent basis, defined as more than 90 days) in the unit;
24. If the family is not in occupancy of an assisted unit and has been issued a voucher to move with continued assistance within or outside HPD's jurisdiction and the family fails to submit a Request for Tenancy Approval (RFTA) within the voucher term;
25. If the family has broken up and HPD has made a determination that the Head of Household is no longer eligible for assistance in accordance with Section 5.1.4 (Family Break-Up); or
26. If the Head of Household, under VAWA, is a perpetrator of domestic violence, dating violence, sexual assault or stalking.

#### **15.4.3 Denial/Termination Due to Lack of Funding Availability**

During periods when funding availability is limited (projected expenses exceed anticipated funding) or voucher shortage (vouchers issued exceed the established voucher availability by the Annual Contributions Contract), after HUD notification, HPD reserves the right to rescind vouchers issued first and terminate subsidies if necessary. In such situations, HPD will decide which households will have their vouchers rescinded or subsidy terminated based on factors including but not limited to:

- Risk of immediate homelessness;
- Household income as it relates to the Area Median Income;
- Value of assets for all household members;
- Level of HAP expense; or
- Availability of alternate housing subsidy.

Similar guidelines will apply to Tenant Protection Voucher holders after the one-year anniversary of the enhanced development conversion. Participants in special purpose voucher programs such as HUD VASH will be the last group to be terminated. Should the need arise to terminate subsidy for the population; the guidelines above will be applied.

Households who were terminated will have the opportunity for re-instatement if funding becomes available. Those terminated last will have the first opportunity for re-instatement if they remain eligible. Those who have secured alternate housing subsidy may not be re-instated in the program.

#### **15.5 Screening and Termination for Drug Abuse and Other Criminal Activity**

All screening and termination of assistance procedures will 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. Owners are responsible for screening their tenants prior to executing a lease.

### **15.5.1 Screening of Applicants and New Household Members**

HPD will use EIV and other online databases to screen for history of criminal activity. 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.

### **15.5.2 Drug Related 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; or
- That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).

### **15.6 Notice of Termination of Assistance**

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.

Terminations will allow a minimum of 30 days' notice, with the following exceptions:

- Death of sole household member. The termination will be effective the end of the month of the date of death, as confirmed by the Social Security Administration or death certificate. HPD will not make housing assistance payments beyond this date.
- The assisted unit is vacated by the family without HPD approval. HPD will send a notice of pre-termination and schedule a Program Integrity Compliance (PIC) unit visit if necessary.
- Head of Household relinquishes subsidy.

### **15.7 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. Such acts include, but are not limited to:

- Failure to occupy a unit as a sole residence after execution of a HAP contract;
- Failure to attend a mandatory conference;
- Failure to utilize the voucher within the time allowed; and

- Failure to enter into a lease at a Project Based Voucher or Enhanced Development.

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.

### **15.8 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 are linked to a serious or repeated violation of the lease; 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.

### **15.9 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:

- Tenant commits a serious or repeated violation of the lease;
- Tenant disturbs neighbors;
- Tenant destroys property;
- Tenant has living or housekeeping habits that cause damage to the unit or premises;
- Tenant violates federal, state, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;

- Tenant engages in criminal activity or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- Other good cause.

Non-payment of the HAP subsidy by HPD is not grounds for termination of the lease because the family is not responsible for that portion under the 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 includes the material terms of the previous lease. The acceptance of Section 8 subsidies is a material term of the lease; therefore, landlords of rent-stabilized units are obligated to accept Section 8 in their renewal leases. In addition, Local Law 10 of 2008 prohibits landlords from discriminating against tenants based on "lawful sources" of income. Lawful sources of income include Social Security, any federal, state or local public assistance or housing assistance such as Section 8 vouchers.

#### **15.10 Procedures for Non-Citizen Households**

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 U.S. Citizenship and Immigration Services (USCIS) primary and secondary verifications failed to document the status, the family may make an appeal to the USCIS and request a hearing with HPD either after the USCIS appeal or in lieu of the USCIS 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).

#### **15.11 Zero Subsidy Tenants (No Rent Hardship)**

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, or other timeframe designated by HPD per above, 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 HAP.

### **15.12 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
- Informal Reviews, Conferences and Informal Hearings.

Acceptable reasons for missing appointments or failing to provide information by deadlines are: medical emergency, family emergency, and any other reason that HPD deems appropriate. These reasons are only acceptable if HPD is notified in a timely manner.

### **15.13 Subsidy Reinstatement**

HPD will consider reinstatement of subsidy when the household acts to resolve the issue motivating termination of subsidy within the timeframes and under the following circumstances:

- failure to submit a recertification package;
- failure to submit other requested documents;
- failure to provide access for Housing Quality Standards (HQS) inspections; or
- failure to correct tenant-caused HQS failure(s).

If the request for reinstatement is received within a year from the termination effective date and the household has met all of HPD's requirements for reinstatement within a year of the termination of effective date, HPD may reinstate subsidy. The date of subsidy reinstatement will be based upon the effective date of subsidy termination.

If the request for reinstatement is received more than a year from termination effective date but not more than two years of the termination effective date, and the tenant has met all of HPD's requirements for reinstatement during this time period, HPD may reinstate subsidy prospectively (e.g., going forward). In these circumstances, households must provide documentation that shows good cause for their failure to



respond to the request within the initial time-frame. Good cause may include the following:

- mailing issues;
- hospitalization and/or serious medical conditions;
- incarceration;
- travel; or
- serious family emergency or other exigent circumstances.

Requests for reinstatement that are received more than two years and within three years after the termination effective date must go through HPD's Reasonable Accommodation process (see Section 2.3). Requests for reinstatement beyond three years from termination effective date will not be considered.

Examples of participant actions that may lead to reinstatement may include:

- submit requested information and documents to HPD;
- provide a HPD Housing Quality Standards (HQS) inspector with access to the unit for an HQS inspection; or
- correct a tenant-caused HQS failure.

If a household fails to meet the terms required for reinstatement, their subsidy will remain terminated.

This policy is subject to change based on HPD's voucher and funding availability.

## **16 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, which may be conducted in person, virtually (by mail, email, or video call), or over the phone. HPD's procedures for conducting informal reviews, conferences and informal hearings remotely are detailed in (at [this link](#)). HPD takes every opportunity to ensure any personal information shared electronically, e.g., included in emails or HPD's participant portal, is secure. A conference is used as a preliminary step to resolve matters leading to termination of a participant's subsidy or denial of an applicant's application for subsidy. Informal reviews concern denials of assistance to applicants (including voucher holders<sup>5</sup>), 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.

Families may request a conference within 15 calendar days from the date of the notice. HPD's policy is that families are given 30 calendar days from the date of the notice of adverse action, or by the date of termination, whichever is later, to request an informal hearing or review.

### **16.1 Conference for Participants and Applicants**

The conference is an opportunity for program applicants and participants to meet with HPD staff to resolve any outstanding matters that prevent HPD from determining whether the family is still eligible to receive a Section 8 rent subsidy. HPD has voluntarily implemented the conference procedure. HPD is not required to offer a conference and reserves the right to discontinue the use of conferences at any time.

#### **16.1.1 Opportunity for a Conference**

HPD will provide notices with an opportunity for a conference when:

- A participant family fails to provide information requested at any time related to calculation of the rental subsidy;
- A participant family fails to complete a move after a requirement to move from the assisted address;

---

<sup>5</sup> A voucher holder is considered an applicant, and not a participant.

- A participant family no longer has a rent hardship;
- A participant or applicant family is occupying a unit that leaves the family overcrowded;
- A participant family misses payments when in a Repayment Agreement or fails to attend a Repayment Agreement meeting;
- HPD has reasonable cause to believe that a participant or applicant, or one or more members of a participant or applicant family, is receiving subsidy from another PHA;
- HPD has reasonable cause to believe that a participant or applicant, or one or more members of a participant or applicant family, is subject to a lifetime sex offender registration;
- HPD has learned that a participant has committed violent criminal activity;
- HPD has learned that a family member of an applicant has committed violent criminal activity in relation to a federal housing program; or
- HPD determines that a conference may resolve an outstanding matter.

Conference eligible households will be given 15 calendar days from the date of the notice to request a conference. Requests may be mailed, hand delivered, or sent electronically to HPD, Division of Tenant Resources.

HPD will not provide notices of pre-termination or denial in the following instances:

- Two notices for request for information have gone unanswered for program applicants; or
- Applicants have failed to attend one of two scheduled oral briefings.

#### **16.1.2 Mandatory Conference**

Participants will be scheduled for a mandatory conference to resolve discrepancies in the following instances:

- Income discrepancy is detected as a result of third-party income and household verification process (e.g., EIV, NYC Department of Records matches, unreported ownership of real estate property);
- As part of a requirement to review some cases of minimal or “zero” income, for non-elderly, non-disabled families; or
- When HPD has received claims for Violence Against Women Accommodation where a victim seeks to become the Head of Household.

Failure to attend a mandatory conference may result in the denial or termination of assistance.

If a conference is scheduled, but the participant fails to attend, or the conference is held, but the required documentation is not submitted within allowable time period (seven calendar days after the conference) 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, and the documentation satisfactorily demonstrates program compliance, HPD will send a

"rent breakdown letter" to the participant and assistance will continue. If the requested documentation is submitted but it does not meet program compliance requirements, HPD will send a "Notice of Subsidy Termination" to the participant.

The "Notice of Subsidy Termination" and the "rent breakdown letter" constitute notification of the conference determination.

#### **16.1.3 Time Limits for Conferences**

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 considered for documented emergency situations.

#### **16.1.4 Conference Procedures**

An HPD employee at the level of Director or higher (or their designee) 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.

#### **16.2 Informal Review for Applicants**

An informal review is an appeal by an applicant and will be administered as outlined in 24 CFR Part 982.554.

HPD will give all applicants prompt notice of a decision denying assistance along with a brief statement explaining 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.

##### **16.2.1 When an Opportunity for an Informal Review is Required**

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;
- Determination that a former participant does not meet the requirements for subsidy reinstatement, as stated in Section 15.13 in this Plan;
- 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;
- 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.

When an applicant is denied assistance because the household income is above the applicable income limits, the period determining income eligibility ends on the date the denial notice is printed. Therefore, applicants must prove that they were income eligible at the time the denial notice was issued. Subsequent decreases in income will not be considered.

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 the Section 16.3 (Informal Hearing for Participants).

#### **16.2.2 Time Limits**

All requests for informal reviews must be made in writing and received by HPD, either by mail, in person, or electronically, within 30 calendar days from the date printed on the notice. Requests must be mailed, hand delivered, or sent electronically to HPD's Section 8 Appeals Unit. HPD will not accept phone call requests for an informal review. If the applicant does not request an informal review in accordance with these procedures, HPD's determination will become final.

HPD will attempt to schedule all informal reviews within 14 calendar days of receipt of the request. Requests to reschedule an informal review will only be considered for documented emergency situations (such as a documented medical emergency). HPD may accommodate requests for delayed scheduling in emergency situations for up to 90 days from the date the request was received in writing.

#### **16.2.3 Informal Review Procedures**

The Hearing Officer will conduct the informal review. 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.

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

Before any informal review, HPD must be provided the opportunity to examine any family documents that are directly relevant to the informal review 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 review.

The applicant 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.

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

#### **16.2.4 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 review. A notice of the informal review findings will be provided in writing to HPD's Division of Tenant Resources and the applicant within a reasonable period of time and will include a brief explanation of the reasons for the final decision.

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

#### **16.2.5 Final Review Decision**

HPD is not bound by informal review decisions which:

- Concern matters in which HPD is not required to provide an opportunity for an informal review in accordance with 24 CFR Part 982.554;
- Contradict HUD regulations or requirements;
- Contradict federal, state or local laws; or
- Exceed the authority of the person conducting the informal review.

#### **16.2.6 Substitute Hearing Officer**

When a Hearing Officer is unable to render a written decision after presiding over an informal review because of death, disability, or extended leave, or is unable to carry out their duties or because that Hearing Officer leaves HPD's employ, HPD will assign a substitute Hearing Officer to review the record. The record will include all testimony and evidence submitted at the informal review and either the audio recording or a written transcript of the informal review when available. The assigned substitute Hearing Officer will render a written decision based upon their review of the record and pursuant to the procedure prescribed in this Administrative Plan and HUD regulations and provide an explanation for the decision to HPD and the participant or applicant in writing.

### **16.2.7 Preference Denial**

Although not required by regulation, when HPD denies admission to an applicant because the applicant does not belong to a preference category, the family will be notified in writing of the specific reason for the denial and offered the opportunity to request an informal review from the Section 8 Appeals Unit.

### **16.3 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. Participants in the voucher program must be notified of the right to an informal hearing under certain circumstances concerning their participation in the program.

#### **16.3.1 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 "overhoused"), 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 30 days from the date printed on the Notice of Termination.

#### **16.3.2 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;
- Determination that a former participant does not meet the requirements for subsidy reinstatement, as stated in Section 15.13 in this Plan;
- 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.

### **16.3.3 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 to contest the determination.

For certain determinations, that is the following: that 1) a family is residing in a unit with a larger number of bedrooms than is appropriate for the family size, 2) HPD's denial of a family's request for an exception from the subsidy standards, or 3) 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.

### **16.3.4 Time Limits**

All requests for an Informal Hearing must be made in writing and must be received by HPD within 30 calendar days from the date printed on HPD's Termination Notice or other documentation (the "Appeals Due Date"). HPD will not accept phone call requests for an Informal Hearing.

Any requests for an Informal Hearing received after the Appeal Due Date are considered Late.

HPD has instituted a Late Appeal Grace Period of **90 calendar days** from the Appeals Due Date (the "Late Appeal Grace Period"). If a family submits a request for an Informal Hearing within the Late Appeal Grace Period, the family will be given an opportunity to provide a good cause reason for their untimely filing, and must submit supporting third party documentation.

Good cause reasons include, but are not limited to:

- mailing issues;
- hospitalization and/or serious medical conditions;
- incarceration;
- travel; or
- serious family emergency or other extenuating circumstances.



Families who submit a late request for an Informal Hearing that falls within the Late Appeal Grace Period will be provided with a Late Appeal Application. Late Appeal Applications must be completed in writing, state a valid good cause reason, provide third party documentation supporting the stated good cause reason, and be received by HPD within 30 calendar days from the date printed on Late Appeal Application.

A family's Late Appeal Application and request for an Informal Hearing will be denied if the Late Appeal Application is not received in writing by HPD within 30 days, fails to state a valid good cause reason for the late request for an Informal Hearing, and/or fails to provide third-party documentation in support of the stated reason.

If a family requests for an informal hearing is received after the Appeals Due Date and after the Late Appeal Grace Period, the family's request will be denied and the Agency's initial decision, as indicated on the termination notice or documentation, will be final.

HPD will attempt to schedule all informal hearings within 14 calendar days of receipt of the request. Requests to reschedule an informal hearing will only be considered for documented emergency situations.

#### **16.3.5 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.

The family or its representative may request, pre-informal hearing, to view 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.

#### **16.3.6 Conduct at Hearings**

The hearing officer is responsible for managing the order of business and ensuring that hearings are conducted in a professional manner. Attendees are expected to comply with all hearing procedures and to observe guidelines for conduct established by the hearing officer. If a person demonstrates disruptive, abusive, or otherwise inappropriate behavior during a hearing, this person will be excused from the hearing at the discretion of the hearing officer and the hearing will end.

#### **16.3.7 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 will be provided in writing to HPD's Division of Tenant Resources and the participant within a reasonable period of time and will 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.

#### **16.3.8 Substitute Hearing Officer**

When a Hearing Officer is unable to render a written decision after presiding over an informal hearing because of death, disability, or extended leave, or is unable to carry out their duties or because that Hearing Officer leaves HPD's employ, HPD will assign a substitute Hearing Officer to review the record. The record will include all testimony and evidence submitted at the hearing and either the audio recording or a written transcript of the hearing when available. The assigned substitute Hearing Officer will render a written decision based upon their review of the record and pursuant to the procedure prescribed in this Administrative Plan and HUD regulations and provide an explanation for the decision to HPD and the participant or applicant in writing.

#### **16.3.9 Effect of Informal Hearing 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.

## **17 PROGRAM INTEGRITY**

### **17.1 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 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 and/or owner and/or HPD employee may be required to attend a conference to review the issue. HPD may work with the Inspector General's office at the Department of Investigation (DOI) to further investigate, either before or after a conference takes place. Referral to DOI does not prohibit HPD from making a decision to deny assistance to an applicant or terminate program assistance for a participant or owner.

### **17.2 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.

#### **17.2.1 Family Payment Too High**

- **Error or omission - fault of HPD:** HPD will retroactively adjust housing assistance payments on behalf of families who have overpaid to ensure they receive credits for any overpayments. Adjustments may be made from housing assistance payment funds or administrative fee reserves as appropriate. 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.

#### 17.2.2 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 on the first of the month following a 30-day notice period.
- **Error or omission - fault of the family:** If the family misrepresented their income and had no overpayment of HAP, the family may be required to sign a Statement of Understanding indicating that any additional instance of misrepresentation of income will lead to termination of subsidy.

If the family had any HAP overpayment as a result of misrepresentation of income, the family may be eligible for a Repayment Agreement (see Section 17.3.1 [Repayment Agreement Eligibility Criteria]). HPD will not enter into a Repayment Agreement if the repayment amount is \$5,000 or more. If HPD chooses to enter into a Repayment Agreement, HPD will notify both the owner and tenant of the tenant share and HAP share, and will develop a Repayment Agreement that addresses overpayment of HAP as a result of misrepresentation of income. Failure of the family to abide by the terms of the Repayment Agreement may result in termination of assistance. See Section 17.3 (Repayment Agreements) for more information on Repayment Agreements. Any misrepresentation of income resulting in a HAP overpayment at or over \$5,000 will result in termination of subsidy.

Any additional instance of misrepresentation of income will lead to termination of subsidy.

#### 17.2.3 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:** HPD may terminate assistance, or, at its discretion, require the family to repay HPD for the total amount of overpayment due under the terms of a Repayment Agreement. 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.

### **17.3 Repayment Agreements**

At HPD's discretion, Repayment Agreements may be executed with participants who owe HPD money as a result of current 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. Any second or repeated instance of a failure to report assets or income will result in termination of subsidy. HPD will not offer a Repayment Agreement following a case of repeated misrepresentation of assets. HPD may also refer the case to the Inspector General's Office of the Department of Investigation (DOI).

#### **17.3.1 Repayment Agreement Eligibility Criteria**

Households with a HAP overpayment amount resulting in an estimated repayment period of less than five years may be eligible for a Repayment Agreement as follows:

- If the family had any HAP overpayment as a result of misrepresentation of income, the family may be eligible for repayment if the estimated repayment period is less than five years. Any additional instance of misrepresentation of income equal to or greater than \$5,000 will lead to termination of subsidy.
- If the repayment period is estimated to be more than five years, the family will not be eligible for repayment.
  - Households that are determined ineligible for a Repayment Agreement because the estimated repayment period is equal or greater to five years may have the opportunity to pay a lump sum upfront and become eligible. To become eligible, the lump sum payment must lead to a new estimated repayment period of five years or less.

#### **17.3.2 HAP Overpayment and Repayment Amount Calculation**

In determining the HAP overpayment amount and the repayment period, HPD will use the corrected income that has been confirmed through a third party. At the time the third-party verification establishes the misrepresentation to have occurred ("the date of misrepresentation"), HPD will calculate the new accurate HAP amount. The Repayment Agreement will be calculated as follows:

- The HAP overpayment amount is the difference between the HAP amount actually paid and the new corrected HAP amount reflecting any misrepresented income since the misrepresentation of income was confirmed.

- The overpayment amount will be cumulative, and will be defined as the period of time between the effective date of the certification when the income was misrepresented and the effective date of the first certification after the date of misrepresentation.
- The monthly repayment amount will generally be calculated as the difference between 30% of the family's adjusted income and 40% of the family's adjusted income. This adjusted income is the income reported in the first certification after the date of misrepresentation.
- Once the monthly repayment amount is established (see above), the repayment period will be determined based on how many months it will take to repay the HAP overpayment amount. If the period is longer than 60 months, the family will not be eligible for a Repayment Agreement and will have their subsidy terminated.

If the tenant does not comply with a Repayment Agreement or fails to enter into a Repayment Agreement, HPD will terminate the tenant's program subsidy. If HPD determines that the family committed fraud, HPD may terminate assistance or require the family to repay the entire amount in full without a Repayment Agreement. HPD may refer the case for criminal prosecution through the Inspector General's Office at the (DOI). Households that are undergoing termination for breach of the Repayment Agreement contract or for failure to enter into a Repayment Agreement may be given the opportunity to pay the debt in full and remain subsidized.

Families will not be permitted to move to a new unit (unless in an emergency or required move scenario: see Sections 2.5.5 [Emergency Move and Portability Policy] and 14.2 [Required Moves]) if they are in default of the terms of a Repayment Agreement, or fail to enter into a Repayment Agreement. HPD may also deny moves outside HPD's jurisdiction (ports) if the family is in default of or fails to enter into a Repayment Agreement.

HPD reserves the right to set payment conditions, including down payment amount, length of agreement, and monthly minimum payments.

Households paying more than 40% of their income towards rent and their Repayment Agreement amount are eligible to apply for an adjustment to their repayment amount once per calendar year. This adjustment would result in a repayment amount such that households are either paying 40% of their income towards rent or \$50 per month, whichever is greater.

## 18 PROGRAM ADMINISTRATION

### 18.1 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 (HCV) program or other HCV related purpose. The agency does not maintain a maximum withdrawal amount from the reserve per occurrence or per fiscal year.

### 18.2 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 five calendar days after mailing, unless the Postal Service returns the notice as undeliverable. HPD may also send some notices by certified mail.

### 18.3 Coordination with Other Local PHAs

HPD, the New York City Housing Authority (NYCHA), and New York State Homes and Community Renewal (HCR) administer voucher programs in the same jurisdiction. Wherever possible, the three 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. All three 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 all agencies;
- **Payment Standards:** HPD, NYCHA and HCR may establish different payment standards based on the FMR. HPD's payment standard is between 90 and 110% of FMR, and between 90 and 110% of Small Area Fair Market Rents (SAFMR) for Exception Payment Standard (EPS) areas as described in Section 2.5.9 (Promoting Deconcentration) of this Plan. HPD collaborates with NYCHA and HCR 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 all 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 or the Federal poverty level. 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;
- **HQS Policies and Guidelines:** HPD, NYCHA and HCR collaborate on HQS inspection guidelines and requirements through periodic review but HPD maintains separate guidelines; and

- **Utility Allowances:** HPD uses the analysis of NYCHA's Energy Department to inform its utility allowance schedule as provided by HUD regulation. If conditions warrant, HPD may independently determine its utility allowance schedule.

### **18.3.1 HPD Employee Conflict of Interest**

#### **18.3.1.1 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.

### **18.3.2 For Employees Applying for or Receiving Housing Subsidy Administered by DTR**

DTR employees who are applicants or participants in any housing subsidy program administered by DTR must immediately report this to their unit Director. Employees who own an assisted unit or who have family members that receive a DTR administered housing subsidy must also report this to their unit Director. The following policy and protocol will apply for HPD employees or contract workers that have applied for or are receiving assistance housing subsidy administered by DTR, or are participating landlords including:

- DTR employees or contract workers who are tenants, relatives of tenants or participating landlords in a DTR administered housing subsidy program may not work on or access either electronic or paper records for their own cases or cases involving immediate family members. Immediate family members include a parent, stepparent, child, stepchild, grandparent, grandchild, sibling, or stepsibling. HPD may at its discretion expand this prohibition of case involvement



to include close friends and additional family members as needed. This means that DTR employees or contract workers who apply for a DTR administered subsidy may not process their own application, schedule their own briefing, be directly involved in issuing their own voucher, or participate in any other aspect of their case. Employees and contract workers who already receive HPD assistance may not administer, access, or process their own recertification. Employees and contract workers working in the HQS unit or in the Code Enforcement unit may not perform any inspection for a unit that they will rent, currently rent, or in which they have ownership interest.

- The cases and case files of employees and contract workers receiving HPD HCV assistance, participating as landlords, and family members of DTR staff will be administered by a unit focused on quality assurance (the Quality Assurance, or QA, unit) to determine if there are any irregularities that affect the employee's or contract workers' program status.
- All applications for a DTR administered subsidy and recertifications for existing employees or contract workers will be reviewed and approved by a QA Unit Deputy Director or higher (or their designee) before assistance is awarded or the recertification is completed.
- Cases may be reassigned from the QA unit back to the standard case processing unit within DTR after an employee has no longer been an HPD employee for one year.

## **19 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.

### **19.1 Selection**

In a housing conversion action, HUD provides vouchers to assist those families affected by a housing conversion or decoupling.

### **19.2 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 for federal mortgage prepayment, refinancing or insurance termination, or 80% of AMI for project-based contract opt-outs. The family must be income eligible at the time of conversion. For eligibility purposes, time of conversion or decoupling is the effective date of prepayment or voluntary termination of mortgage or refinancing 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.

Generally, a family residing in a unit at the time of conversion has one year from the date of the conversion to apply for a Housing Choice Voucher. However, HPD reserves the right to set deadlines either prior to or beyond the one-year anniversary date in consideration of funding issues. For example, if HPD can reasonably predict that either insufficient funding or unit month allocation exists for a given funding year, HPD may deny applicants before the one-year deadline. Conversely, if HPD can reasonably predict that it will not meet its utilization goals by the end of the funding year, HPD may extend the deadline beyond the year. In all cases, it is the responsibility of the applicant to prove that they were income-eligible and residing at the development at the time of conversion.

#### **19.2.1 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.

### **19.2.2 Mobility**

Since enhanced vouchers are tenant-based assistance, voucher holders may move as soon as they are approved and receive a voucher (See Chapter 14: Moving with Continued Assistance and Portability). 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 regular payment standard for the jurisdiction applies to the voucher.

### **19.2.3 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.

### **19.2.4 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 gross rent is equal to the rent the tenant pays to the owner plus any tenant-paid utility allowance where tenants are responsible for payment of utilities. The regular HPD payment standard does not apply.

## **19.3 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 subsidy 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 HAP contract as long as all other program requirements are met.

### **19.3.1 Tenant Share—Enhanced Minimum Housing Payments**

Families with enhanced assistance remaining in the conversion project must pay the greater of 30% of their income or the amount they were paying toward housing payments (rent plus utilities, if applicable) at the time of conversion (known as their enhanced minimum rent), even if it exceeds 40% of the family's adjusted monthly income. Families previously receiving project-based or tenant-based assistance or other subsidies must pay at least their tenant share of rent at time of conversion. The enhanced minimum rent only applies if the family remains in the conversion project. If a family becomes responsible for paying for their own utilities after the conversion date, the HPD utility allowance in effect at the time the family assumed responsibility for utility payments will be counted toward their minimum payment, such that their monthly housing payment (rent plus tenant-paid utilities) is still the greater of 30% of their income or the amount they were paying prior to conversion.

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 (the "locked in percentage"). If the family then experiences a subsequent increase in income, the enhanced minimum rent will be recalculated to the lower of:

- The family's adjusted monthly income times the locked in percentage; or
- The enhanced minimum rent determined at the time of conversion.

The tenant share of rent will then be the greater of the enhanced minimum rent or 30% of the family's adjusted monthly income.

#### **19.4 Right to Remain**

Per HUD's PIH Notice 2001-41, "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."

#### **19.5 Overhoused Families**

A family is "overhoused" if the size of the unit occupied exceeds the bedroom size listed on the family's voucher. Overhoused families (at the time of conversion or at any time 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 oversized unit. The payment standard will be the gross rent of the oversized unit, and HPD will advise the family that the enhanced subsidy based on the oversized unit's rent will be paid up until an appropriate size unit becomes available in the building. Overhoused families will be placed on a waiting list by development and bedroom size until the appropriate size unit is available. Families will be placed on the waiting list based on the time and date the initial overhoused notice to the family is generated.

If the family is offered an appropriate size unit in the project and is approved to move in, the payment standard will equal the gross rent of the new, appropriate size unit. When an appropriate sized unit is available and moving to that unit is approved by HPD, the family must move to the new appropriately sized unit within 30 days. Families experiencing extreme hardship, such as documented illness of a household member or documented emergency travel may request an extension within 30 days of HPD's approval of the move. Extensions may be provided for up to 30 days.

If an overhoused family refuses an appropriate size unit that is offered to them within the development or fails to move in within 30 days of the date of the move in approval notice, the family may experience an increase in tenant share. HPD will change the voucher for the family to a regular tenant-based voucher and calculate the family's

housing assistance payment for the oversized unit based on the payment standard for the family's voucher size. The participant will be responsible for any amount of the gross rent not covered by the housing assistance payment.

Owners of Enhanced Developments are required to report vacancies as they occur. Available vacant units must first be offered to households that are currently overhoused. On a quarterly basis, HPD will request updated rent rolls from owners. Failure to submit timely rent rolls will deem the owner non-compliant with program requirements. HPD will notify the Department of Housing and Urban Development of the owner's failure to comply with program requirements.

Exceptions to the rules on overhoused families may be granted on the basis of disability. The standards for appropriate documentation will apply as described in Section 2.3 (Reasonable Accommodation for Persons with Disabilities). Any exception must be approved by an HPD employee at the Director level or higher (or their designee).

#### **19.6 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: Rent Reasonableness Determinations).

## **20 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.

### **20.1 Qualifications for Participation**

#### **20.1.1 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.

#### **20.1.2 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 2,000 hours of annual full-time work at federal minimum wage. Public assistance income may not be used for meeting this minimum requirement, except for households in which the head or spouse is elderly and/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.

#### **20.1.3 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 an asset building program such as First Home Club and/or Home Buyers Club. The minimum homeowner down payment is 3% of the purchase price, and at least 1% of the purchase price must come from the family's personal resources, which may include escrow funds.

#### **20.1.4 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 and/or elderly are exempt from this requirement.

#### **20.1.5 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.

### **20.1.6 First-Time Homeowners**

The applicant must be a first-time homeowner, meaning no family member living in the household 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.

## **20.2 Process**

### **20.2.1 Homeownership Participation Agreement**

Applicants who meet the minimum program requirements 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.

### **20.2.2 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.

### **20.2.3 Down Payment Lump Sum Option**

Per the down payment lump sum option that took effect in HUD's November 2002 Final Rule on Down Payment Assistance and Streamlining Amendments, HPD may offer a down payment lump sum option in lieu of continued monthly payments.

### **20.2.4 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.

### **20.2.5 Home Inspections and Contract of Sale**

Eligible housing types include those types permitted by HUD under 24 CFR Parts 5, 903, and 982, including 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.

#### **20.2.6 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.

#### **20.3 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.

#### **20.4 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).

#### **20.5 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. In accordance with 42 CFR Part 248.173(g), 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 (see Section 20.7



[Homeownership Obligations]). Pursuant to requirements in 24 CFR 92.254(5), the family is subject to a recapture provision 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 180 days of homeownership assistance after the maximum term becomes applicable (providing the family is otherwise eligible to receive Housing Choice Voucher homeownership assistance).

For income and asset calculation purposes, a home purchased with a housing choice voucher will not be counted as an asset for the first 10 years of the homeownership voucher assisted ownership.

## **20.6 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 home, but may reapply, if eligible, for the Housing Choice Voucher rental program.

## **20.7 Homeownership Obligations**

To receive financial assistance under the Housing Choice Voucher Homeownership 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 must 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 that 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.

## **21 PROJECT BASED VOUCHERS**

### **21.1 Introduction**

This section of the Administrative Plan describes HPD's policies related to implementation of the Project Based Voucher (PBV) program pursuant to HUD's Final Rule 24 CFR 983 published on October 15, 2005.

### **21.2 Applicability of Tenant-Based Voucher Program Policies to Project Based Voucher Program**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, HPD's policies for the tenant-based voucher program described in the HCV Administrative Plan will also apply to the PBV program administered by HPD.

PBV-specific policies can also be found throughout this Administrative Plan in sections including, but not limited to:

- 1.3.1 Project Based Vouchers
- 5.1.4 Family Break-Up
- 14.2.5 Overhoused PBV Participants
- 15.4.1 Permissible Grounds for Denial
- 15.4.2 Permissible Grounds for Denial and/or Termination

### **21.3 Equal Opportunity**

HPD will comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program, including the PHA Plan certification on civil rights and affirmatively furthering fair housing.

### **21.4 Program Size**

The total number of PBV units will not exceed 20% of HPD's voucher authority under the Housing Choice Voucher program. The limit may be increased to 30% of HPD's voucher authority for projects described in the Project Based Voucher section under Section 1.3.1 (Covered Programs).

### **21.5 Eligible Unit Types**

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of HPD selection, the units substantially comply with HQS.

#### **21.5.1 Ineligible Unit Types**

HPD will not attach PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing.

HPD will not attach PBV assistance to a unit occupied by an owner.

HPD will not attach PBV assistance to units in any of the following types of subsidized housing except as provided in the Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions published on January 18, 2017:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy, including one that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that HPD may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly families with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance; or
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or HPD in accordance with HUD requirements.

#### **21.6 Limits on Number of PBV Units in Buildings**

Pursuant to HUD regulations, HPD will not provide PBV assistance for units in a building if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than 25 units or 25% of the number of dwelling units (assisted or unassisted) in the building except where the units qualify as “excepted units” as defined below.

#### **21.7 Exceptions to Caps on PBV Units at a Project**

HPD may provide PBV assistance to a project for up to the greater of 25 units and 25% of a project’s units unless:

- The building is in a low-poverty area (in a census tract with a poverty rate of 20% or lower), in which case up to 40% of the units may receive PBV assistance;
- HPD is providing PBV assistance as part of a Rental Assistance Demonstration (RAD) conversion, in which case up to 100% of the units approved by HUD may receive PBV assistance;
- Any PBV assistance provided to a household who resided in a building that received HUD-funded assistance in the previous five years as described in Section 1.3.1 (Project Based Vouchers); or
- The building designates units beyond 25% of the project or 25 units as “excepted units.”

“Excepted units” are units in a multifamily building that are specifically made available for “qualifying families.” Qualifying families are:

- Elderly families; or
- Families who are offered supportive services, including disability-specific services. See Section 21.7.1 (Requirements Applicable to Households Residing in Excepted Units) for a list of qualifying supportive services.

#### **21.7.1 Requirements Applicable to Households Residing in Excepted Units**

For excepted units occupied by elderly families, HPD will not require that the family be offered supportive services as a requirement of program participation.

For excepted units occupied by families offered supportive services, HPD will review the project’s plan for providing supportive services prior to any commitment to provide PBV assistance. Project plans for supportive services must include the following options as offered directly or through direct referral to a partner agency:

- Case management;
- Employment skills development and job training;
- Family support services;
- Parenting skills, childcare skills, family budgeting and similar related services;
- Housekeeping and homemaking activities; or
- Treatment for drug or alcohol addiction.

For all excepted units set aside for families offered supportive services, at the time of tenant application, the family must be offered supportive services by or through the provider listed in the supportive services plan. Even if a family does not initially agree to participate in the supportive services program, the services must remain available to the family for the duration of their tenancy in the excepted unit should they choose to receive services at a later date. HPD will not consider any families’ failure to complete supportive services which they have agreed to receive as cause for denial or termination of assistance.

#### **21.7.2 Relocation Assistance**

As previously noted, HPD will not select, execute an agreement to enter in a HAP contract (AHAP) or execute a HAP contract for a development for a unit occupied by a family that is ineligible for participation in the PBV program.

Notwithstanding the above, any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24. The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. HPD may not use voucher program funds to cover relocation costs; however, HPD may use its HCV administrative fee reserve to pay for relocation expenses after all other program

administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law.

Use of the administrative fee for these purposes will also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

Acquisition of real property for a PBV project is also subject to the URA and 49 CFR part 24, subpart B.

### **21.8 Selection of PBV Owner Proposals**

Prior to selection of a proposal for PBV assistance, HPD will determine that:

- The property is eligible housing;
- The project complies with regulatory caps on the number of PBV units per building/project;
- The project meets the applicable site selection standards; and
- The project complies with other applicable HUD regulations and requirements for the PBV program.

HPD will select PBV owner proposals pursuant to either of the methods described at 24 CFR 983.51(b) (1) and (2).

HPD anticipates that PBV owner selection will primarily be accomplished through the method described in 24 CFR 983.51(b)(1). HPD will issue a Request for Proposals (RFP) to generate proposals for PBV assistance. Projects will be selected based on how they accomplish HPD's and the City's housing goals and the degree to which they conform to PBV requirements. The selection criteria will be published on HPD's website and in at least one published circulation with a minimum of 30 days for response to the RFP.

Selection criteria may include, but are not limited to, adherence to HPD's goals of creating and maintaining affordable housing, population assisted by the projects, and level of rehabilitation required and previous participation with HPD programs. HPD will review and evaluate these proposals on their merits using any published selection criteria and the following factors:

- Extent to which the PBV proposal promotes the goals laid out in Housing New York, A Five-Borough, Ten-Year Plan: New York City's Affordable Housing Creation and Preservation Plan;
- Extent to which housing and economic opportunity is expanded through de-concentrating of poverty; and
- Extent to which PBV assistance will facilitate project feasibility.

At least annually, the Division of Tenant Resources will issue an allocation memo outlining the agency's priorities, providing more detailed criteria and allocating the number of vouchers to be issued. The criteria may vary based on whether PBV is for new construction or for existing projects.

However, periodically, HPD may select projects for project-based assistance pursuant to 24 CFR 983.51 (b)(2). HPD will use this method for selecting some senior housing projects and PBV VASH eligible projects, as described in its annual PBV allocation memo. In selecting proposals for PBV assistance pursuant to 24 CFR 983.51(b)(2), HPD will consider those proposals for housing assisted under an existing or future federal, state or local housing assistance program, community development or supportive services program that requires competitive selection of proposals. To be eligible for PBV selection, the project must have been selected:

- By HPD;
- Within the last three years of the proposal selection date;
- Through a competitive process; and
- Without any consideration that the project would receive PBV assistance.

HPD will directly contact specific owners that have already been selected for federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance, if Method 2 in 24 CFR 983.51(b)(2) is used. Alternatively, HPD program intermediaries may nominate housing developments for PBV assistance.

Proposals selected for PBV assistance must meet all of the other required criteria specified herein including subsidy layering, environmental review and site and neighborhood standards.

HPD may also require that projects selected through the RFP process enter into a regulatory agreement with HPD.

#### **21.8.1 Notification of Owner Selection**

HPD will notify selected owners within 60 days of its final decision to select the owner's proposal or HPD nomination for PBV funding. HPD will maintain records of its evaluation and selection process which will be available upon request to the public. Such records will be maintained for a one-year period.

#### **21.9 Subsidy Layering**

HPD will only provide PBV assistance in accordance with HUD's subsidy layering requirements at 24 CFR 4.13 in accordance with PIH Notice 2013-11. HPD will conduct the subsidy layering review for eligible projects and submit the necessary documentation to HUD. HPD will not enter into an agreement to enter into a HAP contract until the subsidy layering review has been completed and has determined that the PBV assistance is in accordance with HUD subsidy layering requirements. HPD has been determined eligible to complete subsidy layering reviews for projects that receive tax credits. Subsidy layering review for newly constructed projects not receiving tax credits will be submitted to HUD for review.

The HAP contract will contain the owner's certification that the project has not received and will not receive before or during the term of the HAP contract any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

### **21.10 Site and Neighborhood Standards**

HPD will select units or sites for PBV assistance only where HPD has determined that housing on the site:

- Is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities consistent with regulations and HPD's PHA Plan and Administrative Plan;
- Will facilitate and further comply with the applicable provisions of Title VI of the Civil Rights Act and other relevant provisions as cited at 24 CFR 983.57;
- Meets the site selection requirements described in 24 CFR 8.4(b)(5); and,
- Meets the HQS site standards at 24 CFR 982.401(l).

HPD will limit approval of sites for PBV assistance to census tracts that have poverty concentrations of 20% or less except where HPD determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities as described in 24 CFR 983.57. HPD will expand beyond census tract to the community district level to review poverty level and redevelopment activity in establishing site and neighborhood standards.

### **21.11 Existing and Rehabilitated Housing**

HPD will not provide PBV assistance for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

### **21.12 New Construction Housing**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless HPD determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas



- of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area;
  - The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
  - The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
  - The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
  - Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

### **21.13 Environmental Review**

HPD activities under the PBV program will be conducted in conformance with HUD environmental regulations at 24 CFR parts 50 and 58 and at 24 CFR 983.58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969.

#### **21.13.1 Dwelling Unit Standards**

The housing quality standards (HQS) for HPD's tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 will not apply to the PBV program.

The lead-based paint requirements for the tenant-based voucher program will not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

In addition to mandatory HQS standards, HPD may also identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. HPD will specify any special design standards or additional requirements in the agreement to enter into HAP contract (AHAP), and the HAP contract.

#### **21.14 Accessibility**

Housing provided with PBV assistance must comply with the program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. HPD will ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C (24 CFR 983.102).

Housing first occupied after March 13, 1991, will comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable.

#### **21.15 Inspections**

##### **21.15.1 Pre-Selection**

HPD will inspect the proposed site before the proposal is selected for an existing building that will not undergo substantial rehabilitation. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date, meaning at least 75% of proposed PBV units must pass HQS. However, HPD will not execute the HAP contract until the units fully comply with HQS.

##### **21.15.2 Pre-HAP Contract**

HPD will inspect each contract unit before execution of the HAP contract. HPD will not enter into a HAP contract covering a unit until the unit fully complies with HQS.

##### **21.15.3 Turnover**

Before providing assistance to a new family in a contract unit, HPD will inspect the unit. HPD will not provide assistance on behalf of the family until the unit fully complies with HQS.

##### **21.15.4 Biennial**

At least biennially during the term of the HAP contract, HPD will inspect all assisted units. HPD reserves the right to instead inspect a random sample, consisting of at least 20% of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. If more than 20% of the sample of inspected contract units in a building fails the initial inspection, HPD will re-inspect 100% of the contract units in the building. Units that fail inspection and do not meet HQS standards after a 30-day correction period, or a 24-hour correction period for emergency conditions, will have HAP abated.

##### **21.15.5 Other**

In addition to pre-selection, turnover and annual inspections, HPD will inspect contract units as needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract.

Inspections follow up and supervisory quality control inspection procedures will be the same as those described in Chapter 8: Housing Quality Standards.

### **21.16 Special Requirements for Newly Constructed or Rehabilitated Housing**

This section describes specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing.

#### **21.16.1 Agreement to Enter into HAP (AHAP)**

HPD will enter into an agreement to enter into a HAP (AHAP) with the owner after receiving notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started. The AHAP will be in the form required by HUD. At a minimum, the AHAP will describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Deadlines for completion of the housing;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 apply to units under the AHAP. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the AHAP;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the AHAP. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by HPD, specifications and plans. For new construction units, the description must include the working drawings and specifications;
- Any additional requirements for quality, architecture, or design over and above HQS; and
- Requirement for submission of evidence of completion of work.

#### **21.16.2 Labor Standards**

If an AHAP covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the AHAP will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates. The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations.

### **21.16.3 Section 3 Requirements**

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

### **21.16.4 Owner Disclosure**

The AHAP and the HAP contract will include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs. The owner must also disclose any possible conflict of interest that would be a violation of the AHAP, the HAP contract, or HUD regulations.

Upon completion of construction, the owner must submit certifications to HPD in a form specified by HPD stating that:

- The work has been completed in accordance with HQS and all requirements of the AHAP; and
- The owner has complied with labor standards and equal opportunity requirements in development of the housing.

HPD may require owners to submit additional documentation as evidence of completion as needed on a case-by-case basis.

### **21.17 HPD Acceptance of Completed Units**

Upon notification by the owner that the PBV housing is completed, HPD will inspect to determine if the housing has been completed in accordance with the AHAP, including compliance with HQS and any additional requirements imposed under the AHAP. HPD will also determine if the owner has submitted all required evidence of completion. If the work has not been completed in accordance with the AHAP, HPD will not enter into the HAP contract. If HPD determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, HPD will execute a HAP contract with the owner.

### **21.18 Housing Assistance Payment (HAP) Contract**

HPD will enter into a HAP contract for each PBV project. The HAP contract will specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building(s);
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;

- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term, which must be no less than one year and no more than 20 years, will be negotiated by HPD with the owner on a case-by-case basis;
- The number of units in any building that will exceed the 25% or 25 units per project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Within one year before expiration of the HAP contract, HPD may extend the term of the contract for an additional term of up to 20 years if HPD determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

The HAP contract must provide that the contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by HPD in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the Annual Contributions Contract (ACC) from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, HPD may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to HPD. In this case, families living in the contract units will be offered tenant-based assistance. HPD will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the HCV program.

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term. The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and

expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

#### **21.19 Changes to HAP Contract to Substitute, Add or Subtract PBV Units**

At HPD's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute, add, or subtract PBV units in the same development. Before any such modification can take place, the proposed unit(s) must pass a scheduled HQS inspection within two attempts and a review of rent reasonableness in order to be considered for inclusion in and addition onto the HAP contract. Any deviations from this process will be subject to HPD's discretion.

At HPD's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of HPD's PBV program, a HAP contract may be amended for a project in good standing to add additional PBV units in the project. This type of amendment is subject to all PBV program requirements except that a new competitive selection (see Section 21.8 [Selection of PBV Owner Proposals]) is not required. For initial PBV HAP contracts that were executed with a term of 15 years or fewer, HPD may, at its discretion and with the agreement of the owner, extend that initial term to a 20-year term.

If any PBV units have been unsubsidized for 120 days, HPD may give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been unsubsidized for this period. The amendment to the HAP contract will be effective the first day of the month following the date of HPD's notice.

PBV units that have been at zero assistance (where the tenant portion of the rent equals the contract rent, or "no rent hardship") for over 180 days will be removed from the PBV HAP contract, and subsidy will be terminated for having no rent hardship for over 180 days. If the project is fully assisted, HPD may reinstate the unit removed for no rent hardship after the ineligible family vacates the property. If the project is partially assisted, HPD may substitute a different unit for the unit removed for no rent hardship.

#### **21.20 Vacancy Payments**

HPD may, on a case-by-case basis, determine if the owner will be provided with vacancy payments. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments. The HAP contract may provide for vacancy payments to the owner for an HPD-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month subject to the limitations and requirements detailed below. The amount of the vacancy payment will be determined by HPD and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

HPD will only make vacancy payments if:

- The owner notifies HPD in writing within five calendar days certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by HPD to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by HPD and must provide any information or substantiation required by HPD to determine the amount of any vacancy payment.

If HPD determines that the owner is responsible for a vacancy and, as a result, is not entitled to either a vacancy payment or the right to keep the housing assistance payment for the month in which the family vacated the unit, HPD will notify the landlord of the amount of housing assistance payment that the owner must repay.

#### **21.21 Waiting List and Occupancy of PBV Housing**

Applicants for PBV assistance must meet the same eligibility requirements as applicants for HPD's tenant-based voucher program. HPD will utilize separate project-based waiting lists for each development receiving Project Based Vouchers. Each PBV waiting list may include criteria or preferences for occupancy of particular units in accordance with the requirements of 24 CFR 983.251. Such criteria or preferences shall be included in the tenant selection plan for the project or building and approved by HPD. Applicants will be referred by the sponsor for placement on the appropriate project-based waiting list in accordance with any applicable regulatory requirements and tenant selection plans. Eligible applicants who have previously indicated in writing their interest in receiving information on Project Based Voucher availability will also be referred to the sponsor for screening.

In addition, the following specific provisions apply solely to the PBV program:

**In-Place Family:** An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by HPD is considered an "in-place family." These families are afforded protection from displacement under the PBV rule; however, they may be determined ineligible based on HPD's eligibility and suitability assessment. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on HPD's waiting list. Once the family's continued eligibility is determined, the family will be given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements. This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

**Accessible Units:** When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, HPD will refer families who require such features to the owner.

**Offers of PBV Units:** HPD will not take any of the following actions against a family from the regular waitlist who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance if they are eligible;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HPD's selection policy; or
- Remove the applicant from the tenant-based voucher waiting list.

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

**Occupancy Standards:** PBV applicants are eligible to receive assistance only in PBV units for which they would be appropriately housed (i.e., would not be overhoused or overcrowded) under HPD's current Section 8 subsidy standards.

For projects converting to PBV assistance under RAD (3.2.2): A PBV selection preference may be established for disabled families who need services offered at a particular PBV project or building, provided: 1) that the prohibition on preferences to persons with a specific disability at 24 CFR 982.207(b)(3) shall apply; and, 2) the following limitations described in this paragraph shall apply. Such services need not be provided by the owner or onsite, but must be reasonably available to the families receiving PBV assistance in the project and designed to help the families achieve self-sufficiency or live in the community as independently as possible. Voluntary services may consist of a variety of activities, including for example, meal service adequate to meet nutritional needs, housekeeping assistance, personal assistance, transportation services, case management, child-care, education services, employment assistance and job training, counseling services, life skills training, and other services designed to help the recipient live in the community as independently as possible. Voluntary services may also include disability-specific services, such as mental health services, assistance with activities of daily living, personal assistance services, outpatient health services, and the provision of medication, which are provided to support a person with a disability. Voluntary services may also include those provided by State Medicaid programs to promote community-based settings for individuals with disabilities. The preference shall be limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain themselves in housing; who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing. Services shall be provided in the most integrated setting appropriate to the needs and choices of qualified individuals with disabilities. Participation in services is voluntary, and disabled residents shall not be required to accept the particular services offered at the project. In advertising the project, the owner may advertise the project as



offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project.

#### **21.22 Leasing of Project Based Unit**

HPD will make housing assistance payments to the owner in accordance with the HAP contract for contract units leased and occupied by eligible Project Based Voucher families during the HAP contract term. Per HUD regulations, payments will not begin on behalf of a PBV tenant until after the following events:

- Tenant has attended a briefing;
- Unit has a Passed HQS Inspection;
- Tenant submitted all necessary documents to confirm income and program eligibility; and
- Landlord has submitted a lease and tenancy addendum with the rent breakdown and effective date determined by HPD.

Lease effective date will be the first or fifteenth of the month following a tenant briefing and passing an HQS inspection. The landlord will have 60 calendar days to submit an executed lease agreement to HPD. If the landlord fails to do so by the deadline given, HPD will void the lease effective date and will set a new future effective date.

#### **21.23 Termination of Tenancy**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

##### **21.23.1 Tenant Absence from the Unit**

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HPD policy. According to program requirements, the family’s assistance may be terminated if, at any time, HPD receives documentation that the family has relinquished, abandoned, or been evicted from the unit.

Participants experiencing extenuating circumstances as described in Chapter 5: Eligibility are eligible for a maximum of 180 of absence from the unit with continued assistance. Tenants must report any absence of over 30 days to HPD.

#### **21.24 Security Deposits**

The owner may collect a security deposit from the tenant; however, HPD prohibits security deposits in excess of private market practice, in excess of amounts charged by the owner to unassisted tenants, or as limited by New York State law. When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as

reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. HPD has no liability or responsibility for payment of any amount owed by the family to the owner.

### **21.25 Overcrowded, Under-Occupied and Accessible Units**

If HPD determines that a family is occupying a wrong size unit, based on HPD's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, HPD will promptly notify the family and the owner of this determination, and offer the family the opportunity to receive continued housing assistance in another unit. HPD will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

When HPD offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, HPD will terminate the housing assistance payments at the expiration of this 30-day period. HPD may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

### **21.26 Family Right to Move**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to HPD. If the family wishes to move with continued tenant-based assistance, the family must contact HPD to request the rental assistance prior to providing notice to terminate the lease. HPD is considered to have approved a move only after the issuance of the Notice of Conditional Approval to Move with Rental Assistance and issued HAP contracts to the owner. Leaving the assisted unit before this notice has been issued, even if the participant has notified HPD of their intent to move, is a violation of family obligations and is considered absence from the unit.

If the family terminates the lease in accordance with these requirements, HPD is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, HPD will give the family priority to receive the next

available opportunity for continued tenant-based assistance (but not priority over Enhanced or new PBV developments). If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

### **21.27 Rent to Owner**

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by HPD, not to exceed 110% of the applicable Fair Market Rent (FMR), or Small Area Fair Market Rent (SAFMR) in Exception Payment Standard areas (or any other HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract. A qualified census tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50% of households have an income of less than 60% of Area Median Gross Income (AMGI), or where the poverty rate is at least 25% and where the census tract is designated as a qualified census tract by HUD;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds the HPD-determined amount (not to exceed 105% of the fair market rent or any approved exception payment standard). Tax credit rent is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (i.e., tenant-based voucher assistance).

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

When determining the initial rent to owner, HPD will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, HPD will use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination.

At its discretion and upon the owner's request, HPD may, for initial rent use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the Project Based Voucher program. The same utility allowance schedule applies to both the tenant -based and Project Based Voucher programs. However, in contrast to Section 7.2.5, the utility allowance used in calculating gross rent and applied to an individual household are based on the unit size of the PBV unit, regardless of the voucher size of the family.

## **21.28 Rent Reasonableness**

HPD will re-determine rent reasonableness:

- Whenever there is a 5% or greater decrease in the published FMR in effect 60 days before the contract anniversary for the unit sizes specified in the HAP contract as compared with the FMR in effect one year before the contract anniversary;
- Whenever HPD approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- Whenever the HAP contract is amended to substitute a different contract unit in the same building; or
- Whenever there is any other change that may substantially affect the reasonable rent.

The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. HPD will not establish rent levels in excess of those approved by the Rent Guidelines Board and DHCR. When making this determination, HPD will consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing maintenance services, and utilities to be provided by the owner.

For each unit, the comparability analysis will use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by HUD. The comparability analysis may be performed by HPD staff or by another qualified person or entity, provide that they do not have any direct or indirect interest in the property.

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, HPD may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits; or
- Any other type of federally subsidized project specified by HUD.

#### **21.29 Rent Increases**

Requests for a rent increase for Project Based Voucher assisted units must be made in writing by the owner at the annual anniversary date of the HAP contract. Requests must be submitted at least 60 days in advance of the HAP anniversary date.

## **Appendix A: Emergency Housing Voucher Program**

### **Background**

Under the American Rescue Plan (ARP), enacted on March 11, 2021 (P.L. 117-2m Section 3203), HPD was preliminarily awarded \$28M to support 2,050 Emergency Housing Vouchers (EHV) under the EHV program. EHV target four categories of households (homeless, at risk of homeless, households who fit into the VAWA eligibility criteria, and those who were recently homeless and are at high risk of housing instability).

In the EHV program, HUD implemented significant changes to the admission process and to general operations of the Section 8 Housing Choice Voucher (HCV) program, as laid out in Public and Indian Housing Notice 2021-15 (Notice PIH 2021-15). Except as noted below, the provisions of Chapters 1 through 18 of the Housing Choice Voucher Administrative Plan apply. The EHV program is a tenant-based initiative that is not eligible to be project based, therefore Chapter 21 does not apply.

### **Funding**

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other HPD programs or vouchers. HPD must maintain separate financial records from its regular HCV funding for all EHV funding.

### **Housing Assistance Payments (HAP) Funding**

ARP funding obligated to HPD as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to HPD for the EHV on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on HPD's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHV are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

Funding for the program comes in the form of start-up needs (preliminary fees), ongoing funding for rental assistance (HAP funding), housing search support (service fees), incentives for early leasing (placement fees/expedited issuance reporting fees) and ongoing program administration (admin fees).

Funding for housing search support comes in the form of **service fees**, which amounts to \$3,500 for each EHV allocated.

HUD may provide additional funding (placement fees/expedited issuance reporting fees) to HPD for vouchers leased up before January 2022 and/or July 2022, to be added to the existing admin fee structure.

### **Partnering Agencies**

Under the EHV program, the NYC Coalition on the Continuum of Care (CoC) is responsible for identifying EHV-eligible households through the Coordinated Assessment and Placement System (CAPS) and determining program eligibility. Referring Agency partners working through CAPS will, with consent from the applicant, refer EHV-eligible households to HPD and NYCHA and assist these household to submit an EHV program application through NYCHA's online application portal. In partnership with NYCHA, HPD, and HRA, the Referring Agencies<sup>6</sup> will provide assistance, resources, and information to increase the share of applicants who enter into a lease ("leasing up").

HPD's Division of Tenant Resources and NYCHA's Leased Housing Department will receive applications through the NYCHA online portal. HPD and NYCHA will work together with Referring Agencies to successfully lease up voucher holders. NYCHA and HPD will track and monitor their EHV programs and evaluate progress along the way to ensure full voucher utilization and compliance with the fair housing obligations and other applicable legal requirements. All Referring Agencies and PHAs may adjust the outreach, referral and leasing processes for eligible households as needed in response to the experience of early applicants to the program.

As in past similar initiatives, NYCHA and HPD (the Public Housing Authorities [PHAs]) along with the Referring Agencies will regularly conduct coordination phone calls and distribute reports to ensure that the process is running smoothly. HPD and NYCHA will endeavor to expedite the leasing process to ensure no voucher holder misses out on an apartment due to inspection delays.

Referring Agencies and the PHAs will cooperate to facilitate the completion and submission of EHV applications and provide housing search and other assistance. In order to monitor progress towards meeting program goals, NYCHA, HPD, and HRA will regularly share aggregate information or upload information into an EHV portal that will provide status updates to Referring Agencies to ensure they have the information and status of applicants they identity.

---

<sup>6</sup> The Referring Agencies are expected to include: NYC Department of Homeless Services (DHS), NYC Human Resources Administration (HIV/AIDS Service Administration [HASA], Emergency Intervention Services [EIS], Coordinated Assessment and Placement System [CAPS], HOMEBASE), NYC Department of Housing Preservation and Development (HPD), NYC Mayor's Office on Criminal Justice (MOCJ), NYC Health + Hospitals (H+H), NYC Mayor's Office to End Domestic and Gender-Based Violence (ENDGBV), NYC Department of Youth and Community Development (DYCD), NYC Agency for Children's Services (ACS)

Households who are determined eligible for EHV vouchers will receive support from the point of eligibility determination from Referring Agencies through successful lease-up from Housing Search Support Agencies<sup>7</sup>.

### Applicant Referrals

A multi-agency EHV Programmatic MOU lays out the population to be served and the role of each agency in administering EHV assistance. All homeless, recently homeless, at risk of homelessness, and fleeing domestic violence, dating violence, sexual assault, stalking, or human trafficking referrals will come through CAPS. HRA CAPS will identify those populations determined most vulnerable and through discussions with its steering committee determine the population to be served through EHV vouchers. Though the program is available to all eligible households, the anticipated use of the allocation in NYC as determined by the CoC is shown in the table below. Primarily based on the Referring Agency, applications will be directed to NYCHA or HPD.

<b>EHV ELIGIBILITY CATEGORY</b>	<b>Referral Source/lead</b>	<b>Definitions</b>	<b>Priority Level</b>	<b>Goal %</b>
HOMELESS	Sheltering Agencies	Homeless as defined in 24 CFR 578.3;	1	75%
INDIVIDUALS OR FAMILIES WHO ARE FLEEING OR ATTEMPTING TO FLEE DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING OR HUMAN TRAFFICKING	Mayor's Office to End Gender-Based Violence (ENDGBV)	As defined in Notice PIH 2021-15 and in 22 U.S.C. Section 7102)	2	15%
AT RISK OF HOMELESSNESS	HRA Homebase/ACS Foster Care Age Out/Health + Hospital	At risk of homelessness as defined in 24 CFR 578.3	3	8%

---

<sup>7</sup> HPD's Housing Ambassador Program, HRA's Public Engagement Unit (PEU)



<b>EHV ELIGIBILITY CATEGORY</b>	<b>Referral Source/lead</b>	<b>Definitions</b>	<b>Priority Level</b>	<b>Goal %</b>
RECENTLY HOMELESS	The CoC (Permanent Supportive Housing (PSH) or Rapid Rehousing)	Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by CoC or its designee in accordance with the definition in Notice PIH 2021-15.	4	2%

The referral sources/leads will receive the list of eligible households from CAPS and together with contracted service providers will refer households to NYCHA and complete an EHV referral and application through the NYCHA Application Portal.

In collaboration with the CoC, HPD and NYCHA will evaluate vouchers and lease-up rates on a quarterly basis. Allocation of vouchers among different populations may be adjusted as necessary to ensure all available vouchers are used. Additionally, should HPD receive the additional vouchers it requested from HUD, those vouchers will be allocated to the At Risk of Homelessness category.

#### **Applications and Eligibility**

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 consent from each adult family member to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. For the EHV program, Referring Agencies will help applicants submit applications to HPD through NYCHA's online application portal. In the interest of streamlining the application process, HPD will accept applications submitted in this manner as applications for HPD's EHV program. NYCHA and HPD are collaborating and adopting the same verification standards in the review of their applications.

The income eligibility limit for the EHV program is 50% of the Area Median Income (AMI). This income limit applies to all households in the EHV program except for those who qualify under the at risk of homelessness category. For those who are at risk of homelessness, the income eligibility limit is 30% AMI.

### **Consent and Authorization to Release Information**

The *Emergency Housing Voucher Program Referral Form and Consent for the Release of Information* also allows HPD to share information with the Referring Agency and other parties associated with the EHV program with the consent of the Head of the Household as a representative of the family. In addition, it notifies and obtains consent from the applicant that the NYCHA online application may serve as the application to the HPD EHV program and that, accordingly, the consents, declarations, and certifications the Head of Household provides to NYCHA in the EHV application, including those relating to obtaining, using, and disclosing information to determine eligibility for EHV assistance and the completeness and accuracy of the information provided in the application, may also be relied upon by HPD for the same purposes and subject to the same terms and conditions. HPD may also require such consents, declarations and certifications to be made expressly to HPD on forms approved by HPD.

### **Verification Documentation**

In addition to the application, HPD is expanding its usual verification standards for HPD EHV to be consistent with NYCHA standards. HPD will follow its policies (as laid out in Chapter 6) to verify declared information in all areas except those outlined in the *Required Documents*<sup>8</sup> checklist on NYC's *Provider Resources: EHV Information for Service Providers* webpage<sup>9</sup>.

### **Waiting List Management**

When the number of applicants referred by Referring Agencies exceeds the EHV's available at HPD, HPD will maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

The EHV waiting list is not subject to HCV policies regarding opening and closing the HCV waiting list. HPD will work directly with the CoC and other Referring Agency partners to manage the number of referrals and the size of the EHV waiting list.

HPD will refer any applicant on the waiting list who indicates they qualify for HPD's VAWA preference to ENDGBV, the CoC or the applicable Referring Agency. The Referring Agency will determine if the family is eligible (based on the qualifying definition for EHV assistance for those fleeing, or attempting to flee, domestic violence, dating

---

<sup>8</sup> <https://www1.nyc.gov/assets/nyccoc/downloads/pdf/EHV-required-documents.pdf>

<sup>9</sup> <https://www1.nyc.gov/site/nyccoc/ehv/provider-resources.page>

violence, sexual assault, stalking, or human trafficking or another eligible category as applicable) for an EHV.

HPD will refer any applicant on the waiting list that indicates they qualify for the homeless preference to the CoC. The CoC will determine whether the family is eligible for an EHV (based on the qualifying definition for EHV assistance for homelessness or another eligible category as applicable). The CoC will also determine if the family is eligible for other homeless assistance.

Up to date information and resources on the EHV program are available at <http://nyc.gov/ehv>.

## **Housing Search and Leasing**

### **Initial Voucher Term**

All EHV's will have an initial term of 120 calendar days and will receive an automatic extension of 60 days at voucher issuance for a total of 180 days of the voucher term. The voucher holders must submit a Request for Tenancy Approval and proposed lease within the 180-day period.

No extensions will be granted to this 180-day period, except as a Reasonable Accommodation.

### **Briefing**

In addition to following HPD policy on briefings in Chapter 5, as part of the briefing packet for voucher holders, HPD will include a written notice that HPD will assist the voucher holder with moves under portability.

For limited English proficient (LEP) applicants, HPD will provide interpretation services in accordance with HPD's LEP plan (See Chapter 2).

Applicants will receive a briefing book setting forth their rights and responsibilities in the EHV program, including informal hearings and appeals processes, as well as a Frequently Asked Questions document that explains the EHV program.

### **Housing Search Assistance**

As identified in the MOU between the CoC and HPD, the following housing search assistance will be offered to each EHV household. Households who are determined eligible for EHV vouchers will receive support from the point of eligibility determination through to successful move.

#### Application Stage

1. Referring Agencies and their service providing designees will refer households to the NYCHA referral portal for assignment to either NYCHA or HPD and will support households in completing applications and obtaining necessary documentation to complete applications for EHV assistance.

2. Service providers will support HPD and NYCHA in ensuring appointment notifications get to eligible households and will assist households in attending meetings with HPD and NYCHA.

#### Housing Search Stage

1. HPD will launch Neighborhood Choice as part of the EHV program to introduce mobility counseling support to all who are interested in moving to exception payment standard areas (neighborhoods with higher voucher payment standards).
2. As part of Neighborhood Choice, HPD will invite all voucher holders to a workshop describing the benefits of living in areas of higher opportunity.
3. HPD will contract with Housing Navigators to provide housing search support to all voucher holders after they receive their voucher.
4. Housing Navigators will provide eligible households housing search assistance.
5. The following supports will be available during the housing search and leasing process:
  - a. Maximum legal amount, up to 15% of annual rent, payable to a real estate broker as a broker's fee
  - b. Support of the NYC Mayor's Public Engagement Unit (PEU) in outreach to owners and brokers to identify available units through the HOME system and provide support through to lease-up/move in
  - c. Scheduling apartment viewings through PEU
  - d. HRA will provide moving cost assistance to eligible households
  - e. One month security deposit voucher or comparable owner incentive

#### Leasing Support

1. Housing Navigators will assess and refer households to benefits and supportive services, where applicable.
2. HPD will make referrals to partner community-based organizations for EHV program participants at risk of losing their subsidy for failure to comply with requirements or who are at risk of eviction.
3. Housing Navigators will provide each EHV program participant with a "Welcome Home Packet" with information about resources for eviction prevention and setting up utilities and other necessities at the time of lease up.

#### **Denial of Subsidy**

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV program and established alternative requirements for mandatory and permissive prohibitions of admissions. HPD's denial policies (outlined in Chapter 15) will apply, except that the denial/termination reasons below do **NOT** apply to the EHV program:

1. If any member of the household has been evicted from federally assisted housing in the last five years.
2. If a PHA has ever terminated assistance under the HCV program for any member of the household.
3. The household currently owes rent or other amounts to HPD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

4. The household has not reimbursed HPD or any other PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the household under the lease.
5. The household breached an agreement with HPD to pay amounts owed to HPD or amounts improperly paid to an owner by HPD.
6. HPD determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

All denial reasons listed in Chapter 15 of this plan not cited above will also apply to the EHV program.

At the time of application, a Referring Agency must complete and submit the *Emergency Housing Voucher Program Referral Form and Consent for the Release of Information* to establish eligibility under the above criteria. Failure to provide this document will result in denial of assistance for failure to meet program eligibility criteria. HPD staff will confirm that this document is collected and filed and will rely on it as verification of meeting one of the four eligibility criteria above.

### **Housing Quality Standards**

The Housing Quality Standard (HQS) policies outlined in Chapter 8 of this Plan apply to the EHV program, with the following differences:

In lieu of an initial inspection, except as otherwise required below, owners may complete a certification that they have no reasonable basis to believe that life threatening conditions exist in the unit in question. Upon lease up, an HQS inspection of the unit will be scheduled and conducted with the tenant in place. Enforcement action will be taken if these subsequent inspections result in failures.

The owner certification alone does not mean that HPD will proceed to generate a Housing Assistance Payment (HAP) contract. Items including, but not limited to, any of the following may delay or prevent the issuance of a HAP contract:

- open Housing Maintenance Code Class “C” or “I” violation, and/or
- lead-based paint violation/failure issued (where there is a child under six in the household), and/or
- an incomplete Landlord Package.

Where an owner certification is accepted by HPD, the approved units will be inspected within three months after New Admission (the effective date the EHV subsidy began). These inspections will be treated as routine inspections and will result in subsidy abatement if a correction is not completed within the 30-day correction period.

*Households where there is a child under six will not be eligible for self-certification of HQS status. An HQS inspection must be completed by HPD before such a unit is approved for subsidy.*

### **Moving with Continued Assistance**

EHV households will have the opportunity to move with their voucher as described in Chapter 14. Below are differences for households who choose to move outside of New York City.

#### Portability

The normal HCV portability procedures and requirements generally apply to EHV program voucher holders. Exceptions are addressed below.

#### Nonresident Applicants

Under the EHV program, applicant households may move under portability even if the household did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy.

#### Billing and Absorption

A receiving PHA cannot refuse to assist an incoming EHV household, regardless of whether HPD administers EHV's under its own ACC.

- If the EHV household moves under portability to another PHA that administers EHV program vouchers under its own ACC:
  - The receiving PHA may only absorb the incoming EHV household with an EHV program voucher (assuming it has an EHV program voucher available to do so).
  - If the receiving PHA does not have an EHV program voucher available to absorb the household, it must bill the initial PHA. The receiving PHA must allow the household to lease the unit with EHV program assistance and may not absorb the household with a regular HCV program voucher when the household leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV program assistance, the administration of the EHV program voucher must be in accordance with the receiving PHA's EHV policies.
- If the EHV program voucher moves under portability to another PHA that does not administer EHV program vouchers under its own ACC, the receiving PHA may absorb the household into its regular HCV program or may bill the initial PHA.

Portability billing (including but not limited to service fee billing and placement fees) will be conducted in accordance with standard procedures, excepting changes outlined in PIH Notice 2021-15 or any subsequent guidance.

#### Coordination of Services

For EHV families who are exercising portability, when HPD contacts the receiving PHA, HPD will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance. HPD will ensure the receiving PHA is aware of the maximum amount of services fee funding that HPD may provide to the receiving PHA on behalf of the household.

**Informal Hearings**

In addition to the policies laid out in Chapter 16, in order to ensure that EHV program subsidies are terminated only in the most severe cases, participants whose subsidies were terminated, failed to request an informal hearing successfully or in a timely manner, and remain in the assisted unit may submit a Request for Reasonable Accommodation for HPD to consider reinstating their subsidy if a medical condition or disability prevented them from meeting their family obligations or properly requesting an informal hearing.

**Continued Assistance**

Once EHV program participants are admitted into the EHV program, HPD will follow standard procedures (outlined in chapters 8, 9, 13, and 14, among others in this Plan) in providing ongoing assistance (e.g., certifications, moves, HQS, etc.) to these participants. Exceptions to these standard procedures for the EHV program are outlined in this Appendix.

**End of Participation**

Under the EHV program, HPD will follow Chapters 15 and 16 with respect to end of participation and informal hearing policies. The EHV program is authorized and funded for 10 years. HUD guidance to date does not include end of participation at the end of that period. HPD will monitor guidance on whether subsidy must be terminated at the end of the authorization period and notify participants accordingly.

**Use of Funds, Reporting, and Financial Records**

HPD will comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15 (and any other relevant HUD guidance).