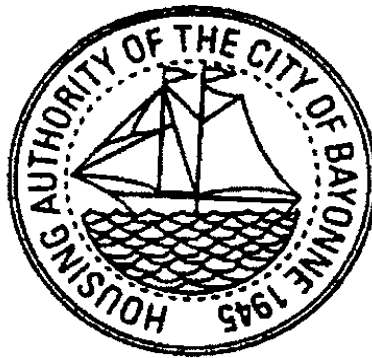


# **HOUSING AUTHORITY OF THE CITY OF BAYONNE**



## **ADMINISTRATIVE PLAN**

*for the*

## **HOUSING CHOICE VOUCHER (Section 8) PROGRAM**

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## **Chapter 1**

### **STATEMENT OF POLICIES AND OBJECTIVES**

#### **INTRODUCTION**

The Section 8 Housing Choice Voucher Program (HCVP) was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937 (the “Act”). The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Housing Choice Voucher Program, are described in and implemented through this Administrative Plan.

Administration of the Section 8 Housing Choice Voucher Program and the functions and responsibilities of the staff of the Housing Authority of the City of Bayonne (the “Authority”) shall be in compliance with the Authority’s Personnel Policy and the U. S. Department of Housing and Urban Development’s (“HUD”) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

#### **A. PURPOSE OF THE PLAN**

The purpose of the Administrative Plan (the “Plan”) is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local objectives. The Plan covers both admission and continued participation in the HCV Program.

The Authority is responsible for complying with all changes in HUD regulations pertaining to this program. If such changes conflict with this Plan, HUD regulations will have precedence. The original Plan and any changes must be approved by the Board of Commissioners of the agency and a copy provided to HUD.

#### **B. LOCAL OBJECTIVES**

The Section 8 HCV Program is designed to achieve three major objectives:

1. To provide decent, safe and sanitary housing for very low income families while maintaining their rent payments at an affordable level.
2. To promote freedom of housing choice for very low income families of all races and ethnic backgrounds.
3. To assist the local economy by increasing the occupancy rate and the amount of money flowing to the community.
4. To encourage self-sufficiency of participant families.

## **C. ACCOMMODATIONS POLICY**

Sometimes, people with disabilities may need a reasonable accommodation in order to take full advantage of the Authority's programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability. Rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the Authority will follow in determining whether it is reasonable to provide a requested accommodation. Since disabilities are not always apparent, the Authority will ensure that all applicants/participants/owners are aware of the opportunity to request reasonable accommodations.

This policy is applicable to all Authority situations described in this Plan when a family initiates contact with the Authority, when the Authority initiates contact with a family, including when a family applies, and when the Authority schedules or reschedules appointments of any kind.

The Authority's operating policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing programs and related services. The availability of specific accommodations will be made known by including notices on Authority forms and letters to all families, and all requests will be verified so that the Authority can properly accommodate the need presented by the disability.

If an applicant or participant has a disability and think they might need or want a reasonable accommodation, they may request it at any time in the application process or at any time they need an accommodation. This is up to them. If they would prefer not to discuss their situation with the Authority that is their right. Any request for an accommodation that would enable a Public Housing tenant or Section 8 Participant to materially violate essential lease terms or program obligations will not be approved, *i.e.* allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, etc.

If more than one accommodation is equally effective in providing access to the Authority's programs and services, the Authority retains the right to select the most efficient or economic choice.

**Live-in Aide 24 CFR Section 5.403.** A live-in aide is a person who resides with one or more elderly persons near elderly persons or persons. A live-in aide is not a member of the assisted family and is not entitled to the voucher as the remaining members of the participant's family.

When Section 8 HCVP applicants are denied placement on the waiting list or the Authority is terminating assistance, the family will be informed that the presence of a disability may be considered as a mitigating circumstance during the informal review process (see Chapter 19 Complaints and Appeals) of grievance hearing on the matter.

Examples of mitigating circumstances are: (a) A person with a cognitive disorder may not have understood the requirement to report increases in income; (b) Minor criminal records for public drunkenness may be due to medication; and (c) prior incarcerations for being disorderly may be due to an emotional disorder.



Applicants/participants who think they have been discriminated against on the basis of a disability may file a complaint with the Authority for investigation and resolution/response. The procedure for reporting, investigating and resolving/responding to such complaints shall be as follows:

- a. Applicant/participants will be asked to report/file complaints in writing to the Authority's Executive Director, but are not compelled to do so.
- b. As soon as possible, but no later than ten (10) calendar days after receiving the complaint, the Executive Director or investigator appointed by the Executive Director, if the complaint is against the Executive Director, will interview the applicant/participant. If the applicant/participant is reluctant to sign a written complaint, the Executive Director or investigator will prepare written notes of the date, time and place of the complaint and the specific allegations. These notes will be read back to the employee/applicant who will be asked to affirm, preferably in writing the information's accuracy.
- c. The Executive Director will render a decision within fourteen (14) calendar days after a thorough investigation of the complaint is completed. If the validity of a complaint cannot be determined, or the complaint is groundless, the complaining employee/applicant shall be notified in writing.
- d. If the investigation reveals that the complaint is justified and substantiated, the Executive Director will formulate a corrective action plan. The complaining party will be notified in writing that it appears that the complaint was justified and an appropriate corrective action plan has been formulated. A copy of the plan shall be attached to the letter. The plan shall provide for appropriate remedial action to prevent a recurrence of the wrongful act or behavior.

It is to be noted that participants in the Section 8 Program have the choice of utilizing the complaint procedure set forth above or the Authority's Section 8 informal hearing procedures.

#### **D. TRANSLATION OF DOCUMENTS**

The Authority has bilingual staff to assist non-English speaking families in the following languages: Spanish, Arabic (Egyptian dialect), and Polish. In determining whether it is feasible to translate documents into other languages, the Authority will consider the following factors:

- Number of applicants and participants who do not speak English.
- Cost of translation into the other language per/client who speaks the language.
- The availability of organizations to translate documents, letters and forms for non-English speaking families.
- Availability of bi-lingual staff to explain un-translated documents to clients.

Currently, the Authority has bilingual staff to assist Spanish speaking families and to translate documents into Spanish, as Spanish is the prominent non-English language spoken by the Authority participants and applicants.

If translation services are required for other languages, the applicant or participant may request a friend or family member to accompany him or her to the meeting or the Authority will refer applicants and participants to agencies who assist ethnic groups.

#### **E. FAMILY OUTREACH**

The Authority will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When the Authority's waiting list is open, the Authority publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in Spanish.

The Authority will communicate the status of housing availability to other service providers in the community, advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

#### **F. OWNER OUTREACH**

The Authority encourages owners of decent, safe and sanitary housing units to lease to Section 8 HCVP families. The Authority maintains a list of interested landlords available for the Section 8 HCV Program. Printed material is offered to acquaint owners and managers with the opportunities available under the program.

#### **G. PRIVACY RIGHTS**

Applicants and participants, including all adults, eighteen (18) years or older in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

The Authority's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information. In accordance with HUD requirements, the Authority will furnish prospective owners with the family's current address as shown in the Authority's records and, if known to the Authority, the name and address of the landlord at the family's current and prior address. A statement of the Authority's policy on release of information to prospective landlords will be included in the briefing packet, which is provided to the family.

Authority 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.

Any and all information which would lead one to determine a person's disability will be removed from a client's file and destroyed or returned to the individual after its use. Client medical information will be limited to the 504 Coordinator and to calculate medical expenses.

## **H. FRAUD & PROGRAM ABUSE**

**Employee Fraud Policy:** Examples of activities constituting fraud and related criminal activities but are not limited to:

1. Bribing and/or kickbacks;
2. False claims or bid-rigging;
3. Theft, embezzlement or other misapplication of funds or assets;
4. Forgery as alteration of documents;
5. Impropriety with respect to reporting financial transactions;
6. Profiting on insiders knowledge;
7. Destruction or concealment of records or assets.

The BHA is responsible for reporting any suspected fraud to HUD's office of the Inspector General's Office of Investigation and to other Federal, State and Local law enforcement authorities.

See Chapter 20, "Program Integrity" for greater detail on employee, owner and participant fraud.

## **I. EQUAL EMPLOYMENT OPPORTUNITY**

The Authority practices affirmative action in hiring, promotion and conditions of employment. Position vacancies are advertised in community facilities and N.A.A.C.P., Spanish American Club are contacted. The Authority's recruitment practices will apply aggressive outreach to community-based racial and ethnic groups so that the composition and culture of the staff reflects the composition and culture of the community, to the extent possible. All Authority job postings will display the affirmative action/equal employment opportunity logo and slogan prominently.

## **J. RULES AND REGULATIONS**

This Plan is set forth to define the Authority's local policies for operation of the housing program in the context of Federal laws and Regulations. All issues related to Section 8 HCVF not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law.

## **K. JURISDICTION**

The jurisdiction of the Authority is the City of Bayonne.

## **L. MONITORING PROGRAM PERFORMANCE**

The BHA's policies, procedures, and tracking systems are designed to respond to the goals, objectives, and performance measures of HUD's Section 8 Management Assessment Program (SEMAP). To comply with HUD and other pertinent regulations, the BHA will maintain records, reports and other documentation for a period of time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to assess BHA's operational procedures objectively and with accuracy.

Specifically, records and reports will be maintained for the purpose of complying with the following SEMAP performance measures:

- The PHA has written policies in its administrative plan for selecting applicants from the waiting list, and the PHA follows these policies when selecting applicants for admission from the waiting list.
- The PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units.
- At admission and reexamination, the PHA verifies and correctly determines adjusted annual income for each assisted family and, where the family is responsible for utilities under the lease, the PHA uses the appropriate utility allowances in determining gross rent.
- The PHA maintains an up-to-date utility allowance schedule.
- A PHA supervisor or other qualified person re-inspects a sample of units during the PHA fiscal year. The sample shall be based on the following calculation: 2000 units must have 30 quality control inspections completed and 1 additional inspection for each increment of 200 units over 2000.
- Following each failed HQS unit inspection, any cited life-threatening HQS deficiencies are corrected within 24 hours and all other cited HQS deficiencies are corrected within 30 calendar days from the inspection or any PHA-approved extension.
- The PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration.
- Voucher payment standards do not exceed 110% of the FMR or HUD approved exception rent limit and are not less than 90% of the current FMR/exception rent limit, unless otherwise approved by HUD.
- The PHA completes a reexamination for each participating family at least every twelve months.
- The PHA correctly calculates tenant rent in the Certificate Program and the family's share of the rent to owner in the Voucher Program.
- Newly leased units pass HQS inspection on or before the beginning date of the assisted lease and HAP contract.

- The PHA inspects each unit under contract bi-annually.
- The PHA executes HAP contracts on behalf of eligible families for the number of units under budget for at least one year.
- The PHA has enrolled families in the FSS program as required and has made progress in supporting FSS as measured by the percentage of current FSS participants with escrow account balances.

*In order to ensure quality control, supervisory staff or contract firms annually complete the following:*

- Audit of two percent (2%) of recent annual reexamination files.
- Pursuant to Federal Register, Vol. 79 No. 122, dated June 25, 2014, a PHA will be allowed to conduct inspections at least bi-annually. If a unit has been inspected within 12 months prior to date of this Federal Register Notice, the BHA will not have to re-inspect the unit for 24 months after the last inspection.

**Reports will be maintained for:**

- Monitoring funding availability, to ensure the Authority is at maximum lease up but not over-leased.
- Tracking outstanding Housing Choice Vouchers for expiration or suspension.
- Timeliness of annual activities.
- Numbers of failed inspections and abatements.
- Number and reason for moves and terminations of assistance.
- Number of new Housing Choice Vouchers issued.
- Repayment of amounts owed the Authority.

**M. WELFARE TO WORK HOUSING VOUCHERS**

- When initially selected, the family must fit into one of the following TANF-related categories:
  - Family is eligible to receive assistance or services funded by TANF.
  - Family is currently receiving assistance or services funded by TANF.
  - Family has received assistance or services funded by TANF within the last two (2) years.
- Section 8 tenant-based assistance must be critical to the family's ability to obtain or retain employment.

*PHA's must work closely with their local TANF agency to:*

- Identify the target population that the program will serve.
- Develop and implement outreach strategies to market the program to one or more of the TANF-eligible populations that their program will serve (is eligible to receive TANF, is currently receiving TANF, or received TANF within the last two (2) years).
- Establish a process and clarify related roles and responsibilities for determining and verifying TANF eligibility.

## **N. TERMINOLOGY**

The Housing Authority of the City of Bayonne is referred to as "Authority," "BHA" or "Housing Authority" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"Participant" is used to refer to a person who is part of the Section 8 Housing Choice Voucher Program (HCVP) administered by the Authority.

See Glossary for other terminology.

## Chapter 2

### **ELIGIBILITY FOR ADMISSION**

#### **INTRODUCTION**

This Authority defines both HUD's and the Authority's criteria for admission and denial of admission to the program. The policy of this Authority is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The Authority staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the Authority pertaining to their eligibility.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the Authority.

The HUD eligibility criteria are:

- An applicant must be a "family";
- An applicant must be within the appropriate Income Limits;
- An applicant must furnish Social Security Numbers; and
- An applicant must furnish evidence of Citizenship/Eligible Immigrant Status.

For the Authority's additional criteria for eligibility, see Section E, "Suitability of Family."

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for issuance of a Voucher, unless the Authority determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

#### **A. FAMILY COMPOSITION AND HOUSEHOLD**

The terms *family* and *household* have different meanings in the Section 8 HCV Program.

**Family:** To be eligible for assistance, an applicant must qualify as a *family*. Family as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, disabled person, near-elderly person, or any other single person;
- A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - An elderly family (a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age);

- A near-elderly family (a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below 62;
- A disabled family (a family whose head (including co-head), spouse, or sole member is a person with a disability;
- A displaced family (a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief), and
- The remaining member of a tenant family.

The Authority has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means the gender with which a person identifies, regardless of sex assigned to that person at birth and regardless of the person's perceived gender identity.

*Perceived gender identity* means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.

*Sexual orientation* means one's emotional or physical attraction to the same and/or opposite sex.

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

**Household:** *Household* is a broader term that includes additional people who, with the Authority's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Family Breakup And Remaining Member Of Tenant Family [24 CFR 982.315]:** Except under the following conditions, the Authority has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, or stalking, the Authority must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see Chapter 16 of this plan.)
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the Authority is bound by the court's determination of which family members continue to receive assistance.



When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. Other former family members may make a new application with a new application date if the waiting list is open.

In the absence of a judicial decision or an agreement among the original family members, the Authority will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the Authority will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals involved.

**Remaining Member of a Tenant Family [24 CFR 5.403]:** The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 5 for the policy on “Exceptions to Subsidy Standards – Changes in Household Composition.”

**Head of Household:** The head of household is the adult member of the household who is designated by the family as head, is responsible for paying the rent, and Authority’s the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household. The Head of Household is responsible for ensuring that the family fulfills all its responsibilities under the program, alone or in conjunction with a co-head or spouse.

A family may designate an elderly or disabled family member as head of household solely to qualify the family as an Elderly Household, provided that the person is at least partially responsible for paying the rent.

**Spouse of Head of Household:** Spouse means marriage partner of the head of household. A marriage partner includes the partner in a common law marriage as defined in state law.

The definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others or co-heads of household.

**Co-Head of Household:** A co-head is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all its responsibilities under the program, but who is not a spouse. A family can have only one co-head. Minors who are emancipated under state law may be designated as a co-head.

**Other Adult of Household:** Other adult means a family member, other than the Head, spouse, or co-head, who is 18 years of age or older. Foster adults and Live-In-Aides are not considered other adults.

**Live-In Aides:** A Family may include a live-in aide provided that such live-in aide:

- Is determined by the Authority to be essential to the care and well-being of an elderly person, a near elderly person, or a person with a disability. A near elderly person may be defined as someone at least 50 years of age;
- Is not obligated for the support of the person(s); and
- Would not be living in the unit except to provide care for the person(s) and does not have a right to the apartment or to the Section 8 rental assistance subsidy.
- Live-in aide will be required to sign a consent form allowing the Authority to conduct a criminal background check in accordance with the Authority's Administrative Plan.

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

1. Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
2. Live-in aides are not subject to Non-Citizen Rule requirements.
3. Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above. A relative who serves as a Live-In-Aide is not considered a family member and would not be considered a remaining member of a tenant family.

Family members of a live-in attendant may also reside in the unit providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the live-in's family members does not overcrowd the unit.

A Live in Aide may only reside in the unit with the approval of the Authority. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is essential for daily care of the family member who is elderly, near-elderly or disabled.

In addition, occasional, intermittent, multiple or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances.

The Authority will not approve a person as a live-in aide, and may withdraw such approval if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the Authority or to another Authority in connection with Section 8 or public housing assistance under the 1937 Act.

**Split Households Prior to Voucher Issuance:** When a family on the waiting list splits into two (2) otherwise eligible families and the new families both claim the same placement on the waiting list, and there is no court determination, the Authority will make the decision taking into consideration the following factors:

1. Which family member applied as head of household.
2. Which family unit retains the children or any disabled or elderly members.
3. Restrictions that were in place at the time the family applied.
4. Role of domestic violence in the split.
5. Recommendations of social service agencies or qualified professionals such as children's protective services.

**Multiple Families in the Same Household:** When families apply which consist of two (2) families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a single family unit.

**Joint Custody of Children:** Children who are subject to a joint custody agreement, but live with one parent at least fifty one percent (51%) of the time, will be considered members of the household. "Fifty one percent (51%) of the time" is defined as one hundred eighty three (183) days of the year, which do not have to run consecutively.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

## **B. TYPES OF LOW INCOME FAMILIES**

*Low-income family* means a family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family* means a family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family* means a family whose annual income does not exceed the higher of the poverty guidelines established by the Department of Health and Human Services or 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

*In order to be eligible for assistance, an applicant must be either:*

- A very low-income family; or
- A low-income family in any of the following categories:
  - continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within sixty (60) days of voucher issuance. Programs include public housing, all Section 8 programs, all Section 23 programs.
  - physically displaced by rental rehabilitation activity under 24 CFR part 511.
  - non-purchasing family residing in a HOPE 1 or HOPE 2 project.
  - non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173.
  - displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.

**Using Income Limits For Targeting:** Not less than seventy-five percent (75%) of new admissions to the tenant-based HCV program must have incomes at or below thirty percent (30%) of the area median. Other admissions generally may be at or below eighty percent (80%) of the area median.

Extremely Low Income (“ELI”) families are defined as very low-income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level.

In some communities with very low median incomes, the federal poverty level may equal or exceed the very low-income (VLI) limit for some or all household sizes. (in general, a VLI family is defined as a family whose income does not exceed 50 percent of the area median income.) In these relatively rare instances, the ELI limit is set at the VLI limit, and consequently any family whose income meets the VLI limit also qualifies as an ELI family.

For admission to the program (initial lease-up), the family must be within the very low-income limit of the jurisdiction where they want to live.

**Portability:** For initial lease-up, families who exercise portability must be within the very low income limit for the jurisdiction of the receiving Authority in which they want to live.

### **C. MANDATORY SOCIAL SECURITY NUMBERS**

Families are required to provide verification of Social Security Numbers for all family members prior to admission. This requirement also applies to persons joining the family after admission to the program.

Participant families will receive a 90 day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one additional 90-day period must be granted if the PHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant.

For example, an applicant may be able to demonstrate timely submission of a request for a SSN, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, the PHA or processing entity must impose appropriate penalties, in accordance with 24 CFR 5.218.

**Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.**

### **D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

**Mixed Families:** A family is eligible for assistance as long as at least one member is a citizen, national or eligible immigrant. 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 a hearing if they contest this determination.

**Ineligible members:** Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

**Non-citizen students:** defined by HUD in the non-citizen regulations are not eligible for assistance. A non-citizen student is a person admitted to this country temporarily solely for the purpose of pursuing a course of study who has a residence in another country that the person has no intention of abandoning.

**Appeals:** For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

## **E. TIMEFRAME FOR DETERMINATION OF CITIZENSHIP STATUS**

For new occupants joining the assisted family, the Authority must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first. If an individual qualifies for a time extension for the submission of required documents, the Authority must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy. The Authority will verify the status of applicants at the time other eligibility factors are determined.

## **F. SUITABILITY OF FAMILY**

The Authority may take into consideration any of the additional criteria for admission in Section E above, but may not otherwise screen for factors, which relate to the suitability of the applicant family as tenants. It is the responsibility of the owner to screen the applicants as to their suitability for tenancy.

The Authority will advise families how to file a complaint if they have been discriminated against by an owner. The Authority will advise the family to make a Fair Housing complaint. The Authority could also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

## **G. CHANGES IN ELIGIBILITY PRIOR TO VOUCHER ISSUANCE**

Changes that occur during the period between placement on the waiting list and issuance of a Voucher may affect the family's eligibility or Total Tenant Payment ("TTP").

## **H. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See Chapter 19, "Complaints and Appeals" for additional information about reviews and hearings.

<b>Informal Reviews Required</b>	<b>Informal Reviews Not Required</b>
Decisions Concerning:  Listing on PHA's Waiting List Certificate or Voucher Issuance Participation in Program Any Type of Preference	  Unit Size under PHA's Subsidy Standards Rejection of Units that fail HQS or are not in accordance with Family Size Disapproval of Owner's Lease Refusal to Extend Voucher General Policy Issues or Class Grievances Discretionary Administrative Determinations by PHA

## Chapter 3

### **APPLYING FOR ADMISSION**

#### **INTRODUCTION**

The policy of the Authority is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the Authority will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

#### **A. OPENING/CLOSING OF WAIT LIST and TAKING APPLICATIONS**

When the Authority opens the waiting list, the Authority will advertise through public notice in the following newspapers, minority publications and media entities. Location(s), and program(s) for which applications are being accepted in the local paper of record, “minority” newspapers, and other media including:

Newspapers: Jersey Journal, and Bayonne Community News.

Others: Bayonne Cablevision and local agencies.

Minority/education news and local agencies

Office on Aging

Bayonne Economic Opportunity Foundation

**The notice will contain:** the dates, times, and the locations where families may apply; the programs for which applications will be taken; a brief description of the program; a statement that Public Housing residents must submit a separate application if they want to apply for Section 8; and limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. The notices will provide potential applicants with information that includes the Authority address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

**When Application Taking Is Suspended:** The Authority may suspend the acceptance of applications if there are enough local Preference holders to fill anticipated openings for the next twelve (12) months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws. Any time that there are not enough applicants who claim a local preference, the Authority may reopen the list only to applicants who claim a local preference. Suspension of application taking is announced in the same way as opening the waiting list.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 months. The Authority will give at least three (3) days not less than three (3) days' notice prior to closing the list. When the period for accepting applications is over, the Authority will add the new applicants to the list by separating the new applicants into groups based on preferences and ranking applicants within each group by date and time of application.

**Limits on Who May Apply:** When the waiting list is open, any family asking to be placed on the waiting list for Section 8 Rental Assistance will be given the opportunity to complete an application. When the application is submitted to the Authority it establishes the family's date and time of application for placement order on the waiting list.

## **B. APPLICATIONS**

The Authority will utilize an application form. The information is to be filled out by the applicant whenever possible. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The purpose of the application is to permit the Authority to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The application will contain questions designed to obtain, but not limited to, the following information:

- Names of adult members and age of all members;
- Sex and relationship of all members;
- Street Address and phone numbers;
- Mailing Address (If P.O. Box or other permanent address);
- Amount(s) and source(s) of income received by household members;
- Information regarding disabilities to determine qualifications for allowances and deductions;
- Information related to qualification for preferences;
- Social Security Numbers;
- Race/ethnicity;
- Citizenship/eligible immigration status;
- Convictions for Drug Related or Violent Criminal Activity or any other offense
- Previous address;
- Current and previous landlords' names and addresses;
- Emergency contact person and address;
- Program integrity questions regarding previous participation in HUD programs;



Duplicate applications, including applications from a segment of an applicant household, will not be accepted. Ineligible families will not be placed on the waiting list.

Applications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

**When the Authority Will be Able to Offer a HCV Voucher:** Applicants are required to inform the Authority in writing within five (5) business days of changes in family composition, income, and address, as well as any changes in their Preference status. Applicants are also required to respond to requests from the Authority to update information on their application, or to determine their continued interest in assistance.

Failure to provide information or to respond to mailings will result in the applicant being removed from the waiting list. See Chapter 19, "Complaints and Appeals".

### **C. NOTIFICATION OF APPLICANT STATUS**

If, after a review of the application, the family is determined to be preliminarily eligible, they will be notified of the same, in writing, or in an accessible format upon request as a reasonable accommodation. This written notification of preliminary eligibility will be mailed to the applicant by first class mail.

If the family is determined to be ineligible based on the information provided in the application, the Authority will notify the family in writing or in an accessible format upon request as a reasonable accommodation. It will state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See Chapter 19, "Complaints and Appeals."

### **D. WAIT LIST SELECTION**

When funding is available, families will be selected from the waiting list according to date and time of application and preference category, regardless of family size. When there is insufficient funding available for the family at the top of the list, the Authority will not admit any other applicant until funding is available for the first applicant.

A pool of completed eligible applicant files will be maintained to minimize delays in admissions when funding becomes available. However, families are still offered a voucher in the waiting list sequence. The waiting list contains, but is not limited to, the following information for each applicant listed:

- Applicant Name
- Family Unit Size (number of bedrooms family qualifies for under the Authority Section 8 subsidy standards)
- Date and time of application
- Qualification for any local preference
- Income Information
- Racial or ethnic designation of the head of household

Based on the Authority's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "pool." Selection from the pool will be based on waiting list sequence/completion of verification.

#### **E. COMPLETION OF A FULL APPLICATION**

All Ranking or Local Preferences claimed on the application or as a result of any updates to the application, or while the family is on the waiting list will be verified after the applicant is selected from the waiting list and prior to completing the full application.

The qualification for preference must exist at the time the preference is verified regardless of the length of time an applicant has been on the waiting list because the preference is based on current status. After the preference is verified, when the Authority is ready to select applicants, applicants will be required to complete a full application in their own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicants will then be interviewed by Authority staff to review the information on the full application form.

The application will be mailed to the applicant in advance of the interview. All adult members of the household must be present during the interview to complete.

**Requirement to Attend Interview:** When an applicant is selected from the waiting list, the Authority schedules an interview for the applicant family. The head and spouse and any household member eighteen (18) or older are required to attend the interview.

The Authority utilizes the updated application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other Authority services or programs which may be available.

It is the applicant's responsibility to reschedule the interview if she/he misses the appointment. If the applicant does not reschedule or misses one (1) scheduled meeting, the Authority will reject the application. Applicants who fail to appear for the interview and want to reschedule a missed appointment must make the request to reschedule no later than three (3) business days from the original appointment date. The request must be made to the staff person who scheduled the appointment.

If an applicant fails to appear for either interview, without prior approval of the Authority, their application will be denied unless they can provide acceptable documentation to the Authority that an emergency prevented them from calling or attending the meeting. Please note, the Authority, at its sole discretion, consider if unforeseen and/or mitigating circumstances prevented the applicant from appearing or calling for a missed appointment.

Reasonable accommodation will be made for persons with a disability who requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with permission of the person with a disability.

All adult members eighteen (18) years or older must sign the HUD Form 9886, entitled, the “Release of Information” and the Authority’s internal Release of Information form, the application form and all supplemental forms required by the Authority, the declarations and consents related to citizenship/immigration status and any other documents required by the Authority. Applicants will be required to sign specific verification forms for information that is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the Authority. Information provided by the applicant will be verified including information related to family composition, the Criminal Background, credit, income, allowances and deductions, assets, eligible immigration status, full time student status and other factors related to preferences, eligibility and rent calculation. Verifications may not be more than sixty (60) days old at the time of Voucher issuance.

The HUD form 9886 and the Authority’s own form for the release of information authorizes HUD and the Authority to obtain third party verification of the following:

- a. Any income information or materials from State Wage Information Collection Agencies (“SWICA”)
- b. Income information obtained from previous and current employers.
- c. Credit.

If the Authority determines at or after the interview that additional information or document(s) are needed, the Authority will request the document(s) or information in writing. The family will be given ten (10) working days to supply the information. Failure to respond within the time frame specified will result in the withdrawal of application.

## **F. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY**

After the verification process is completed, the Authority will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the Authority, and the current eligibility criteria in effect. If the family is determined to be eligible, the Authority will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the HCV Program. If the applicant is determined ineligible, the applicant has the opportunity to request in writing an informal review within 14 days of the notification.

**Removal from the Waiting List:** Applicants shall be removed from the waiting list for the following reasons:

- Failure to respond to two (2) Authority written communications regarding failure to comply with application update, applicant interview, and applicant briefing requirements. If a letter is returned by the Post Office without a forwarding address, or unclaimed, the applicant will be removed without further notice, and the envelope will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.
- Refusal to accept the offer of a Housing Choice Voucher (Section 8).
- Determined ineligible.

- If the applicant falsifies documents or makes false statements with regard to their application in order to qualify for any preference, they will be removed from the waiting list.
- Applicant requests removal

It is the sole discretion of the Authority to review, on a case-by-case basis, whether an applicant will be required to re-apply for Section 8 assistance or is entitled to reinstatement with their original date of application.

#### **G. STATUS INQUIRY**

The Authority will respond by way of status inquiry form concerning an applicant's status on the HCV waiting list. The applicant may only submit an inquiry three (3) times within a calendar year. All inquiries will be responded to within sixty (60) days from the Authority's receipt of the initial inquiry. If the U.S. Post Office returns the Authority's response, the application will be withdrawn from the HCV waiting list without further notice.

**Return of Correspondence by the US Postal Service as Undeliverable:** If correspondence mailed to the mailing address provided by the applicant at the time of application (or to any subsequent address provided by the applicant) is returned as undeliverable by the US Postal Service, the Authority will not make any further attempt to contact the applicant, and the applicant's name will be withdrawn from the waiting list without further notice.

## Chapter 4

### **ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST**

#### **INTRODUCTION**

It is the Authority's objective to ensure that the families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies. Also so that an offer of assistance is not delayed to any family, or made to any family prematurely.

This chapter defines the eligibility criteria for the number of local Preferences and Ranking preferences and explains the Authority's system of applying them. It explains the local preferences, which the Authority has adopted to meet local housing needs.

By maintaining an accurate waiting list, the Authority will be able to perform the activities, which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

#### **A. APPLICATION POOL**

*The waiting list will be maintained in accordance with the following guidelines:*

1. The application will be a permanent file.
2. All applicants in the pool will be maintained in the order of preference. Applications equal in preference will be maintained by date and time sequence.
3. All applicants must meet "Very Low Income" eligibility requirements as established by HUD. Any exceptions to these requirements, other than those outlined in Chapter two (2), "Eligibility for Admission," must have been approved previously by the HUD Field Office.
4. **Income Targeting**: At least seventy- five percent (75%) of new admissions during a PHA's fiscal year shall be targeted to extremely low income families (families at or below thirty-percent (30%) of median income. An exemption may be granted if the PHA provides an outreach and does not have enough applicants on file that are below thirty-percent (30%).
5. **Families exempt from the income targeting rule are**: certificate families converting to vouchers; continuously assisted families; and families displaced by prepayment or voluntary termination of HUD contracts

**Special Admissions**: Applicants who are admitted under Special Admissions, rather than from the waiting list, are identified by codes in the automated system and are not maintained on separate lists.

**Targeted Funding:** Applicants who are admitted under targeted funding which are not identified as a Special Admission are also identified by codes in the automated system and are not maintained on separate waiting lists.

**Determining US Residency:** If the applicant meets income requirements, the Authority determines whether the applicant also meets residency (citizenship and immigration status) requirements in accordance with HUD policy and using procedures as set forth in procedural bulletins or memoranda.

If the applicant is ineligible due to U.S. residency requirements, the applicant is notified of the determination to withdraw and of the applicant's right to an informal hearing

## **B. EXCEPTIONS FOR SPECIAL ADMISSIONS**

If HUD awards the Authority program funding that is targeted for specifically named families, the Authority will admit these families under a Special Admission procedure. Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. They are not counted in the limit on non-federal preference admissions. The Authority maintains separate records of these admissions.

*The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:*

1. A family displaced because of demolition or disposition of a public or Indian housing project;
2. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
3. For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
4. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
5. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.
6. This includes any special rules for use of available funds when HUD provides funding to the Authority for a special purpose (e.g. desegregation) including funding for specified families or a specified category of families.
7. Families residing in developments that have been approved under the Rental Assistance Demonstration ("RAD") program.

## **C. WAITING LIST PREFERENCES**

The Authority will not apply a system of preferences. Applications will be ordered by the date and time they are received by the Authority. An applicant will not be granted any preference ranking or local if any member of the family has been evicted from any federally-assisted housing.

The Authority will grant an exception to such a family if: The responsible member has successfully completed a rehabilitation program; The evicted person was not involved in the drug related activity that occasioned the eviction; or The evicted person is no longer involved in any drug related criminal activity.

If an applicant makes a false statement in order to qualify for a ranking or a local preference, the Authority will deny admission to the program for the family.

#### **D. LOCAL PREFERENCES/LOCAL PREFERENCE CATEGORIES**

Local preferences will be used to select among applicants on the waiting list. The Authority uses the Residency Local Preference for families who live in the jurisdiction. A public hearing was held to adopt local preferences.

*Applicants who are entitled to a preference by Local policy include:*

- Involuntarily displaced;
- Currently living in substandard housing (including homeless families);
- Currently paying more than fifty- percent (50%) of their income for rent and utilities ("Rent Burden");
- A veteran with a discharge status other than dishonorable.

Descriptions of these Preferences and their "definitional elements" (or sub-categories) follow.

**Involuntary Displacement:** Applicants who have been involuntarily displaced and are not living in standard, permanent replacement housing, or will be involuntarily displaced within no more than six months from the date of verification by the Authority. Families are considered to be involuntarily displaced if they are required to vacate housing as a result of:

1. A disaster (fire, flood, earthquake, etc.) that has caused the unit to be uninhabitable;
2. Federal, state or local government action related to code enforcement, public improvement or development; or
3. Action by a housing owner which is beyond an applicant's ability to control, and which occurs despite the applicant's having met all previous conditions of occupancy, and is other than a rent increase.

For purposes of this definitional element, reasons for applicant's having to vacate a housing unit include, but are not limited to:

- Conversion of an applicant's housing unit to non-rental or non-residential use;
- Closure of an applicant's housing unit for rehabilitation or non-residential use;
- Notice to an applicant that she/he must vacate a unit because the owner wants the unit for the owner's personal or family use or occupancy;
- Sale of a housing unit in which an applicant resides under an agreement that the unit must be vacant when possession is transferred; or
- Any other legally authorized act that results, or will result, in the withdrawal by the owner of the unit or structure from the rental market.

4. Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family. The actual or threatened violence must be of a continuing nature. An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.

To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the Authority gives prior written approval.

*The Authority will consider approval for the return of the abuser to the household under the following conditions:*

- The abused has formally requested the return of the abuser;
- The Authority verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior; or
- A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

The Authority will take precautions to ensure that the new location of the family is concealed in cases of domestic abuse. If the abuser returns to the family without approval of the Authority, the Authority will deny or terminate assistance for breach of the certification.

5. To avoid reprisals because the family provided information on criminal activities to a law enforcement agency and, after a threat assessment, the law enforcement agency recommends re-housing the family to avoid or reduce risk of violence against the family. The family must be part of a Witness Protection Program, or the HUD Office or law enforcement agency must have informed the Authority that the family is part of a similar program. The Authority will take precautions to ensure that the new location of the family is concealed in cases of witness protection.
6. If a member of the family has been the victim of one or more hate crimes, and the applicant has vacated the unit because of the crime or the fear of such a crime has destroyed the applicant's peaceful enjoyment of the unit. A hate crime is actual or threatened physical violence or intimidation that is directed against a person or his property and is based on the person's race, color, religion, sex, national origin, disability or familial status, including sexual orientation, and occurred or is of a continuing nature.
7. Displacement by non-suitability of the unit when a member of the family has a mobility or other impairment that makes the person unable to use critical elements of the unit and the owner is not legally obligated to make changes to the unit. Critical elements are entry and egress of unit and building, a sleeping area, a full bathroom, a kitchen if the person with a disability must do their own food preparation/other.
8. Due to HUD disposition of a multifamily project under Section 203 of the Housing and Community Development Amendments of 1978.



**Standard Replacement Housing:** In order to receive the displacement preference, applicants who have been displaced must not be living in "standard, permanent replacement housing." Standard replacement housing is defined as housing that is decent, safe and sanitary according to Housing Quality Standards ("HQS") and local housing code/other, that is adequate for the family size according to HQS local/state/BOCA code, and that the family is occupying pursuant to a written or oral lease or occupancy agreement.

Standard replacement housing does not include transient facilities, hotels, motels, temporary shelters, and (in the case of Victims of Domestic Violence) housing occupied by the individual who engages in such violence. It does not include any individual imprisoned or detained pursuant to State Law or an Act of Congress. Shared housing with family or friends will be considered on a case-by-case basis.

**Substandard Housing:** Applicants who live in substandard housing are families whose dwelling meets one or more of the following criteria provided that the family did not cause the condition:

1. Is dilapidated, as cited by officials of a code enforcement office and does not provide safe, adequate shelter; has one or more critical defects or a combination of defects requiring considerable repair; endangers the health, safety, and well-being of family.
2. Does not have operable indoor plumbing.
3. Does not have usable flush toilet in the unit for the exclusive use of the family.
4. Does not have usable bathtub or shower in unit for exclusive family use.
5. Does not have adequate, safe electrical service.
6. Does not have an adequate, safe source of heat.
7. Should, but does not, have a kitchen. (Single Room Occupancy [SRO] Housing is not substandard solely because it does not contain sanitary and/or food preparation facilities in the unit).
8. Has been declared unfit for habitation by a government agency.
9. Is overcrowded according to local code.
10. An applicant who is a "Homeless Family" is considered to be living in substandard housing. "Homeless Families" lack a fixed, regular and adequate nighttime residence. They also may have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations (including welfare hotels, congregate shelters and transitional housing), or an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not ordinarily used as a sleeping accommodation for human beings.

Homeless families may maintain their place on the waiting list while completing a transitional housing program. Families who are residing with friends or relatives on a temporary basis will be considered homeless.

**Rent Burden:** Families paying more than fifty percent (50%) of their income for rent and utilities for at least ninety (90) days commencing before they were selected from the Waiting List and continuing through the verification of preference will receive this preference.

For purposes of this preference, "Family Income" is "Gross Monthly Income" as defined in the regulations. "Rent" is defined as the actual amount due under a lease or occupancy agreement calculated on a monthly basis without regard to the amount actually paid, plus the monthly amount of tenant-supplied utilities which can be either:

1. The Authority's reasonable estimate of the cost of such utilities, using the Section 8 Utility Allowance Schedule; or
2. The average monthly payments the family actually made for these utilities in the most recent twelve (12) month period, or if information is not obtainable for the entire period, the average of at least the past six (6) months.

An applicant family may choose which method to use to calculate utilities expense. Any amounts paid to or on behalf of a family under any energy assistance program must be subtracted from the total rent burden if included in Family Income. The applicant must show that they actually paid the utility bills, regardless of whose name the service is under.

To qualify for the Rent Burden preference, the applicant must pay rent directly to the landlord or agent. If the applicant pays their share of rent to a cohabitant and is not named on the lease, the Authority will require both verification from the Landlord that the applicant resides in the unit, and verification from the cohabitant of the amount of rent paid by the applicant.

If the applicant is subletting, the lessor must have the legal right to sublet.

If an applicant owns a mobile home, but rents the space upon which it is located, then "Rent" must include the monthly payment made to amortize the purchase price of the home.

Members of a cooperative are "renters" for the purposes of qualifying for the preference. In this case, "Rent" would mean the charges under the occupancy agreement.

#### **E. TARGETED FUNDING**

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

## **F. PREFERENCE ELIGIBILITY**

**Change in Circumstances:** Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the Authority in writing when their circumstances change within five (5) business days of its occurrence. When an applicant claims an additional preference, she/he will be placed on the waiting list in the appropriate order determined by the newly claimed preference.

**Cross-Listing of Public Housing and Section 8:** The Authority will not merge the waiting lists for Public Housing and Section 8. However, if the Section 8 waiting list is open when the applicant is placed on the Public Housing list, the Authority must offer to place the family on both lists.

## **G. ORDER OF SELECTION**

*The order of selection is based on the Authority's system for ranking preferences.*

**Local Preferences:** Local preferences will be used to select families from the waiting list. The Authority will rank all local preferences equally.

**Among Applicants with Equal Preference Status:** Among applicants with equal preference status, the waiting list will be organized by date and time.

## **H. FINAL VERIFICATION OF PREFERENCES [24 CFR 5.415]**

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the Authority will mail a Preference Verification letter to the applicant's last known address requesting verification of the family's preference claim and mail third-party verifications as applicable.

## **I. PREFERENCE DENIAL**

If the Authority denies a preference, the Authority will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal meeting. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may appeal to the Board of Commissioners if not satisfied with the Authority's determination.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the Waiting List.

## **J. REMOVAL FROM WAITING LIST AND PURGING**

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the applicant can provide adequate documentation as to why they did not respond.

The waiting list will be purged at management's discretion by mailing a letter to all applicants to ensure that the waiting list is current and accurate. The verified mailing will ask for current information and confirmation of continued interest.

The same guidelines will be used for failure to respond to the mailing. Notices will be made available in accessible format upon the request of a person with a disability.

Applicants are required to contact the Authority in writing to confirm their continued interest.

## Chapter 5

### **SUBSIDY STANDARDS**

#### **INTRODUCTION**

HUD guidelines require that the Authority establish subsidy standards for the determination of Voucher bedroom size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the Voucher size also must be within the minimum unit size requirements of HUD's Housing Quality Standards. This chapter explains the subsidy standards, which will be used to determine the voucher size for various sized families when they are selected from the waiting list, as well as the Authority procedures when a family's size changes or a family selects a unit size that is different from the Voucher.

#### **A. DETERMINING VOUCHER SIZE**

The Authority does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The Authority's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines. For subsidy standards, an adult is a person eighteen (18) years or older.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements. The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

1. Generally, the Authority assigns one bedroom to two (2) people within the following guidelines:
  - Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom.
  - Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship. Young children of the opposite sex (up to, and including 6 years of age) may share a bedroom with a parent.
  - Foster children will be included in determining unit size only if they will be in the unit for more than six (6) months.
  - Live-in aide/attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the live-in aide's family.
  - Space may be provided for a child who is a full time student and away at school but who lives with the family during school recesses with the appropriate supporting documentation.
  - Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.
  - Adults of different generations will have separate bedrooms.
  - Single person families shall be allocated an efficiency unit or one bedroom.

- A Family that consists of only a pregnant woman must be treated as a two (2) person family.

## **B. EXCEPTIONS TO SUBSIDY STANDARDS**

**Changes In Household Composition:** The Voucher size is determined prior to the briefing by comparing the family composition to the Authority's subsidy standards. If an applicant requires a change in the Voucher size, the following guidelines will apply.

It is the participant family's obligation to inform the Authority of the birth, adoption or court-awarded custody of a child, except when the family has custody of a minor, and to request the Authority's approval to add any other family member as an occupant of the unit. The family must document custody to be allowed to add minors to the household. The family must request prior approval of additional household members in writing. The Authority may deny requests to add household members who would cause the family to be overcrowded and require a larger unit size. When adding an adult member (who otherwise would not be eligible), the Head of Household will be required to sign a stipulation requesting an additional room for the added member.

If the family does not obtain prior written approval from the Authority, any person the family has permitted to stay or move in will be considered an unauthorized household member. Likewise, if a family member leaves the household, the family must report this change to the Authority and the owner, in writing, within 30 days of the change and certify as to whether the person is temporarily or permanently absent. An adult member who has been removed from the household may not be added back into the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption, or court-awarded custody

**Exception to Subsidy Standards:** The Authority will grant an exception upon request as a reasonable accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a verified medical or health reason.

A family may request a larger sized or Voucher than indicated by the Authority's subsidy standards. Such request must be made in writing within ten (10) working days of the Authority's determination of bedroom size. The request must explain the need or justification for a larger bedroom size. Requests based on health related reasons must be verified by a medical professional.

If the Authority errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size so that the family is not penalized.

**Underhoused and Overhoused Families:** If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the Authority will issue a new voucher and assist the family in locating a suitable unit. The Authority will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is under housed in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by the Authority.
- The Authority and family have been unable to locate a unit within sixty (60) days.

### **C. UNIT SIZE SELECTED**

The family may select a different size dwelling than that listed on the Voucher. The criteria to consider is as follows:

1. **Subsidy Limitation:** the Authority will apply the Payment Standard for the bedroom size shown on the Voucher or the size of the actual unit selected by the family, whichever is less.
2. **Utility Allowance:** The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

Generally, HQS allows two persons per bedroom or sleeping room and permits maximum occupancy levels shown below. The standard allowable living space (other than kitchen and bathroom) to be utilized as sleeping room, provided it meets minimum footage, lighting, and other requirements as per state and local codes, whichever is more stringent.

### **HQS GUIDELINES FOR UNIT SIZE SELECTED**

<i>Voucher size</i>	<i>Persons in Household (Minimum#)</i>	<i>Persons in Household (Maximum #)</i>
<i>0 Bedroom</i>	<i>1</i>	<i>1</i>
<i>1 Bedroom</i>	<i>1</i>	<i>2</i>
<i>2 Bedroom</i>	<i>2</i>	<i>4</i>
<i>3 Bedroom</i>	<i>3</i>	<i>6</i>
<i>4 Bedroom</i>	<i>4</i>	<i>8</i>

## Chapter 6

# **FACTORS RELATED TO TOTAL TENANT PAYMENT DETERMINATION**

### **INTRODUCTION**

The Authority will use the methods in this Administrative Plan to verify and determine the family income is correct. The accurate calculation of income will ensure that families are not paying more or less money for rent than their obligation under the regulations.

This chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with Federal Regulations and further instructions set forth in HUD Notices, Memoranda, and Addenda. The formula for the calculation of the TTP is specific and not subject to interpretation. The Authority's policies in this Chapter address those areas that allow the Authority discretion to define terms and to develop standards in order to ensure the consistent application of the various factors that relate to the determination of TTP.

### **A. INCOME AND ALLOWANCES**

**Income:** includes all amounts which are received on behalf of the family. For the purposes of calculating TTP, HUD defines what is to be included and what is to be excluded as income in the Federal Regulations. In accordance with this definition, all income that is not specifically excluded in the regulations is counted.

**Annual Income:** is defined as the gross amount of income anticipated to be received by the family during the twelve (12) months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

*To further explain:*

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

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



***(b) Annual income includes, but is not limited to:***

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount;
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;

**Adjusted Income:** is defined as the Annual Income minus any HUD allowable deductions. HUD has five allowable deductions from Annual Income:

1. Dependent allowance: four hundred and eighty dollars (\$480) each for family members (other than the head or spouse), who are minors, and for family members who are eighteen (18) and older who are full-time students or who are disabled.
2. "Elderly" allowance: four hundred dollars (\$400) for families whose head or spouse is sixty-two (62) or over or disabled.
3. Allowable medical expenses for all family members are deducted for "elderly" families.
4. Child care expenses for children under thirteen (13) are deducted when child-care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. Expenses for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

## **B. "MAXIMUM INITIAL RENT" BURDEN**

A family must not pay more than forty percent (40%) of adjusted income for rent when the family first receives Section 8 tenant based assistance for occupancy of a particular unit. This requirement only applies for a family that initially receives tenant-based assistance for occupancy of a unit after the merger date of October 1, 1999. However, the maximum initial rent burden requirement is not applicable if the family stays in the same unit where the family initially received assistance for occupancy of the unit prior to the merger of October 1, 1999. The maximum initial rent burden requirement is applicable each time a participant moves to a new unit. (Section 8(o)(3) of the U.S.H. Act, 42 U.S.C. 1437 f(3); 24 CFR 982.508)

## **C. "MINIMUM RENT" AND MINIMUM FAMILY CONTRIBUTION**

Minimum rent includes the combined amount (TTP) a family pays towards rent and/or utilities. Minimum family contribution in the HCV Program is fifty dollars (\$50.00).

## **D. HARDSHIP EXCEPTION TO \$50.00 MINIMUM RENTS**

A tenant under the HCV Program may be eligible to have their minimum rent reduced to "zero". The Authority shall grant an exception to the minimum rent requirements if the tenant can demonstrate a hardship circumstance expected to be of a long-term basis (over ninety (90) days) as follows:

- Family has lost eligibility or is awaiting determinations for a federal, state or local assistance program.
- The Family income decreased because of a change in circumstances including the loss of employment.
- A death in the family occurred which affected their ability to pay their rent.
- Family would be evicted as a result of imposing the minimum rent requirement.
- Family is unable to pay the minimum rent.
- Family experiences other circumstances as determined by the Authority.

It is the tenant's responsibility to provide written documentation, dates and/or names and telephone numbers of persons who may verify information, and any other information that may assist the Authority in making a decision. The request for a hardship exemption must be in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent. All decisions made by the Authority in regard to minimum rent decisions are subject to an informal hearing which the tenant would request in writing to the Authority.

When a family requests a financial hardship exemption, the Authority will suspend the minimum rent requirement and adjust the HAP payment effective the beginning of the month following the family's hardship request until the Authority determines whether there is a qualifying hardship and whether such hardship is temporary or permanent. "Suspension" means that the Authority must not charge the family a minimum rent or, if applicable, discontinue charging the family a minimum rent.

**If the Authority determines that the qualifying financial hardship is temporary,** a minimum rent will be suspended for a period of ninety (90) days beginning the first of the month following the date of the family's request for a hardship exemption. At the end of the ninety (90) day suspension period, a minimum rent will be imposed retroactively to the time of suspension. A reasonable repayment agreement shall be offered for any minimum rent back-payment by the family.

**If the Authority determines that the financial hardship is of a long-term duration,** the Authority will exempt (retroactively to the beginning of the month following the date of the family's request for a minimum rent exemption) the family from the payment of the minimum rent until the hardship no longer exists.

The Authority will not grant an interim rent adjustment if the loss of income will be less than three (3) weeks.

#### **E. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

The Authority must compute all applicable income of every family member approved to live in the unit, including those who are temporarily absent. In addition, the Authority must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease. Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The Authority will evaluate absences from the unit using this policy.

**Absence of Entire Family:** These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the Authority will terminate assistance in accordance with appropriate termination procedures contained in this Administrative Plan.

Families are required both to notify the Authority and the owner before they move out of a unit and to give the Authority information about any family absence from the unit. If it is determined that the family is absent from the unit, the Authority will continue assistance payments for a maximum of thirty (30) days. Families must notify the Authority and the owner if they are going to be absent from the unit for more than thirty (30) consecutive days.

HUD regulations require the Authority to terminate assistance if the entire family is absent from the unit for a period of more than sixty (60) consecutive calendar days. "Absence" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, the Authority may, but is not limited to:

- Write letters to the family at the unit;
- Telephone the family at the unit;
- Interview neighbors;
- Verify if utilities are in service; and/or
- Perform special inspections

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed one hundred eighty (180) consecutive calendar days limit. If required, the Authority may reinstate the family to the Program if the following applies:

- The absence which resulted in termination of assistance was due to a person's disability.
- The Authority can verify that the person was unable to notify the Authority in accordance with the family's responsibilities.
- Funding is available.

**Absence of Any Individual Member:** Any member of the household will be considered permanently absent if she/he is away from the unit for two (2) consecutive months except as otherwise provided in this Chapter.

**Absence due to Medical Reasons:** If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the Authority will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home or other facility, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than sixty (60) consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the Authority's "Absence of Entire Family" policy referenced above.

**Absence due to Incarceration:** If the sole member of the household is incarcerated for more than sixty (60) consecutive days, she/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if they are incarcerated for sixty (60) days. The Authority will determine if the reason for incarceration is for drug-related or violent criminal activity and pursue appropriate action.

**Foster Care and Absences of Children:** If the family includes a child or children temporarily absent from the home due to placement in foster care, the Authority will determine from the appropriate agency when the child/children will be returned to the home. If the time period is determined to be greater than sixty (60) consecutive days from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the Authority's subsidy standards.

**Absence of Adult:** If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the Authority will treat that adult as a visitor for the first thirty (30) days. If, by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the Authority will review the status at thirty (30) days intervals. If custody or legal guardianship has not been awarded by the court but the action is in process, the Authority will secure verification from social services staff or the attorney as to the status. The Authority will transfer the Voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than thirty (30) days and it is reasonable to expect that permanent custody will be granted.

When the Authority approves a person to reside in the unit as caretaker for the children, the income should be counted pending a final disposition. The Authority will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases. When a final disposition of custody is determined, the income of the caretaker will also be counted as family income for purposes of determining TTP.

If a member of the household is subject to a court order that restricts him/her from the home for more than sixty (60) days, the person will be considered permanently absent. If an adult family member leaves the household for any reason, the family must report the change in family composition to the Authority within ten (10) working days. **The family must provide two (2) types of verification of new address** such as PSE&G bill, telephone bill, driver's license; or a new lease.

The family is required to notify the Authority in writing (Certified Return Receipt) within ten (10) working days when an adult family member moves out. The notice must contain a certification by the family as to whether the adult is temporarily or permanently absent. The family member will be determined permanently absent if verification is provided. Time extension will be granted as an accommodation upon request by a person with a disability.

If an adult child goes into the military and leaves the household, they will be considered permanently absent. Full-time students who attend school away from the home and live with the family during school recess will be considered permanently absent from the household.

**Visitors/Guests:** A guest means a person temporarily staying in the unit with the consent of the tenant or other member of the household who has express or implied authority to consent on behalf of the tenant. Any adult not included on the HUD 50058 who has been in the unit more than fourteen (14) consecutive calendar days, or a total of thirty (30) days in a twelve (12) month period, will be considered to be living in the unit as an unauthorized household member. Absence of evidence of any other address will be considered verification that the visitor is a unauthorized member of the household.

Statements from neighbors and/or the landlord will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence. The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the Authority will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to one hundred twenty (120) days per year without being considered a member of the household.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50% of the time, are not subject to the time limitation of guests. In a joint custody arrangement, if the minor is in the household less than one hundred twenty (120) days per year, the minor will be considered to be an eligible visitor and not a family member.

**Reporting Additions to Owner and the Authority:** The family obligations require the family to request the Authority's approval to add any other family member as an occupant of the unit and to inform the Authority of the birth, adoption or court-awarded permanent custody of a child. The family must request prior approval of additional household members in writing. In addition, the person requesting to be added to the leaseholder's household, must undergo a criminal background check, sign a Release of Information form, credit check, as well as providing all required information as well. If the family does not obtain prior written approval from the Authority, any person the family has permitted to move in will be considered an unauthorized household member. An interim reexamination will be conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition. If the addition to the household requires a separate bedroom, which in turn causes over-utilization of unit, the family will be issued a new Voucher, changing voucher size be required to relocate to an appropriate sized unit.

**Reporting Absences to the Authority:** Reporting changes in household composition is both a HUD and an Authority requirement. If a family member leaves the household, the family must report this change to the Authority, in writing, within ten (10) working days of the change and certify as to whether the member is temporarily absent or permanently absent. The written notice must state the exact amount of time the family member will be absent. The Authority must also be informed in writing if the unit will be vacant for thirty (30) or more days. The Authority will conduct an interim evaluation for changes, which affect the TTP in accordance with the interim policy.

#### **F. AVERAGING INCOME**

*When Annual Income cannot be anticipated for a full twelve (12) months, the Authority may:*

1. Average known sources of income that vary to compute an annual income, ***or***;
2. If there are bonuses or overtime which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

Income from the previous year may be analyzed to determine the amount to anticipate when third party or check-stub verification is not available. If by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so that the housing payment will not change from month to month. The method used depends on the regularity, source and type of income.

## **G. MINIMUM INCOME**

There is no minimum income requirement. Families who report zero income are required to complete a written certification. The Authority can request a justification as to how the family is paying for daily and routine needs. Families are required to pay a minimum TTP (rent and utilities) of \$50 a month. The Authority may grant an Exception to the Minimum Rent requirement as detailed in Section "D" above.

## **H. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME**

If a family member is permanently confined to a hospital or nursing home and there is a family member left, the Authority will re-calculate the TTP by excluding the income of the person permanently confined to the nursing home or other facility and remove the deductions for medical expenses of that family member.

The Authority will request verification from a responsible medical professional to determine whether the family member is temporarily or permanently out of the household. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

The income and deductions of the absent member is included in the TTP calculation if his/her income goes to a family member.

## **I. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]**

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the TTP. Any contribution or gift received every twelve (12) months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than ten percent (10%) of annual income. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See Chapter 7, "Verification Procedures," for further definition.)

If the family's expenses exceed its known income, the Authority will question the family about contributions and gifts.

## **J. ALIMONY AND CHILD SUPPORT**

Regular alimony and child support payments are counted as income for calculation of TTP. If the amount of child support or alimony received is less than the amount awarded by the court, the Authority must use the amount awarded by the court unless the family can verify that they are not receiving the full amount. The Authority will accept as verification that the family is receiving an amount less than the award if:

- The Authority receives verification from the agency responsible for enforcement or collection.

- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

It is the family's responsibility to supply a certified copy of the divorce decree.

#### **K. ASSETS AND LUMP-SUM RECEIPT OF INCOME**

The Authority generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the Authority to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the Authority believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the Authority can take into consideration past rental income along with the prospects of obtaining a new rental income.

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the Authority to show why the asset income determination does not represent the family's anticipated asset income.

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, legal gambling winnings, are not included in income but may be included as assets.

Lump-sum payments caused by delays in processing periodic payments (unemployment or welfare assistance) are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump sum receipt, the Authority uses a calculation method retroactively or prospectively depending on the circumstances.

**Prospective Calculation Methodology:** If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated by adding the entire lump-sum payment to the annual income at the time of the interim.

**Retroactive Calculation Methodology:** The Authority will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer. The Authority will then determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the Authority. At the Authority's option, the Authority may enter into a Payment Agreement with the family. The amount owed by the family is a collectible debt even if the family becomes unassisted.



**Attorney Fees:** The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

#### **L. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS**

*Contributions to company retirement/pension funds are handled as follows:*

1. While an individual is employed, the Authority will count as assets only amounts the family can withdraw without retiring or terminating employment.
2. After retirement or termination of employment, the Authority will count any amount the employee elects to receive as a lump sum.

#### **M. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

The Authority must count assets disposed of for less than Fair Market Value during the two years (2) preceding certification or reexamination. The Authority will count the difference between the market value and the actual payment received in calculating total assets. Assets disposed of as a result of foreclosure or bankruptcies are not considered to be assets disposed of for less than Fair Market Value. Assets disposed of as a result of a divorce or separation is also not considered to be assets disposed of for less than Fair Market Value.

The Authority's minimum threshold for counting assets disposed of for less than Fair Market Value is \$5,000. If the total value of assets disposed of within a one-year period is less than \$5,000, they will not be considered an asset.

#### **N. ADJUSTED INCOME**

Adjusted Income is defined as Annual Income minus any HUD allowable deductions. HUD has five allowable deductions from Annual Income as follows:

- **Dependent allowance:** \$480 each for family members who are minors (other than the head or spouse or co-head) and for family members who are 18 years or older and full-time students or disabled.
- **Reasonable Child Care Expenses:** Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
- **Elderly/disabled allowance:** \$400 per family for families whose head or spouse is 62 or over or disabled.
- **Allowable medical expenses:** Unreimbursed medical expenses which exceed three percent of Annual Income may be deducted for all family members of an eligible elderly/disabled family.

- **Allowable Disability Assistance Expenses:** Unreimbursed medical expenses which exceed three percent (3%) of Annual Income which are for attendant care or auxiliary apparatus for persons with disabilities, may be deducted when the expenditure enables the individual or an adult family member to work. If a family has both Disability Assistance and Medical

## **O. CHILD CARE EXPENSES**

Child care expenses for children under thirteen (13) may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment.

In the case of a child attending private school, only after-hours care can be counted as child care expenses. For expenses, three (3) percent of Annual Income is applied only once and always to the Disability Assistance expense first.

Child-care expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the child-care. Examples of those adult members who would be considered unable to care for the child include:

- \* The abuser in a documented child abuse situation, or
- \* A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.

*Deductions for child-care expenses are approved based on the following guidelines:*

**Child-care in order to work:** The maximum child-care expense allowed must be less than the amount earned by the person enabled to work. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

**Child-care for school:** The number of hours claimed for child-care may not exceed the number of hours the family member is attending school (including one hour travel time to and from school).

**Amount of Expense:** The Authority may survey the local care providers in the community/collect data as a guideline. If the hourly rate for child-care provided by the family member materially exceeds the guideline, the Authority may calculate the allowance using the community-based guideline.

## **P. MEDICAL EXPENSES**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide. Medical expenses include, but are not limited to: services of physicians and other health care professionals, services of health care facilities, health insurance premiums (including the cost of Medicare), prescription and non-prescription medicines, hearing aids and batteries, attendant care (unrelated to employment of family members), and payments on accumulated medical bills.

To be considered by the Authority for the purpose of determining a deduction from income, the expenses claimed must be verifiable. Nonprescription medicines must be doctor-recommended in order to be considered a medical expense. Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

Acupressure, acupuncture, artificial limbs, Braille books and magazines, chiropractor, crutches, dental treatment, hearing aids, health insurance premiums, home care, hospital services, laboratory fees, long-term care, monthly payment on medical bills, prescription medicines, nursing home, optometrist, oxygen, surgery, therapy, transportation, and related herbal medicines, will be considered allowable medical expenses.

#### **Q. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]**

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

"Mixed" families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. (See Chapter 12, "Re-certifications.") Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

**Prorated Assistance Calculation:** Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment is the gross rent minus the prorated assistance.

#### **R. REDUCTION IN BENEFITS**

If the family's benefits, such as Social Security, SSI or TANF were reduced due to family error, omission, or misrepresentations, the Authority will use the gross amount of the benefit. (Section 512 of the 1998 Act).

If a family's Welfare benefits are reduced or eliminated due to the family's failure to participate in an economic self-sufficiency program, to comply with a work requirement, or as a result of fraud, the Authority will not reduce rent to reflect the lost benefit. The Authority will include as annual income the "imputed welfare income", which is the amount of annual income not actually received by the family as a result of a specified welfare benefit reduction. The Authority will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.

The Authority will obtain written verification from the welfare agency that the benefit reduction was caused by non-compliance or by fraud before denying a family's request for recertification of income and rent reduction. The prohibition against reducing rent will not apply when welfare benefits are lost because the lifetime or other term limit on receipt of benefits has expired, in a situation where the family has complied with welfare requirements but cannot obtain employment, or because a family member has not complied with other welfare agency requirements. Any family denied a rent reduction after a loss of welfare benefits will be informed of its right to an informal hearing.

**Annual income does not include the following:**

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8)
  - (i) Amounts received under training programs funded by HUD;
  - (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the HABC or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the HABC's governing board. No resident may receive more than one such stipend during the same period of time;
  - (v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veteran's Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the FEDERAL REGISTER and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

***Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits***

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 5058);

c) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, section 6);

g) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

- h)** Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);
- i)** Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(g));
- j)** Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.);
- k)** Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);
- l)** The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- m)** Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
- n)** Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- o)** Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- p)** Any allowance paid under the provisions of 38 U.S.C. 1833© to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- q)** Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c ));
- r)** Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
- s)** Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC;
- t)** Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));

- u) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. 1437a(b)(4));
- v) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self Determination Act (NAHASA) (25 U.S.C. 4101 *et seq.*) and administered by the Office of Native American Programs;
- w) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitles *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
- x) Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
- y) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 20113-30 “Exclusions from Income Payments under Recent Tribal Trusts Settlements” (25 U.S.C. 117b(a)); and
- z) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

## **S. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

The Utility allowance is intended to help defray the cost of utilities not included in the rent and is subtracted from Total Tenant Payment to establish the family's rent to the landlord. It is updated annually by HUD and based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on the individual family's actual energy consumption.

The updated and approved utility allowance schedule is given to families along with their Voucher during the briefing session. The appropriate utility allowance will be used based on the lesser of size of unit rented by family or voucher size issued as determined under the Authority's subsidy standards. The utility allowances will be applied in a participant family's rent calculation at the next reexamination.

Where the utility allowance exceeds the family's Total Tenant Payment, the Authority will provide a utility reimbursement payment for the family each month. The check will be made out directly to the tenant unless the tenant has agreed, in writing, to a payment directly to the utility company. The utility bill must be in the name of the head of household, spouse or co-head of household. A Utility Allowance will not be provided during the period that the utilities are not in the name of the head of household/co-head.

Section 242 established a cap on the utility allowance for families leasing oversized units. The cap is set at an amount based on family size rather than the size of the unit leased, with the ability to set a higher amount to provide a reasonable accommodation to the family of a person with disabilities, corresponding the utility allowance with the payment standard requirement.

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, the Authority will use the appropriate utility allowance for the size of the dwelling unit leased by the family.



## **Chapter 7**

### **VERIFICATION PROCEDURES**

**[24 CFR Part 5, Subparts B, D-F; 24 CFR 982.516; CFR 982.551,  
Notice PIH-2018-18]**

#### **INTRODUCTION**

HUD regulations require that the factors of eligibility and Total Tenant Payment be verified by the Authority. Applicants and program participants must furnish proof such whenever required by the Authority, and the information they provide must be true and complete. The Authority's verification requirements are designed to maintain program integrity. This Chapter explains the Authority's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and when there are changes in family members. The Authority will ensure that proper authorization from the family is always obtained before making verification inquiries.

#### **A. VERIFICATION HIERARCHY AND TECHNIQUES**

In accordance with HUD regulations, the Authority is required to use the Enterprise Income Verification (EIV) System to verify employment and income information during mandatory annual and interim reexaminations of family composition and income. EIV provides employment, wage, unemployment compensation and Social Security benefit information derived from computer matching programs initiated by HUD with the Social Security Administration (SSA), Health & Human Services (HHS), and National Directory of New Hires (NDNH) database for all Program participants.

The Authority should begin with the highest level of verification techniques. However, regardless of technique, the Authority is required to review information provided by the Income Validation Tool (IVT) report which is updated monthly and provides a comparison between tenant reported income and income previously reported on the form HUD-50058. It includes any discrepant income information, as well as income, wage, unemployment compensation and SSA benefit information for the head of household and all family members.

Prior to admission into the Program, the Authority is required to review the EIV Income and Former Tenant Search reports involving another Public Housing Authority or a Multi-family entity and follow-up on any issues identified. The report and documentation of any follow-up must remain in the tenant file.

The following verification hierarchy applies to income determinations for applicants and Participants. However, EIV is not available to verify the income of applicants so lesser techniques listed must be utilized:

<b>Level</b>	<b>Verification Technique</b>	<b>Ranking</b>
<b>6</b>	<b>Upfront Income Verification (UIV)</b> , using HUD's Enterprise Income Verification (EIV) system and the <b>Income Validation Tool (IVT)</b> – <i>not available for income verifications of new applicants.</i>	<b>Highest</b> (Mandatory)
<b>5</b>	<b>Upfront Income Verification (UIV)</b> using non-HUD system	<b>Highest</b> (Optional)
<b>4</b>	<b>Written Third-Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute.)
<b>3</b>	<b>Written Third-Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation.)
<b>2</b>	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third-party verification is not available.)
<b>1</b>	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third-party verification.)

The Authority will allow at least three (3) weeks for return of third-party verifications.

For applicants, verifications may not be more than 60 days old at the time of Voucher issuance. For participants, they are valid for 90 days from date of receipt.

**Enterprise Income Verification (“EIV”) & You Brochure:** The EIV & You Brochure is provided to Participants and potential Participants to inform them about the EIV system, the data that is available about them, how the information will be used, and their responsibility as a Participant. A signed return receipt will be signed by the participant and kept in the Participant's file that will indicate the Participant received the brochure concerning EIV.

**Debts Owed to Public Housing Agencies and Terminations:** This information is maintained within HUD's EIV system and used to verify employment and income information of program Participants, as well as, to reduce administrative and rental assistance payment errors. The form contains information that PHAs are required by HUD to report at the conclusion of participation in a HUD rental assistance program. It contains information regarding who has access to the report, how the information is used and the Participant's rights. Applicants and Program Participants are provided a copy of the notice which they must sign to acknowledge receipt of the form.

**Written Verification Third-Party Verification:** Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information source to release the specified information. The verification documents must be supplied directly to the independent source by the Authority and returned directly to the Authority from the independent source. Verifications received electronically directly from the source are considered third party written verifications. Third party verification forms will not be hand carried by the family under any circumstances.

The Authority will not accept verifications delivered by the family except computerized printouts from the following agencies:

- Social Security Administration
- Veterans Administration
- Welfare Assistance
- Unemployment Compensation Board
- City or County Courts

**Oral Third-Party Verification:** Oral third-party verification will be used when written third-party verification is delayed or not available. Independent verification of income and/or expenses will be obtained by contacting the individual income/expenses source(s) supplied by the family via telephone or in-person visit. The Authority will document in the tenant/applicant file, the date and time of the telephone call, the name of the person contacted and the telephone number, along with the confirmed verified information which includes the facts provided. The Authority staff will originate the call. This verification will be used in the event that the independent source does not respond to the Authority's faxed or mailed request for information within ten (10) business days.

The Authority will accept the following documents from the family provided that the document has not been tampered with or altered:

- Consecutive and original pay-stubs
- Social Security Administration award letter
- Bank statements
- Pension benefit statements
- Temporary Assistance to Needy Families ("TANF") award letter
- Other official and authentic documents from a Federal, State, or Local agency
- Computer print-outs from employees

All documents must be dated within the last sixty (60) days of the interview. The Authority will accept faxed documents and photocopies. If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the Authority will utilize the third-party verification. The Authority will not delay the processing of an application beyond ninety (90) days because a third party information provider does not return the verification in a timely manner.

**Tenant Declaration/Self-Certification:** When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification. Self-certification is a notarized statement/affidavit/certification/statement sworn under penalty of perjury and must be witnessed. This verification method will be used as a last resort when all other verification methods are not possible. When the Authority relies on tenant/applicant certification, the Authority must document in the tenant/applicant file why third-party verification was not available.

## **B. RELEASE OF INFORMATION**

All household members from the age eighteen (18) will be required to sign specific authorization forms when information is needed that is not covered by the form HUD 9886, Authorization for Release of Information. Each adult member requested to consent to the release of information will be required to review and sign appropriate forms. Copies will be provided upon request. Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information requested by the Authority or HUD.

## **C. ITEMS TO BE VERIFIED**

The following listing is provided as an example of information that must be verified. It is not intended to represent an exhaustive listing of all possible items.

- All income not specifically excluded by the regulations.
- Zero-income status of household.
- Full-time student status including high school students who are 18 or over.
- Current assets, including assets disposed of for less than fair market value in the preceding two years.
- Child care expense when child care allows an adult family member to be employed, to seek employment, or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow an adult family member to be employed.
- Legal identity, such as U.S. citizenship or eligible immigrant status.
- Social Security numbers for all family members over six (6) years of age and have been issued a number.
- Qualification of preferences and preference status based upon ranking and federal/local preferences
- Familial/marital status when needed for head or spouse definition.
- Disability status for determination of preferences, allowances or deductions.
- Pregnancy of a woman who applies to live alone as a family.
- Documentation for need of live-in aide.
- Insurance/deed/ownership/RE taxes/water and sewerage/tax form ID of property owner such as W-9, Social Security Number or Employer Identification Number.
- Medical requests.
- Any other information required to ensure Program compliance.

- All above documents are subject to HUD regulations and will be revised to comply with HUD regulations as updated.

#### **D. VERIFICATION OF INCOME**

This section defines the methods the Authority will use to verify various types of income. Applicants and Program participants may be requested to sign an Authorization for Release of information from the Internal Revenue Service for further verification of income.

*Sources of income to be verified include:*

- Employment income
- Social Security, pensions, Supplemental Security Income (SSI), Disability income
- Unemployment compensation
- Welfare or General Assistance
- Alimony and/or child support payments
- Net income from a business, including a child-care business
- Recurring gifts
- Zero-income status
- Full-time student status

*Acceptable methods of verification include:*

- Computer matching reports in electronic or hard copy format.
- Award or benefit verification forms completed by the agency providing the benefits.
- Employment verification forms completed by the employer; paycheck stubs/earning statements indicating the employee's gross pay, frequency of pay or year to date earnings; W-2 forms and income tax returns; self-certifications such as a notarized statement.
- Bank statements for direct deposits.
- Financial statements for a business, including IRS forms, for the past year.
- The value, regularity and purpose of recurring gifts, as well as identifying the gift giver.
- Written verification from the registrar's office and enrollment records

#### **E. INCOME FROM ASSETS**

The Authority will use current circumstances to determine the value of an asset and the anticipated income from the asset. Acceptable methods of verification include, in this order:

**Checking and Savings Accounts:** For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero. In determining the value of a checking account, the Authority will use the average monthly balance for the last three months. In determining the value of a savings account, the Authority will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the Authority will multiply the value of the account by the current rate of interest paid.

- Account statements, passbooks, certificates of deposit, or The Authority verification forms completed by the financial institution.
- Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
- IRS Form 1099 from the financial institution, provided that the Authority must adjust the information to project earnings expected for the next twelve (12) months.

**Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market**

**Funds:** Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash. In determining the market value of an investment account, the Authority will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Authority will calculate asset income based on the earnings for the most recent reporting period.

**Interest Income from Mortgages or Other Capital Investments:** The Authority will use:

- A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next twelve (12) months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
- Amortization schedule showing interest for the twelve (12) months following the effective date of the initial certification or annual re-certification.

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

In determining the equity, the Authority will use the assessed market value used to determine local tax purposes. The Authority will obtain market value by reviewing the local assessment roll of the owner's most recent property tax liability bill. The Authority will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the Authority will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]

- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The Authority must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the Authority determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

**Net Rental Income from Property Owned by Family:** Verification includes the review of:

- IRS Form 1040 with Schedule E (Rental Income).
- Copies of latest rent receipts, leases, or other documentation of rent amounts.
- Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

## **F. VERIFICATION OF ASSETS**

**Family Assets:** The Authority will require the necessary information to determine the current cash value, (the net amount the family would receive if the asset were converted to cash).

- Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.
- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.
- Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

**Assets Disposed of for Less than Fair Market Value (FMV):** HUD regulations require the Authority to count as a current asset any business or family asset that was disposed of for less than fair market value during the two (2) years prior to the effective date of the examination/reexamination. When the two (2) year period expires, the income assigned to the disposed asset(s) also expires. If the two (2) year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

For all certifications and recertifications, the Authority will obtain the family's certification as to whether any member has disposed of assets for less than fair market value during the two (2) years preceding the effective date of the certification or re-certification.

If the family certifies that they have disposed of assets for less than fair market value, verification [or certification] is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible. The Authority may verify the value of the assets disposed of if other information available does not appear to agree with the information reported by the family.



Assets placed by the family in irrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments. The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement. To qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order. Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

## **G. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

**Child Care:** The household must provide written verification from the person who receives the payments. If the childcare provider is an individual, s/he must provide a statement of the amount they are charging the family for their services. Verifications must specify the child care provider's name, address, telephone number, Social Security Number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods. The family must certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

The type of care to be provided is determined by the assisted family. The Authority may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

**Medical Expenses:** Families who claim medical expenses or expenses to assist a person(s) with disability will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
- Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
- Written confirmation from the Social Security Administration's notice of Medicare premiums to be paid by the family over the next twelve (12) months. A computer printout will be accepted.

The Authority will make its best effort to determine what expenses from the past are likely to continue to occur in the future. The Authority will also accept evidence of monthly payments on total payments that will be due for medical expenses during the upcoming 12 months. The Authority must verify that the household is eligible for the deducted costs are qualified medical expenses, and the expenses are not paid for or reimbursed by any other source.

*For attendant care:*

- (a) Certification from a reliable, knowledgeable professional that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
  - (b) Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next twelve (12) months.
  - Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next twelve (12) months.
  - Receipts or other record of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. The Authority may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.
  - The Authority will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

**Live-In Aide Care:** *Live-in aide* is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

A participant may request a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the Program accessible to and usable by the family member with disabilities. A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations. Relatives may be approved as Live-In Aides if they meet all the criteria defining a Live-In Aide. However, a relative who serves as a Live-In Aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a Live-In Aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional that the Live-In Aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new written request, subject to Authority verification, at each annual reexamination.

In addition, the family and Live-In Aide will be required to submit a certification stating that the Live-In Aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. The Authority may not approve a person as a Live-In Aide, or may withdraw such approval in accordance with its Live In Aide Policy.

**Assistance to Persons with Disabilities:** To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. In all situations the following must be provided:

- Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
- Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

*For Attendant Care:*

- (a) Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
- (b) Certification of family and attendant and/or copies of canceled checks family used to make payments.

*For Auxiliary Apparatus:*

- (a) Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus or other evidence of monthly payments.
- (b) In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment or total payments that will be due for the apparatus during the upcoming 12 months.

In addition, the Authority will verify that: the family member for whom the expense is incurred is a person with disabilities; the expense permits a family member, or members, to work.; and, the expense is not reimbursed from another source.

## **H. VERIFYING NON-FINANCIAL FACTORS**

**Verification of Legal Identity:** In order to prevent Program abuse, the Authority will require applicants to furnish verification of legal identity for all family members. The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid NJ Driver's license (photo only)
- U.S. military discharge (DD 214)
- U.S. passport
- Company/agency Identification Card
- Department of Motor Vehicles Identification Card (photo only)
- Hospital records

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- Certificate of Birth
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

If none of these documents can be provided, a third party who knows the person may, at the Authority's discretion, provide verification.

**Verification of Marital Status:** Verification of marriage status is a marriage certificate. Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer. Verification of a separation may be a copy of court-ordered maintenance or other records.

**Familial Relationships:** Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification. The following verifications will always be required if applicable:

*For verification of relationship:*

- Official identification showing names or Birth Certificates
- Baptismal certificates
- Adoption papers

*For verification of guardianship:*

- Court-ordered assignment
- Verification from social services agency
- School records

**Verification of Permanent Absence of Adult Member:** If an adult member who was formerly a member of the household is reported permanently absent by the family, the Authority will consider any of the following as verification:

- Legal papers documenting a spouse instituted divorce or legal separation action.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease/rental agreement, if available.
- Statements from other agencies, such as social services, or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- If no other proof can be provided, the Authority may accept a self-certification from the family.
- If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

**Verification of Change in Family Composition:** The Authority may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

**Verification of Disability:** Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)). A disability may also be verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD definition as the verification format.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

**Verification of Citizenship/Eligible Immigrant Status:** To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the Authority's hearing is pending.

**Verification of Social Security Numbers:** Social Security numbers must be provided as a condition of eligibility for all family members. A Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or Social Security Number from Social Security Administration

All family members will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect. This information is to be provided at the time the change in family composition is reported to the Authority.

If an applicant or participant is unable to disclose the Social Security Number and cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the Authority. The applicant/participant or family member will have an additional thirty (30) days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least sixty (62) years of age, the Authority may grant an extension for an additional sixty (60) days to a total of one hundred twenty (120) days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

**Medical Need for Larger Unit:** A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable medical professional.

## **I. WAITING LIST PREFERENCES [24 CFR 5.410-5.430]**

### **Local Preferences**

#### *1. Involuntary Displacement:*

- a). Families who claim they are being or have been displaced due to either a disaster or government action: written verification by the displacing unit or agency of government, or by a service agency such as the Red Cross.
- b). Families who claim they are being or have been displaced because of actions taken by the owner/agent of the unit the family is renting: Notification by owner to family of the action/ written verification by the owner or agent/documents such as sales agreements, foreclosure notices or building permits.
- c). Families who claim they are being or have been displaced due to domestic violence:  
Requires written verification from police, social service agency, court, clergy person, physician, and/or public or private facility giving shelter and/or counseling to victims.
- e). Families who claim to be displaced by hate crimes and submit a written statement from law enforcement agency, HUD, Fair Housing or other agency responsible for non-discrimination advocacy. Statement should contain approximate number of occurrences and date of last occurrence.
- f). Displacement by inaccessibility of unit requires a statement from the owner of the unit that critical elements are inaccessible, and that the owner is not going to make the needed modifications, or permit the family to make the modifications.

- g) Displacement by HUD disposition of a project: Written verification from HUD.
- h) Determination of Standard Replacement Housing: Inspection by an Authority inspector.

2. *Living in Substandard Housing:*

- a) Families who claim to be living in a substandard housing unit must provide written verification by a government agency and a completed inspection certified by family head of household
- b) "Homeless" families must provide a written certification by a public or private facility providing shelter, the police, or a social services agency. Prior to processing the application, the Authority requires a second certification from the same source that the applicant is not yet permanently housed and has been continuously homeless or temporarily housed since claiming the preference. If a family is in transitional housing and wishes the Authority to hold the family's place on the waiting list, a statement is required from the agency providing the transitional housing.

3. *Rent Burden: Paying more than fifty percent (50%) of income for rent:*

Families will be required to verify their income, the amount of rent and utilities they are obligated to pay, and the period of time they have been residing in the unit. They must furnish copies of rental receipts/the lease/canceled checks/money orders. The Authority may contact the landlord directly by mail or telephone. The Authority compares the address with address(es) used on other documents in the file. If there is no rental agreement, and no other landlord verification, the Authority will require documentation for three (3) months.

4. *Veterans Preference:*

Certification of service in the Armed Forces with a discharge status other than dishonorable is required.

**Ranking Preference - Residency**

In selecting applicants for participation in the Section 8 HCV Program, Bayonne residents will be given first preference at all times. A Bayonne resident is defined as a person residing within the City of Bayonne limits. *Note: the residency preference does not guarantee admission into the Program. Every applicant must still meet all eligibility requirements.* In order to verify that an applicant is a resident, the Authority will require a minimum of two (2) of the following documents: utility bills, employer or agency records, school records, drivers licenses, credit reports, notarized statement from household with whom the family is residing.

## Chapter 8

### VOUCHER ISSUANCE AND BRIEFINGS

#### INTRODUCTION

The Authority's objectives are to assure that families selected to participate are successful in obtaining an acceptable housing unit, and that they have sufficient knowledge to derive maximum benefit from the program and to comply with program requirements. When families have been determined to be eligible, the Authority will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, the Authority procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program, including the benefits of moving outside areas of low-income concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition, income, etc. will be handled.

#### **A. ISSUANCE OF VOUCHERS [24 CFR 982.302 (d), 982.54(d)(2)]**

When funding is available, the Authority will issue Vouchers to eligible applicants. The issuance of Vouchers must be within the dollar limitations set by the ACC (Annual Contributions Contract) budget. The number of Vouchers issued must ensure that the Authority maintains a maximum 100% lease-up. The Authority performs a monthly calculation electronically to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the Authority can over-issue (issue more Vouchers than the budget allows).

The Authority may over-issue Vouchers only to the extent necessary to meet leasing goals. If the Authority finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

**Notification and Attendance:** Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be denied assistance and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.



## **B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]**

**Initial Applicant Briefing:** A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in individual meetings. Briefings for the Voucher Program will be held separately. Briefings will be conducted in English. The Authority will make arrangements for non-English speaking applicants. The purpose of the briefing is to explain the documents in the HCV holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The Authority will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for another briefing. Applicants who fail to attend one-scheduled briefings, without prior notification and approval of the Authority, may be denied admission based on failure to supply information needed for certification. The Authority will conduct individual briefings for families with disabilities at their home, upon request by the family, if required as a reasonable accommodation.

**Oral Briefing:** Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher Program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the Authority's jurisdiction;
- For families eligible under portability, an explanation of portability. The Authority cannot discourage eligible families from moving under portability;

**Briefing Packet:** The documents and information provided in the briefing packets for the voucher programs will comply with all HUD requirements. The Authority also includes other information and/or materials which are not required by HUD. The family is provided with the following information and materials:

- Term of the Voucher, and the Authority's policy for requesting extensions to the term of the Voucher or suspension.
- Description of the method used to calculate the Housing Assistance Payment (HAP) for a family, information on payment standards, and utility allowances.
- An explanation of how the maximum allowable rent is determined including the procedures for determining rent reasonableness.
- Guidance and materials to assist the family in selecting a unit, such as proximity to employment, public transportation, schools, shopping, and the accessibility of services. Guidance will also be provided to assist the family to evaluate the prospective unit, such as the condition, whether the rent is reasonable, average utility expense, energy efficiency, and security.

- The boundaries of the geographical area in which the family may lease a unit including an explanation of portability.
- Sample of the HUD or owner's lease and HUD Tenancy Lease addendum.
- A description of the procedure for requesting Lease approval for a unit. The Authority will provide the Request for Tenancy Approval Form ("RFTA")
- The Authority policy on providing information about families to prospective owners.
- The Subsidy Standards, including when and how exceptions are made and how the Voucher size relates to the unit size selected.
- HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS standards.
- The HUD brochure on lead-based paint and information about where blood level testing is available.
- Information on Federal, State and Local equal opportunity laws. The Authority will also provide information on reporting suspected discrimination and the phone numbers of the Local Fair Housing Agency and the HUD enforcement office.
- A list of landlords or other parties willing to lease to assisted families or help families find units.
- If the family includes a person with disabilities, notice that the Authority will provide assistance in locating accessible units and a list of available accessible units known to the Authority, if available.
- The Family Obligations under the program.
- The grounds on which the Authority determines termination of assistance because of family action or failure to act.
- Authority informal hearing procedures including: When the Authority is required to offer an informal hearing, how to request the hearing, and the hearing procedures.
- An HQS checklist and sample contract.
- Procedures for notifying the Authority and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
- The family's obligations under the program.
- Explanation of the portability.
- Grounds for termination of assistance because of family action or failure to meet obligations and informal review / hearing procedures.

**Other Information to be Provided at the Briefing:** The Authority Staff conducting the briefing will also describe how the Program works and the relationship between the family and the owner, the family and the Authority, and the Authority and the owner.

*The briefing presentation emphasizes:*

- Family and owner responsibilities;
- Where a family may lease a unit inside and outside its jurisdiction;
- How portability works for families eligible to exercise portability;
- Advantages to moving to area with low concentration of poor families if family is living in a high poverty census tract in the Authority's jurisdiction;
- How to choose a unit carefully and only after due consideration;

If the family includes a person with disabilities, the Authority will ensure compliance with HUD regulations to ensure effective communication.

**Move Briefing:** A move briefing may be held for participants who will be reissued a Voucher to move, and who have been re-certified within the last one hundred twenty (120) days, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families. Families failing to attend a scheduled move briefing one (1) time will be denied a new Voucher based on failure to provide required information.

#### **C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

At the briefing, families are encouraged to search for housing in non-impacted areas and the Authority will provide assistance to families who wish to do so. The assistance provided to such families includes:

- Direct contact with landlords
- Counseling with the family
- Providing information about services in various non-impacted areas

#### **D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

**Fair Housing Laws:** The Authority provides the family with a complaint form and the location of the local Fair Housing office. If HUD Fair Housing makes a finding of discrimination against an owner, the Authority will restrict the owner from future participation. The Authority provides the family with the HUD discrimination complaint form and directs the family to report suspected discrimination to HUD.

**E. SECURITY DEPOSIT REQUIREMENTS** *(Leases Effective on or after October 2, 1995)*

Security deposits charged by owners may not exceed those charged to unassisted tenants nor the maximum prescribed by State or local law. For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

**F. TERM OF VOUCHER**

During the briefing session, each household will be issued a Voucher which represents a contractual agreement between the Authority and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

**Expirations:** The Housing Choice Voucher is valid for a period of sixty (60) calendar days from the date of issuance. The family must submit a lease and Tenancy Lease Addendum within the sixty-day (60) period unless an extension has been granted by the Authority. Upon the Authority's receipt of the request for tenancy approval, the search time for a unit will be suspended. Only one (1) form regarding the unit the tenant wishes to have subsidized may be submitted and in process by the Authority at a time.

If the Voucher has expired, and has not been extended by the Authority or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

**Suspensions:** When a Lease and Tenancy Lease Addendum is received, the Authority will not deduct the number of days required to process the request from the sixty (60) day term of the voucher.

**Extensions:** The Authority will grant extensions to the Voucher. A family may request an extension of the Voucher time period. All requests for extensions must be in writing and received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the Authority up to a maximum of one hundred twenty (120) days, primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency, which has affected the family's ability to find a unit within the initial sixty-day (60) period. Verification is required.
- The Authority is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the Authority, throughout the initial sixty-day (60) period. A completed search record is required.
- The family was prevented from finding a unit due to the need to locate an accessible unit to accommodate a disabled family member or for the family's need for a unit with a larger size bedroom as a requirement.

The Authority extends in thirty (30) day increments. Unless approved by the Executive Director, no more than two (2) extensions of thirty (30) days will be granted and never for a total of more than an additional sixty (60) days.

**Assistance to Housing Choice Voucher Holders:** Families who require additional assistance during their search may call the Authority to request assistance. Voucher holders will be notified at their briefing that the Authority periodically updates the listing of available units and how the updated list may be obtained. The Authority will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

#### **G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

When a family assisted under the Housing Choice Voucher Program becomes divided into two (2) otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Authority shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children.
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which family members remain in the unit.
- Recommendations of social service professionals.

Documentation of these factors will be required by the family. If documentation is not provided, the Authority will terminate assistance on the basis of failure to provide information necessary for a re-certification.

Where the breakup of the family also results in a reduction of the size of the Voucher, the family will be required to move to a smaller unit if the current landlord is unwilling to accept the rent level of the smaller sized voucher.

#### **H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER**

To be considered the remaining member of the tenant family, the person must have been previously approved by the Authority to be living in the unit. A Live-In-Aide, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member, the court has to have awarded emancipated minor status to the minor, or the Authority has to have verified that an appropriate agency has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period. However, when the oldest minor becomes of legal age, currently 18 yrs. old, the subsidy will be transferred back to that original family member and the adult brought into the unit will no longer receive the subsidy.

A reduction in family size will require a reduction in the Voucher size and a reduction in the payment standard.

## Chapter 9

### LEASE AND TENANCY LEASE ADDENDUM CONTRACT EXECUTION

#### INTRODUCTION [24 CFR 982.305 (a)]

The Authority issues Housing Choice Vouchers (“Voucher”) to qualified applicant families. After families are issued a Voucher, they may search for an apartment in the private market anywhere within the jurisdiction of the Authority or outside of the Authority’s jurisdiction if they qualify for portability. The family must find an eligible unit under the program’s rules, with a landlord/owner who is qualified to enter into a Housing Assistance Payments (“HAP”) Contract with the Authority. The HAP, issued by the Authority, subsidizes the balance of the rent directly to the landlord/owner. As a general rule, program participants do not pay more than thirty percent (30%) of their monthly adjusted income towards rent and utilities.

Further, except in the case of an owner-occupied house containing not more than two (2) dwelling unit, a landlord/owner may not refuse to rent or lease any house or apartment to another person solely because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the house or apartment, such as Section 8 Rental Assistance. N.J.S.A. 2A:42-100. This means that a landlord/owner may not refuse to rent or lease any house or apartment to a program participant who has received a voucher, while already residing in the unit, or who is seeking to rent from a landlord/owner for the first time. Moreover, a landlord/owner cannot refuse to accept rent subsidy payments (HAP) on behalf of that tenant, by not signing the necessary documents to effectuate the tenant’s ability to obtain the rent subsidy, and then seek to evict the Section 8 tenant for non-payment of rent. Franklin Towner One, L.L. C. V. N. M., 157 N.J. 602 (1999)

Finally, this chapter defines the types of eligible housing, the Authority’s policies pertaining to initial inspections, lease requirements, owner disapproval and the processing of the Tenancy Lease Addendum.

#### **A. LEASE AND TENANCY LEASE ADDENDUM**

A copy of the proposed Lease and Tenancy Lease Addendum must be submitted by the family during the term of the voucher. The Authority will not permit the family to submit more than one Tenancy Lease Addition at a time. The lease may be executed up to sixty (60) days prior to contract execution but cannot be executed without approval of the Authority. The Authority will not permit the family to submit more than one unit to be inspected at a time. The Authority will review the documents to determine whether or not they are approvable. **The Tenant is responsible for any required security deposit.**

#### **The Request will be approved if:**

- The unit is an eligible type of housing under HUD regulations;
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan);

- The rent is reasonable and the family share is within 40% of the family's adjusted income, which is the allowable maximum family share at initial occupancy, and if the rent is within the Payment Standard;
- The security deposit amount is approvable;
- The proposed lease complies with HUD and the Authority's requirements State and Local Law; and
- The owner is approvable and there are no conflicts of interest.

#### **Disapproval of Tenancy Approval**

If the Authority determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. The Authority will instruct the owner and family of the steps that are necessary to approve the request. The owner will be given thirty (30) calendar days to submit an approvable Request for Tenancy Approval ("RFTA") from the date of disapproval. If, for any reason, a RFTA is not approved, the Authority will furnish another RFTA form to the family along with the Notice of Disapproval so that the family can continue to search for eligible housing.

The time limit on the Voucher will be suspended while the Lease and Tenancy Lease Addendum are being processed so long as the owner and tenant do not cause delays in the processing.

#### **B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353, 982.54(d)(15)]**

The Authority will approve any of the following types of housing in the Voucher Program:

- **All structure types** can be utilized.
- **Manufactured homes** where the tenant leases the mobile home and/or the pad.
- **Independent Group Residences:** A state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. A group residency consists of bedrooms for residents, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group residency including assisted and unassisted residents and any live-in aides.
- **Congregate facilities (only the shelter rent is assisted):** Intended for use by elderly persons or persons with disabilities. A congregate facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.
- **Single Room Occupancy (SRO):** A unit that provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit.
- **Units owned (but not subsidized) by the Authority** (following HUD - prescribed requirements).

- **Assisted living facilities**, including residential care facilities and adult care facilities, are eligible housing type for the Voucher assistance. All Housing Choice Voucher Program rules apply to assisted living facilities (residential care facilities, adult care facilities, congregate care facilities, group homes). The cost of meals and services are not included in the rent. The rent is based on unit size. The admission agreement from the assisted living facility is addendum to the Voucher tenancy addendum.

Families may not lease properties owned by relatives, such as spouse, parent, stepparent, child, stepchild, grandparent, grandchild, sister or brother, stepsister, stepbrother, unless approving the unit would provide reasonable accommodation for a family with disabilities. This is decided on a case by case basis and pending appropriate medical documentation.

The Authority may not permit a Voucher holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

*The Authority will also not approve:*

- A unit if the owner is the parent, child, grandparent, grandchild, sister, or brother or any member of the family, unless the Authority determines that approving the unit would provide reasonable accommodations for a family member who is a person with disabilities.
- A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes described above.
- Nursing homes or other institutions that provide care.
- School dormitories and institutional housing.
- Any other types of housing prohibited by HUD.

### **C. LEASE REVIEW**

The Authority will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State/local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the on the information form regarding a new unit to be subsidized.

Owners may either submit their own lease or permit the Authority to furnish the lease. In cases where the owner's lease is used, the HUD Tenancy Lease addendum must be attached and executed. The lease form must be in the standard form used in the locality by the owner. The lease must contain terms that are consistent with State and local law, and that apply generally to unassisted tenants in the same property. The Housing Assistance Payment ("HAP") contract and the lease must have the HUD Tenancy Lease Addendum. At a minimum, the Lease must include the names of the tenant and owner, the lease term, the monthly rent to the owner, and the utilities/appliances to be furnished by the owner and by the tenant.



**Separate Agreements:** Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the Authority.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

The Authority is not liable for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed. All agreements for special items or services must be attached to the lease approved by the Authority. If agreements are entered into at a later date, they must be approved by the Authority and attached to the lease.

The Authority will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling. If the owner makes modifications to the unit, the costs should be recovered through the rent collected, not by having the tenant pay for the modifications. Exception would be considered if the modifications are such that they most likely would be removed if the tenant moved out.

#### **D. INITIAL INSPECTIONS**

See Chapter 10, "Housing Quality Standards and Inspections."

#### **E. RENT LIMITATIONS**

*Exception Rents will be utilized to:*

- Expand housing opportunities for families to move from poverty-impacted areas.
- Make accessible units available to persons with disabilities.
- Increase the housing choices available to low-income families.

Rent reasonableness will still be used as a measure of whether the rent is approvable. For the Voucher program, the Authority will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable assisted or unassisted unit in the building or premises.

## **F. MAXIMUM INITIAL RENT BURDEN**

See Chapter 6, Page 6-2; Part B

## **G. INFORMATION TO OWNERS**

The Authority is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous landlord, if known. The Authority will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection. The Authority will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

- The Authority will provide documented information, only if known, regarding name and addresses of the past previous landlords.

Upon written request from a prospective landlord, the Authority will provide any of the following information regarding a family's tenancy history during the past three years based on *documentation in its possession* relating to:

- Eviction history.
- Damage to rental units.
- Other aspects of tenancy history; including complaints from neighbors or landlords.

The information will be provided in writing. Only the Executive Director and the Director of the Housing Choice Voucher Program may provide this information. The Authority's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

## **H. OWNER DISAPPROVAL**

For purposes of this section, "owner" includes a principal or other interested party. The Authority will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed the Authority that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the Authority that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the Authority that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

- The owner has engaged in drug trafficking.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
- The owner has a history or practice of renting units that fail to meet State or local housing codes.
- The owner has not paid State or local real estate taxes, fines or assessments.
- Water and sewage bills.
- The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the (1) premises by Tenants, or (2) the residences by neighbors in the immediate vicinity of the premises of Authority employees or of owner employees or other persons engaged in management of the housing.
- Owner has a conflict of interest as described in HUD regulation 24 CFR 982.161(a) and would therefore be unable to enter into a contract with Authority; or owner is employed by Authority as a member of the Section 8 Program staff or is a Authority Commissioner.

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, the Authority may restrict the owner from future participation in the Program for a period of time commensurate with the seriousness of the offense. The Authority may terminate some or all contracts with the owner. If the landlord has been overpaid as a result of fraud, misrepresentation, or violation of the Contract, the Authority may terminate the Contract and arrange for restitution to the Authority and/or the family, as appropriate.

#### **I. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Tenant Payment (TTP) prior to the effective date of the HAP contract, the information will be verified and the TTP will be recalculated.

#### **J. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]**

The Authority prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, Tenancy Lease Addendum and the owner and the Authority will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The Authority will return the original copy of the signed documents.

The Authority makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than sixty- (60) days after commencement of the lease term and no payments will be made until the contract is executed. Only the Executive Director, the Assistant Executive Director or the Housing Choice Voucher Director is authorized to execute a contract on behalf of the Authority.

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address. Each owner must provide the following information to the Authority:

- Name/Name of Corp., Names of all parties;
- Certificate of Formation
- Copy of the current insurance policy.
- Proof of paid residential taxes, paid water and sewerage.

Owners must provide an Employer Identification Number or Social Security Number, (W-9 form). Owners must also submit proof of ownership of the property, such as a Grant Deed or Tax Bill, and a copy of the Management Agreement, if the property is managed by an insurance management agent. The owner must provide a business or home telephone number.

#### **K. CHANGE IN OWNERSHIP**

A change in ownership does require execution of a new contract. The contract must be accompanied by a copy of the escrow statement or other document showing the transfer of title and the Employee Identification Number or Social Security number of the new owner, (W-9 form). Please note, the Authority must review the proof of ownership i.e. copy of deed. The Authority must receive a written request by the initial owner in order to change the HAP payee and/or the address to which payment is to be sent.

## **Chapter 10**

# **HOUSING QUALITY STANDARDS AND INSPECTIONS**

### **INTRODUCTION**

The Authority adheres to Housing Quality Standards (HQS) as established in 24 CFR 982.401 to perform all required inspections. Interpretative guidance for HQS acceptability criteria is taken from Form HUD 52580-A dated 9/00 and the HUD Housing Inspection Manual. Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit.

Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and the HAP Contract. The Authority will inspect each unit under Contract at least annually. The Authority will also perform a quality control inspection of at least five percent (5%) of all units under Contract annually to maintain the Authority's required standards and to ensure consistency.

HQS Standards may be enhanced by the Authority using applicable safety-related Federal, State, and local regulations provided that by doing so, the Authority does not overly restrict the number of units available for lease under the program. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and the Authority requirements. This Chapter describes the Authority's procedures for performing HQS and other types of inspections, and standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements, including lead based paint requirements, for both families and owners.

Quality Control inspections will be performed by the Executive Director or designee on a sample number of units during the Authority's fiscal year. The sample shall be based on the HUD SEMAP requirement for HQS Quality Control inspections. The purpose of Quality Control inspections is to ensure that each inspector is conducting accurate and complete inspections and to ensure consistency in the application of the HQS. Completed HQS inspections included in the sample will be no older than 90 days at the time of the re-inspection. The sample will represent a cross section of neighborhoods where Program units are located and inspections completed by all HQS Inspectors. The sample will also include a cross-section of initial and annual inspections.

### **A. QUALITY CONTROL**

The Authority has adopted local requirements of acceptability in addition to those mandated by HUD Regulations. All units must meet the minimum standards set forth in the Bayonne Building/Housing Code, Uniform Construction Code, and Applicable State Regulations. In cases of inconsistency between the Code and these HQS, the stricter standard shall prevail. Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. HQS inspections may use cameras to document unit conditions.

Staff conducting the HQS inspections is trained on the application of the Authority's HQS inspection standards and procedures and receive the same guidance as other Authority inspectors on inspection policies and procedures. In addition to monitoring SEMAP compliance, Quality Control inspections are used to obtain information regarding the quality of work performed by each inspector. This information is used to determine the need for further training, clarification, or guidance on specific HQS topics.

For SEMAP purposes, an HQS deficiency found at the time of the inspection represents a "failed" Quality Control inspection. The Authority will take into account whether the failed item occurred after the previous inspector was on site. Often the tenant can describe when the deficiency occurred or there will be other identifying conditions useful in making this determination.

The Authority will maintain a Quality Control tracking system for each SEMAP year. This log contains the following information: unit address, location of unit, date of original inspection and name of inspector, date of quality control inspection and name of inspector and results of the quality control inspection.

If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whoever is responsible for the utilities according to the RTA) to have the utilities turned on. The Inspector must return to certify that the utilities are on. The stove must be present when the unit is inspected.

There are five types of inspections the Authority will perform:

1. Initial/Move-in
2. Annual
3. Special/Complaint
4. Move-Out/Vacate
5. Quality Control

Inspectors conducting unit inspections must note on the inspection checklist all items receiving a rating of pass, fail or incomplete. The inspector will make clear notes regarding the nature of all failed or incomplete items. For the unit to receive a pass rating, no failed or incomplete items can be noted on the inspection checklist.

Improvements that have occurred since the previous inspection, additional amenities or services, and changes in type of or responsibility for utilities should be noted and reported to the appropriate Authority staff. The inspector will also record improvements or items that should be brought to the attention of the owner or tenant that are not HQS deficiencies.

**Deadline for Initial Inspection:** PHA's with 1250 or fewer units must inspect within fifteen (15) calendar days of receiving the request for inspection. The clock is stopped for any period during which the unit is not ready for inspection.

**Initial/Move-In Inspections:** The Initial/Move-In Inspection is conducted to: determine if the unit and property meet HQS, as defined in this Plan; document the current condition of the unit to assist in future evaluations to determine whether the condition of the unit exceeds normal wear and tear; and, document the information to be used for determination of rent-reasonableness.

The Authority will conduct the initial inspection within a reasonable time after receiving a RTA from the family. Every effort will be made to conduct the inspection within 15 calendar days of receiving the RTA. Time is suspended for any period during which the unit is not ready for inspection.

If the unit fails the initial HQS inspection, the family and owner will be advised to notify the Authority once repairs are completed. The owner will be given up to 30 days to correct the deficiencies identified. The owner will not be issued a HAP payment for the period exceeding 30 days that the repairs have not been completed. It is responsibility of the owner and the Section 8 participant to notify the Authority when repairs have been completed so that the unit can be re-inspected. The owner will be allowed up to two re-inspections within the 30 day period for repair work to be completed. If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

## **B. ANNUAL INSPECTIONS**

The Authority conducts an inspection in accordance with Housing Quality Standards at least annually, within sixty- (60) days prior to the anniversary month of the contract. Special (“HQS”) inspections may be scheduled more frequently. Initial inspection must be conducted within fifteen (15) calendar days after receipt of an inspection request from the family and/or owner.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible. The family is only responsible for breaches of HQS, which are caused by:

- Non-payment of utilities paid by the family,
- Not providing, or failing to maintain, appliances not provided by the owner, and
- Damages to the unit or premises caused by a household member or guest beyond normal wear and tear.

The family must allow the Authority to inspect the unit at reasonable times with reasonable notice [24 CFR 982.51]. The Authority will notify the family in writing at least seven (7) days prior to the inspection.

**Inspection:** The family is notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within ten (10) working days. If the family does not contact the Authority to reschedule the inspection, or if the family misses one (1) inspection appointment, the Authority will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

**Re-inspection:** The family is mailed a notice of the inspection appointment by mail. If the family is not at home for the re-inspection appointment, a card will be left at the unit and another appointment is automatically scheduled. The family is also notified that it is a Family Obligation to allow the Authority to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, "Denial or Termination of Assistance," they will be advised of their responsibility to correct the deficiency.

**All Inspections:** The family will be mailed a notice that the inspection is due and asked to call to schedule an appointment within ten (10) working days. If they do not call, they will be sent a second notice. If they still fail to schedule the appointment, a notice of termination of assistance will be sent. If the family still does not contact the Authority within the time period allowed to request a hearing, assistance will be terminated.

**Move-out inspections:** The Resident Head of Household must give the Authority at least 30 days written notice prior to the first of the month if he/she intends to move from the unit. Subsequently, the Asset Manager will schedule a preliminary inspection to determine if charges are due for damages. A Resident Household member can participate in this inspection unless the Resident Household vacates without notice to the Authority. The final move-out inspection will take place within three working days after move-out. The Authority will furnish the Resident with a statement of any charges to be made in accordance with the Authority posted schedule of charges and will itemize any applicable deductions from the security deposit.

**Time Standards for Repairs:**

1. Emergency items which endanger the family's health or safety, must be corrected within twenty four - (24) hours of notification.
2. For non-emergency items, repairs must be made within thirty- (30) days.
3. For major repairs, the Executive Director may approve an extension beyond thirty (30) days.

**C. EMERGENCY REPAIR ITEMS [24 CFR 982.401 (a)]**

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within twenty-four (24) hours of notice by the Inspector. Items considered to be of an emergency nature include, but are not limited to, the following:

- Lack of security for the unit
- Waterlogged ceiling in imminent danger of falling
- Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem, which could result in shock or fire
- No heat: determination in accordance with local code
- Utilities not in service
- No running hot water
- Broken glass where someone could be injured
- Obstacle which prevents tenant's entrance or exit
- Lack of functioning toilet



The Authority may give a short extension twenty-four (24 hours) whenever the responsible party cannot be notified or it is impossible to effect the repair within the twenty-four (24-hour) period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to effect the repair, proper authorities will be notified by the Authority. If the emergency repair item(s) are not corrected in the time period required by the Authority, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the Authority, and it is an HQS breach, which is a family obligation, the Authority will terminate the assistance to the family and the owner's payment will not be abated for the month following the breach of HQS.

#### **D. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the Authority, the assistance payment to the owner will be abated.

**Abatement:** If the unit fails the initial HQS inspection, the owner will be given up to 30 days to correct the deficiencies identified. A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for thirty- (30) days, depending on the nature of the repair(s) needed.

The Authority will inspect abated units within five (5) working days of the owner's notification that the work has been completed. The family will be notified of the re-inspection date and requested to inform the owner. The abatement will remain in effect until repairs are completed or the contract is terminated.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. No retroactive payments will be made to the owner for the period of time while the Contract was abated and the unit did not comply with HQS. If the time period given by the Inspector to correct the repairs has elapsed and the unit continues to be in a failed condition, the family must select another unit.

**Reduction of Payments:** The Authority will reduce payments and/or grant an extension in lieu of abatement in the following cases:

- The owner has a good history of HQS compliance.
- The failed items are minor in nature.
- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The owner makes a good faith effort to make the repairs.
- The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
- The repairs must be delayed due to climate conditions.

The extension will be made for a period of time not to exceed thirty- (30) days. At the end of that time, if the work is not completed, the Authority will begin the abatement of assistance.

**Termination of Contract:** If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a reminder notice. If the owner fails to act within five (5) working days, termination proceedings will begin. If repairs are completed before the effective termination date, the termination will be rescinded by the Authority if the tenant chooses to remain in the unit.

#### **E. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]**

Certain deficiencies are considered the responsibility of the family, such as:

- Tenant-paid utilities not in service.
- Failure to provide or maintain family-supplied appliances and
- Damages to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items, which could be charged against the tenant's security deposit under state law or court practice and is defined in Chapter seventeen (17), "Claims, Move-Out and Close-Out Inspections."

The owner is responsible for all other HQS violations. The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The Authority may terminate the family's assistance on that basis. The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination through an informal hearing.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

#### **F. CONSEQUENCES IF FAMILY IS RESPONSIBLE**

If non-emergency violations of HQS are determined to be the responsibility of the family, the Authority will require the family make any repair(s) or corrections within thirty (30) days. If the repair(s) or correction(s) are not made in this time period, the Authority will terminate assistance to the family. Extensions in these cases must be approved by the Executive Director. The owner's rent will not be abated for items which are the family's responsibility. If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

#### **G. SPECIAL REQUIREMENTS FOR LEAD-BASED PAINT IDENTIFICATION AND REDUCTION**

**Note:** These requirements only apply to dwellings built before January 1, 1978 and occupied or to be occupied by assisted families with one or more children under the age of six years; including pregnant women.

**Disclosure Requirements:** Owners or owner agents must disclose any knowledge of lead-based paint or lead-based paint hazards to prospective residents prior to lease execution. Disclosure requirements apply to all dwellings built before 1978 regardless of ages of children. The Authority will keep a copy of the signed disclosure notice in the tenant file. The owner must also provide the prospective family with a copy of the signed disclosure notice in the tenant file, as well as with a copy of Protect Your Family from Lead in Your Home or appropriate EPA-approved document.

**Stabilization of Deteriorated Surfaces:** If an Authority HQS Inspector identifies deteriorated paint surfaces during a unit inspection, the owner must perform stabilization of the surface in accordance with federal requirements. The Authority will notify the owner of this requirement. Stabilization must occur before commencement of an assisted tenancy or, for a currently assisted unit, within 30 days of notification to the owner. If the amount of deteriorated paint is below the HUD de minimus level, the owner must correct the deficiency by:

- Performing paint stabilization; and
- Notifying the occupants of any paint stabilization activities within 15 calendar days of completion.

If the amount of deteriorated paint is above the HUD de minimus level, the following actions must be taken to correct the deficiency:

- Arrange for and complete stabilization activities, using trained staff and employing acceptable methods for preparing the surface to be treated;
- Dry sanding and dry scraping is permitted only for areas within 1 foot of an electrical outlet or when the defective paint spots are no larger than 2 square feet in any interior room or 20 square feet on an exterior surface.
- Protect the occupants and their belongings from contamination.
- Arrange and pay for clearance activities, which must be performed by licensed or certified professionals who have received EPA or state-approved training. Owners are responsible for arranging and paying for lead-based paint clearance activities performed by a licensed or certified professional who has received EPA or state-approved training.
- Notify the occupants within 15 calendar days of the stabilization activity and provide the results of the clearance examination.
- Execute and submit to the Authority the Lead Based Paint Owner's Certification.

An owner's failure to comply with Authority stabilization requirements, regardless of the amount of deteriorated surface, will result in disapproval of tenancy, abatement of payment to the owner, or termination of the HAP Contract.

## **H. INITIAL HQS INSPECTION**

The Initial Inspection must be conducted within fifteen (15) calendar days after receipt of an inspection request from the family and/or owner to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the current condition of the unit as a basis to evaluate whether the future condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be advised to notify the Authority once repairs are completed. On an initial inspection, the owner will be given up to thirty (30) days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done. The owner will be allowed up to two (2) re-inspections for repair work to be completed. If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

Units must pass the federally established Housing Quality Standards ("HQS") or substitute local housing codes or codes adopted by the Authority: (A) cannot severely restrict housing choice; and (B) must meet or exceed the HQS (unless HUD approves a lower standard that does not adversely affect the health or safety of families, and will significantly increase affordable housing access and expand housing opportunities).

## **I. ANNUAL HQS INSPECTION**

**Rent Increases:** The Authority will conduct an inspection using the Housing Quality Standards and other standards approved in this Administrative Plan at least annually, prior to the anniversary month of the contract. Rent increase requests in the voucher program will not be approved if the unit is in a failed condition.

## **J. SPECIAL/COMPLAINT INSPECTIONS**

If at any time the family or owner notifies the Authority that the unit does not meet HQS Standards, the Authority will conduct an inspection. The Authority may also conduct a special inspection based on information from third (3<sup>rd</sup>) parties such as neighbors or public officials.

The Authority will inspect only the items, which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

## **K. QUALITY CONTROL INSPECTIONS**

Quality Control inspections will be performed annually by the Executive Director or designee of the Executive Director on five percent (5%) of the units. The purpose of Quality Control inspections is to ascertain that the inspector is conducting accurate and complete inspections.

## **Chapter 11**

### **OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS**

#### **INTRODUCTION**

The Authority is responsible to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. The Authority will not approve the lease or execute a payments contract until it has determined that the unit meets the minimum HQS and that the rent is reasonable. When the Authority has determined that the unit meets the minimum HQS, that the lease is approvable, and that the rent is reasonable, it will make timely payments to the owner and notify the owner of the procedures for rent adjustments in the Voucher program. The Authority will determine rent reasonableness at initial lease-up, before any increases in rent to the owner and at other times as described in this section. This Chapter explains the Authority's procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

#### **A. OWNER PAYMENT IN THE VOUCHER PROGRAM**

The maximum subsidy for each family is determined by the Payment Standard for the Voucher size issued to the family, less thirty (30%) of the family's Monthly Adjusted Income. The actual subsidy level could be less if the family is required to pay the Minimum Total Tenant Payment ten percent (10% of the family's Monthly Income). The total Housing Assistance Payment (HAP) may not exceed the rent charged by the owner. In other words, the HAP Payment is the lower of the following:

- Payment Standard minus the Total Tenant Payment; or
- The gross rent minus the Total Tenant Payment

The Voucher size issued to the family is based on the Authority's Subsidy Standards. The Payment Standard for the family is based on the lesser of the Payment Standard for the Voucher size issued and the Payment Standard for the unit selected. The Housing Assistance Payment to the owner is the lesser of the subsidy described above or the rent charged by the owner.

#### **B. MAKING PAYMENTS TO OWNERS**

Once the HAP Contract is executed, the Authority begins processing payments to the landlord. The effective date and the amount of the Authority payment is communicated in writing with the executed HAP contract to the landlord and the tenant. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. In some cases, HAP payments are made via Direct Deposit.

Checks are disbursed by Section 8 department to the owner each month. Checks may be picked up by owner at the Authority, if the Authority has caused the delay in the issuing of the HAP payment. Checks will only be disbursed by verified mail on the first five (5) working days of the month (unless the owner/landlord returned the contracts beyond that date, then a check may be issued to the owner after the first five (5) working days). Please note, this is the same for direct deposit payments. Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check, based upon the bank statement of the following month in which the HAP was issued.

**BHA Penalties for Late HAP Check Payments to the Landlord/Owner:** Any late payment penalties may only be imposed in accordance with generally accepted practices in the local housing market, governing penalties for late payment of rent by a tenant. The Authority may be required to pay a late fee to an owner if the HAP is not paid by the fifteenth (15<sup>th</sup>) calendar day of the month. The late payment fee penalty is twenty-five dollars(\$25.00). A late payment fee may only be paid from the Authority's Administrative fee income (including available amounts in the Authority's Administrative fee reserve).

The Authority is not obligated to pay any late payment fee if HUD determines that the late payment is due to factors beyond the control of the Authority (e.g., late receipt of the Section 8 funds from the Treasury department). Also, if the Authority deems the HAP payment is received by the owner e.g., upon mailing (by verified mail each month) by the Authority or actual receipt by the owner.

#### **C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]**

**Timing:** A unit will not be approved until it is determined that the requested rent by the owner/agent is a reasonable rent. The Authority will also determine the reasonable rent before approving any increase in the rent or if there is a five percent (5%) decrease in the published FMR sixty (60) days before the contract anniversary as compared with the FMR in effect one year before the contract anniversary, or if directed by HUD. The agency may elect to re-determine reasonable rent at any other time.

**Statement of Compliance with Reasonable Rent Regulations:** The Authority utilizes the EZ-Reasonable Rent Determination (EZ-RRD) system is utilized to assist staff to conduct reasonable rent analysis for units to be assisted. The EZ-RRD system was designed to correct long-standing misconceptions and problems about reasonable rent analysis. For example, other systems allow the Authority to select the comparable units, allowing for possible favoritism, subjectivity and Fair Housing issues. EZ-RRD automatically selects the best comparable units in the database using consistent and objective methods. Thus, the Authority and U. S. Department of Housing and Urban Development (HUD) are protected from fraud, waste, and mismanagement.

**Compliance with 24 CFR Section 982.507 Rent to Owner: Reasonable Rent and 24 CFR Section 985.3 (b) Reasonable Rent:** The regulations do not require a specific method to be utilized. The only requirements for comparability at 24 CFR 982.507 (b) is for the Authority to utilize unassisted units as comparable units and to consider all nine characteristics for each determination. Therefore, the reasonable rent system uses only unassisted units for comparable units. It also considers the following characteristics for each determination:

- Location
- Quality
- Size (by number of bedrooms, overall size and number of bathrooms)
- Unit type
- Age of the contract unit
- Amenities
- Housing Services
- Maintenance
- Utilities to be provided by the owner

**Compliance with Fair Housing Regulations:** The Authority will ensure the reasonable rent determination process is not utilized to violate anyone's Fair Housing rights. To accommodate a request for a reasonable accommodation, the Authority recognizes the Fair Housing regulations are more strict than the reasonable rent regulations. Therefore, the Fair Housing regulations will take precedence. A participant may make a request for a reasonable accommodation when the EZ-RRD Report shows the rent is not reasonable or when the rent is so high the participant would pay more than 40% of their monthly adjusted income toward the rent (24 CFR Part 982.508 – Maximum Family Share at Initial Occupancy).

When the request for a reasonable accommodation concerns the 40% of the Monthly Adjusted Income (MAI) rule, the Authority may consider the internal administrative remedy of using a Payment Standard of 120% of the Fair Market Rent for the specific unit and participant in question (24 CFR 982.503 b. (1.) (v.)). The Agency does not need HUD approval for this action. The higher Payment Standard may bring the tenant's rent share to under 40% of MAI thus allowing the Authority to approve the requested rent.

External administrative remedies involve efforts by the Authority and HUD. If the requested gross rent for a unit at initial occupancy exceeds the Payment Standard, and the tenant would pay more than 40% of their monthly adjusted income for rent, the Authority may request a waiver from HUD for the regulation at 24 CFR Part 982.508 – Maximum Family Share at Initial Occupancy. The waiver request would be to allow the family to pay more than 40% of their monthly adjusted income for rent.

As needed, another external administrative remedy the Authority will consider is to request a waiver from HUD from the regulation at 24 CFR Part 982.507 Rent to Owner's Reasonable Rent. This waiver request would be to approve the rent for the unit in question even though it is not reasonable. (This section subject to change if cited regulations are changed or updated.)

#### **D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM**

The Payment Standard is used to calculate the Housing Assistance Payment (HAP) for a family. The Payment Standard is initially set by the Authority at the Fair Market Rent in effect at the time the Annual Contributions Contract for the first increment of Voucher funding is approved by HUD. The Payment Standard is used to determine the maximum subsidy which can be paid by the Authority on behalf of the family. The Authority may set payment standards between ninety percent (90%) and one hundred ten percent (110%) of the Fair Market Rent (FMR). If higher or lower payment standards are needed, the Authority will seek HUD approval of a payment standard above or below the FMR.

#### **E. ADJUSTMENTS TO PAYMENT STANDARDS**

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep families' rents affordable. The Authority will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will the Authority raise Standards if the need is solely to make "high end" units available to Voucher holders.

The Authority will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes. The Payment Standard will be reviewed according to HUD's requirements and this policy and if an increase is warranted, the payment standard will be adjusted within ninety percent (90%) to one hundred ten percent (110%) of the current Fair Market Rent. In a volatile market, the Authority may review the Standards more frequently but will only adjust them annually.

**Payment Standard Amount and Schedule:** Under Section 353 (A) of the House bill, authorizes the Authority to establish different payment standards for different areas within their jurisdictions, rather than requiring a single uniform payment standard throughout the Authority's jurisdiction within a Fair Market area, subject like all the Authority's actions, to their obligation to affirmatively further Fair Housing published Fair Market Rent. Prior HUD approved area exception rents will continue to apply in the Housing Choice Voucher program. The Authority may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

**Financial Feasibility:** Before increasing the Payment Standard, the Authority may review the budget and the project reserve, to determine the impact projected subsidy increases would have on funding available for the program and number of families served. For this purpose, the Authority will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards. The Authority will document the analysis and findings to justify whether or not the Payment Standard was changed and provide such upon request.



## **F. RENT ADJUSTMENTS [24 CFR 982.507]**

Owners may not request rent adjustments in the Voucher Program to be effective prior to the expiration of the first year of the lease. Owners must request an increase in writing within sixty (60) days, or the Authority will not approve an annual adjustment for that year. If the Authority approves the increase, the owner must provide notice to the tenant as required by provisions of the lease.

Rent increases must pass the rent reasonableness test by the Authority unless the owner requests a Special Adjustment to be approved by HUD and the Authority to cover increases in property taxes, assessments, or utility rates.

**Disapproval of Requests for Adjustment:** If the Authority rejects the owner's request for rent adjustment as exceeding rent reasonableness and the owner rejects the Authority's determination, the owner may offer the tenant a new lease (after receiving the Authority's approval) with a sixty (60) day notice to the tenant. If the tenant refuses or the owner does not offer a new lease, the owner may institute court action to terminate tenancy for a business or economic reason in accordance with the lease after giving ninety (90) days notice to the Authority, HUD, and the family as required by law. The Authority will issue a new Voucher to the family.

After the tenant has begun searching for a new housing unit and/or after court action has been initiated, the owner may decide to accept the current lease. If the owner and tenant agree, the lease can continue. If the tenant accepts the offer of a new lease, a lease and Tenancy Lease Addendum must be submitted and the requested rent subjected to rent reasonableness.

If a new lease is executed, a new Contract must also be executed. Owners may not request rent adjustments in the Voucher Program to be effective prior to the expiration of the first year of the lease. Rent adjustments are effective: With a sixty (60) day notice to the family and a copy to the Authority. The Authority will advise the family as to whether the rent is reasonable and shall approve or disapprove the rent increase.

## Chapter 12

### RECERTIFICATIONS

#### INTRODUCTION

HUD requires that the Authority recertify the income and household composition of all families at least annually. The results of the recertification determine (1) whether the family is housed in the correct unit size; (2) whether the family has complied with the Community Service/Self-Sufficiency Requirement; (3) whether the family is paying the correct amount of rent; and (4) whether any adult member of the household is a Registered Sex Offender. In addition, the Authority is required to inspect the assisted unit at least annually, and to process requests for rent adjustments in the Housing Choice Voucher program. These activities must be coordinated to ensure that they are completed in accordance with the regulation. It is a HUD requirement that families report all changes in household composition, but the Authority decides what other changes must be reported, and the procedures for reporting them. This Chapter defines the Authority's policy for conducting annual recertification and coordinating the three annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### A. ANNUAL ACTIVITIES [24 CFR 982.516]

There are three activities the Authority must conduct on an annual basis. These activities will be coordinated whenever possible:

- Recertification of Income and Family Composition
- HQS Inspection
- Rent increase requests by owner/landlord

The Authority produces a monthly listing of units under contract to ensure that timely reviews of contract rent, housing quality, and factors related to Total Tenant Payment can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Section 8 HCV Program department. Annual activities for contracts that did not commence on the first of the month must be conducted no later than the first of the month in which the lease was effective.

*Annual inspections: See Chapter 10, "Housing Quality Standards and Inspections"*

*Rent Adjustments: See Chapter 11, "Owner Rents, Rent Reasonableness and Payment Standards"*

#### B. ANNUAL RECERTIFICATION/REEXAMINATION

When families move to another dwelling unit an annual re-certification will be scheduled (unless a recertification has occurred in the last one hundred twenty (120) days. Only the anniversary date for the inspection and for the owner rent adjustment will be changed but the anniversary date for the annual recertification will not change. Income limits are not used as a test for continued eligibility at recertification unless the family is moving under portability.

**Reexamination Notice to the Family:** The Authority will maintain a reexamination tracking system and the household will be notified by mail of the date for the submission of required forms for annual recertification at least ninety (90) days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the Authority will provide the notice in an accessible format. The Authority will also mail the notice to a third party if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

**Persons with Disabilities:** Persons with disabilities, who are unable to come to the Authority's office will be granted an accommodation of conducting the interview at the person's home/by mail, upon verification that the accommodation requested meets the need presented by the disability.

**Collection of Information:** The Authority will require the family to complete a Continued Assistance Form. Please see additional information that follows.

**Requirements for Annual Recertification:** The head of household and any household member eighteen (18) years or older will be required to respond to the annual recertification. If the head of household is unable to submit the required documents within the time specified, the Authority will reschedule the deadline.

**Failure to Respond to Notification to Recertify:** The written notification must state which family members are required to submit the documents required. The family may call to request another date up to seven (7) working days prior to the submission of documents. If the family does not respond to the recertification request, and has not rescheduled or made prior arrangements with the Authority, the Authority will reschedule a second return date. If the family fails to submit the required documents, and has not rescheduled or made prior arrangements, the Authority will terminate assistance to the family, and offer them an informal hearing.

Exceptions to these policies may be made by the Executive Director or his designee if the family is able to document an emergency situation that prevented them from the documents in accordance with the specified time.

**Documents Required From the Family:** In the notification letter to the family, the Authority will include instructions for the family to bring the following:

- Documentation of income for all family members;
- Documentation of any deductions/allowances;
- Personal Declaration Form completed by head of household;
- Birth Certificate/s for members added after initial lease-up;
- Social Security cards for members added after initial lease-up;
- Release of Information form/s;
- Request for Criminal History Record Information for Non-Criminal Justice Purpose;
- Protect Your Family from Lead in your Home form;
- Disposition of Assets form;
- Income checklist and Asset checklist.

- Continued Assistance Form;
- Declaration of 214 Immigration Status for all household members;

**Verification of Information:** The Authority will obtain income reports through HUD's Enterprise Income Verification (EIV) system for annual and interim re-certification of program participants. These reports reflect all sources of income for the family (Social Security, wage income, unemployment benefits, etc) and are compared to income reported by the family. Verification of discrepancies are obtained and lived in determining our payment of subsidy and recapture of the overpayment from the family. The Authority will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than sixty (60) days old.

**Family Rent Portion Increases:** If tenant rent increases, a thirty (30) day notice is mailed to the family prior to the anniversary date. If less than thirty (30) days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the month following the thirty (30) day notice.

If there has been a misrepresentation or a material omission by the family, or if the family caused a delay in the reexamination process, the rent increase will be effective on the anniversary date regardless of whether the family has been given 30 days notice. If the anniversary date has already passed, the increase must be imposed retroactively. All notices will be sent via regular and certified mail.

**Family Rent Portion Decreases:** If tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent decrease will be effective on the first day of the month following completion of the reexamination processing by the Authority.

Tenants will be evaluated concerning the number of bedrooms for which the family is eligible and any necessary changes to the payment standard utilized in calculating the total Tenant payment ("TTP")

### **C. REPORTING INTERIM CHANGES**

HUD requires program participants to report all changes in household composition to the Authority between annual reexaminations. This must be submitted in writing to the Authority within seven (7) business days of its occurrence. If the change is not reported, it could lead to termination of Program and being charged with the discrepancy income. This includes additions due to birth, adoption and court-awarded permanent custody. The family must obtain the Authority's approval prior to all other additions to the household. This includes criminal, state and municipal background check, credit check, income verification, Social Security cards, birth certificates, and any other pertinent information needed.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

**Interim Reexamination Policy:** The Authority will conduct interim reexaminations when families have an increase in income. Families will be required to report all increases in income/assets of the all household members to the Authority in writing within seven (7) working days of the increase.

**Decreases in Income:** Participants may report a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions. The Authority must calculate the change if a decrease in income is reported.

**BHA Errors:** If the Authority makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

**Other Interim Reporting Issues:** An interim reexamination does not affect the date of the annual recertification. In instances where fraud is suspected, an interim recertification of the family may be required.

#### **D. NOTIFICATION OF RESULTS OF RECERTIFICATIONS**

The HUD form 50058 will be completed and transmitted as required by HUD. The Notice of Rent Change is mailed to the owner and the participant. Signatures are not required by the Authority. If the family disagrees with the rent adjustment they may request an informal hearing, in writing to the Authority. Staff will ensure that the letter goes out to the landlord and participant. A copy of the letter will be retained in the file.

#### **E. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)**

**Standard for Timely Reporting of Changes:** The Authority requires that families report interim changes to the Authority within seven (7) business days of when the change occurs. Any information, document or signature needed from the family which is needed to verify the change must be provided must be provided within seven (7) working days of the change.

An exception will be made for AFDC recipients who obtain employment. In such cases, families will have to report within fourteen (14) calendar days of receipt of the Notice of Action from AFDC that shows the full adjustment for employment income.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

**Procedures when the Change is Reported in a Timely Manner:** The Authority will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

- Increases in the Tenant Rent are effective on the first of the month following at least thirty (30) days notice.
- Decreases in the Tenant Rent are effective the first of the month following that in which the change occurred. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

The change may be implemented based on documentation provided by the family, pending third-party written verification. The change will not be made until the third party verification is received.

**Procedures when the Change is Not Reported by the Tenant in a Timely Manner:** If the family does not report the change as described under Timely Reporting above, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

- **Increase in Tenant Rent** will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement or make a lump sum payment.
- **Decrease in Tenant Rent** will be effective on the first of the month following completion of processing by the Authority and not retroactively.

“Processed in a timely manner” means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the Authority in a timely manner.”

**Procedures when the Change is Not Processed by the Authority in a Timely Manner:**

- **Increases in tenant rent:** will be effective after the required thirty (30) days' notice prior to the first of the month after completion of processing by the Authority.
- **Decreases in tenant rent:** the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

## **F. REPORTING OF CHANGES IN FAMILY COMPOSITION**

All changes in family composition must be reported within seven (7) business days of the occurrence.

**Increases in Family Size:** Increases, other than by birth, adoption or court-awarded custody must have the prior approval of the owner and the Authority. If the addition would result in overcrowding according to HQS maximum occupancy standards, the Authority will not approve the addition other than birth, adoption or court-awarded custody and the Authority will issue a larger Voucher (if needed under the Subsidy Standards) for additions to the family in the following cases:

- Addition by marriage/or marital-type relation;
- Addition of a minor who is a member of the nuclear family who had been living elsewhere;
- Addition of an Authority-approved Live-In-Aide;
- Addition of any relation of the Head or Spouse;
- Addition due to birth, adoption or court-awarded custody.

If a new family member is added, family income must include any income of the new family member. If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to overcrowding, the change in Voucher shall be made effective immediately. The Authority may determine whether to issue a Voucher in this instance based on funding availability.

#### **G. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES**

Under the Non-citizens Rule, "Mixed" families are families that include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status. "Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

1. The head of household or spouse is a U.S. citizen or has eligible immigrant status; and
2. All members of the family other than the head, the spouse, parents of the head, parents of the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

Mixed families who qualify for continued assistance after 11/29/96 may receive prorated assistance only. If they do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, the family may choose prorated assistance (See Chapter 6, "Factors Related to Total Tenant Payment Determination"), or the Authority may offer temporary deferral of termination (See Chapter 15, "Denial or Termination of Assistance").

Proration of the HAP payment does not affect rent to the owner. The family must pay the portion of the rent to the owner not covered by the prorated housing assistance payment.

## **Chapter 13**

### **MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

#### **INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within the Authority's jurisdiction, or to a unit outside of the Authority's jurisdiction under Portability procedures. The regulations also allow the Authority the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the Authority's jurisdiction, and the policies for restriction and limitations on moves.

#### **A. ALLOWABLE MOVES**

A family may move to a new unit if:

1. The assisted lease for the old unit has terminated because the Authority has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family in writing and signed by both parties.
2. The owner has given the family 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 family (unless assistance to the family will be terminated).
3. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner) to the owner/landlord and the Authority.

#### **B. RESTRICTIONS ON MOVES**

Families will not be permitted to move within the Authority's jurisdiction during the initial year of assisted occupancy. Families will not be permitted to move outside the Authority's jurisdiction under portability procedures during the initial year of assisted occupancy. The Authority will deny permission to move if there is insufficient funding for continued assistance.

The Authority may also deny permission to move to if:

- The family has repeatedly caused damages to their units and/or associated property
- The family has violated a Family Obligation.
- The family owes the Authority money.
- The family has moved or been issued a Voucher within the last twelve (12) months.
- The Authority will not issue a participant a new Voucher for a portable move if the family has moved out of the family's unit in violation of the lease. (Section 553 of the 1998 Act; Section 24 CFR 982.353)

The Executive Director or his designee may make exceptions to these restrictions on a case by case basis if there is an emergency reason for the move over which the participant has no control.



## **C. PROCEDURE FOR MOVES**

**Issuance of Voucher:** If the family has not been recertified within the last one hundred twenty (120) days, the Authority will issue the voucher to move after conducting the recertification/as soon as the family requests the move and conducted a final HQS inspection of their current unit. If the family does not locate a new unit, they may remain in the current unit so long as the owner permits. The annual re-certification date will be changed to coincide with the new lease-up date.

**Notice Requirements:** Briefing sessions emphasize the family's responsibility to give the owner and the Authority proper written notice of any intent to move. The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the Authority simultaneously.

**Time of Contract Change:** A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

## **D. PORTABILITY**

Portability applies to families moving out from another PHA's jurisdiction or into the Authority's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the initial Authority's jurisdiction. The unit may be located:

1. In the same state as the initial Authority;
2. In the same Metropolitan Statistical Area (MSA) as the Authority, but in a different state;
3. In an MSA adjacent to the MSA of the Authority, but in a different state.
4. In the jurisdiction of a PHA anywhere within the United States that administers a tenant based program.

## **E. OUTGOING PORTABILITY**

When a family requests to move to outside of the Authority's jurisdiction, the request must specify the area to which the family wants to move. If the family is moving to a unit located in the same state as the initial Authority, in the same MSA, but in a different state, or in an adjacent MSA in a different state, and there is not an Authority in the area where the unit is located, the initial Authority will be responsible for the administration of the family's assistance. The Authority will choose a management company, another Authority or a private contractor to administer the assistance. If there is more than one Authority in the area in which the family has selected a unit, the Authority will choose the receiving Authority.

### **Restrictions on Portability**

1. Families will not be permitted to exercise portability during the initial twelve (12) month period after admission to the program, if neither the head or spouse had a domicile (legal residence) in the Authority's jurisdiction at the date of their initial application for assistance unless the receiving and initial Authority agree to allow the move.
2. If the family is in violation of a family obligation.
3. If the family owes money to the Authority.

**Outgoing Portability Procedures:** The Authority will provide pre-portability counseling for those families who express an interest in portability. If the family is utilizing portability for their initial lease-up, the Authority will determine if the family is within the very low income limit of the receiving PHA. The Authority will notify the receiving PHA that the family wishes to relocate into its jurisdiction. The Authority will advise the family how to contact and request assistance from the receiving PHA. The Authority will provide the following documents and information to the receiving Authority:

1. A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
2. The most recent HUD 50058 form and verifications.
3. Declarations and verifications of U.S. citizenship/eligible immigrant status.
4. HUD 52665 - Family Portability Information, with Part 1 completed.
5. Current information related to eligibility and rent payments.
6. Administrative fee schedule for billing purposes.
7. Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data. In addition to these documents, the Authority will provide the following information, if available, to the receiving PHA:
  - Social security numbers (SSNs)
  - Documentation of SSNs for all non-exempt household members whose SSNs have not been verified through the EIV system
  - Documentation of legal identity
  - Documentation of citizenship or eligible immigration status
  - Documentation of participation in the earned income disallowance (EID) benefit

The Receiving PHA must notify the Authority within one hundred eighty 180 days of the following:

- The Receiving PHA decides to absorb the family into their own program.
- The family leases up or fails to submit a Request for Lease Approval by the required date.
- Assistance to a portable family is terminated by the Receiving PHA.
- The family requests to move to an area outside the Receiving PHA's jurisdiction.

**Payment to the Receiving PHA:** The Authority will requisition funds from HUD based on the anticipated lease-ups of portable Vouchers in other Authority's jurisdictions. Payments for families in other jurisdictions will be made to other Authority's when billed or in accordance with other HUD approved procedures for payment.

When billed, the Authority will reimburse the receiving HA for 100% of the Housing Assistance Payment, 100% of the Special Claims paid on HAP contracts effective prior to October 2, 1995, and 80% of the Administrative Fee (at the initial HA's rate), and any other HUD-approved fees.

Upon execution of HUD 52665, the initial Authority will start reimbursing the Receiving PHA for 100% of the Housing Assistance Payment, eighty percent (80%) of the Administrative Fee (at the initial Authority's rate) and any other HUD-approved fees.

**Claims:** The Authority will be responsible for collecting amounts owed by the family for claims paid and for monitoring the repayment. The Authority will notify the Receiving PHA if the family is in arrears or if the family has refused to sign a Repayment Agreement, and the Receiving PHA will be asked to terminate assistance to the family as allowed by this Administrative Plan. Receiving PHA's will be required to submit hearing determinations to the Authority within thirty (30) calendar days.

## **F. INCOMING PORTABILITY**

**Absorption or Administration:** The Authority will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher based on the availability of funding. If administering for the initial PHA, the family will be issued a "Portability" Voucher by the Authority with the same start date. The Authority may grant extensions in accordance with this Administrative Plan.

Incoming portable families who have not yet been absorbed may be absorbed before the Authority selects new applicants from the Waiting List. The Authority will absorb incoming Vouchers in cases where the Initial PHA absorbs an equal number of the Authority's outgoing Vouchers. The Authority may absorb vouchers, if such absorption does not exceed five percent (5%) of households assisted.

When the receiving PHA does not absorb the incoming Voucher, it will administer the Initial Authority's Voucher and the receiving Authority's policies will prevail.

For initial lease-up, the family must be within the Authority's Very-Low Income limits. For participants, the Authority may issue a Voucher. If the family is ineligible under the receiving Authority's low income limit because the form of assistance offered causes the family to change programs, the receiving Authority must absorb the family without a change in the form of assistance, or administer the family's current form of assistance.

The Authority will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Voucher size, the Authority will change to the proper size based on its own Subsidy Standards. HUD expects the Voucher to be issued within two (2) weeks of receiving the HUD 52665 form and supporting documents. The Authority will decide whether to extend the "Portability Voucher" and for what period of time. The Authority's policy on suspensions will apply. However, if the Family decides not to lease-up in the Authority's jurisdiction, the Family must request an extension from the Initial PHA.

**Income and TTP of Incoming Portables:** As the Receiving PHA, the Authority will conduct a recertification interview but may only verify the information provided if the documents are missing or are over one hundred twenty (120) days old, whichever is applicable, or there has been a change in the family's circumstances. If the family's income exceeds the income limit of the Authority, the family will not be denied assistance unless the family is an applicant (and over the Very-Low Income Limit). The Authority will re-verify the family's information, including performing background/criminal screening, if documents are unavailable or to investigate potential fraud.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the Authority's jurisdiction, the Authority will refuse to enter into a contract on behalf of the family at \$0 assistance.

**Requests for Lease and Tenancy Lease Addendum (Tenancy Approval):** A briefing will be mandatory for all portability families. When the family submits a Request for Lease and Tenancy Addendum, it will be processed using the Authority's policies. If the family does not submit a Lease and Tenancy Lease Addendum, the Initial Housing Authority will be notified within thirty (30) days by the Authority.

If the Family leases up, the Authority will notify the Initial PHA within sixty (60) days of the contract execution, and any applicable administrative fees. Any applicable administrative fees will be received by the Authority no later than sixty days (60) following the expiration date of the voucher issued by the initial PHA.

If the Authority denies assistance to the family, the Authority will notify the Initial PHA within thirty (30) days and the family will be offered a review or hearing. The Authority will notify the family of its responsibility to contact the Initial PHA if the family wishes to move outside the Authority's jurisdiction under continued portability.

**Terminations:** The Authority will notify the Initial PHA in writing of any termination of assistance within thirty (30) days of the termination. If an Informal Hearing is required and requested by the family, the hearing will be conducted by the Authority using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial PHA.

The Initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the Initial PHA notifies the Authority that the family is in arrears or the family has refused to sign a repayment agreement, the Authority will terminate assistance to the family.

**Required Documents:** As Receiving PHA, the Authority will require the following documents from the Initial PHA:

1. A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
2. The most recent HUD 50058 form and verifications.
3. Declarations and verifications of U.S. citizenship/eligible immigrant status.

4. HUD-52665 Family Portability Information
5. The Authority can request income verification, copies of Social Security cards, and birth certificates from the initial HA, but the initial HA is not required by Notice to provide this information. Authority may need to obtain it.
6. The names of initial PHA staff designated for inquiries on eligibility and billing the Administrative fee schedule for billing purposes.

**Billing Procedures:** As the Receiving PHA, in cases which the Authority does not absorb a family, the Authority will bill the initial PHA monthly for the Housing Assistance Payments. The Authority will submit the HUD- 52665 which will initiate the billing cycle.

The Authority will receive one hundred percent (100%) of the Housing Assistance Payment, one hundred percent (100%) of Special Claims and eighty percent (80%) of the Administrative Fee (at the Initial HA's rate) and any other HUD-approved fees, for each "Portability" Voucher leased as of the first day of the month. The Authority will notify the Initial Authority of changes in subsidy amounts and will expect the initial Authority to notify the Authority of changes in the Administrative Fee amount to be billed.

## **Chapter 14**

### **CONTRACT TERMINATIONS**

#### **INTRODUCTION**

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the Authority which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the Authority and the owner, and the policies and procedures for such terminations.

#### **A. CONTRACT TERMINATION**

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the Authority may be terminated by the Authority, or by the owner or tenant terminating the lease.

The HAP Contract terminates automatically upon the death of a single member household, including single member households with a Live-In Aide. The termination of HAP payments to the landlord/owner are effective the first of the month following the month in which the death occurred. No future subsidy payments on behalf of the family will be made by the Authority to the owner after the month in which the Contract is terminated. The owner must reimburse the Authority for any subsidies paid by the Authority for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

#### **B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.351 (c)(2)]**

The lease stipulates that the family cannot move from the unit until after the first year of the lease under mutually agreed upon by both the owner and the family. The notice period to the landlord is determined by the Contract, but may not exceed sixty (60) days.

#### **C. TERMINATION BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]**

If the owner wishes to terminate the lease, the owner is required to evict, using the notice procedures in the HUD regulations and State/local law. The owner must provide the Authority with a copy of the eviction notice. The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action. State and local laws will prevail termination for all Housing Choice Voucher holders. The contract and lease terms and conditions require that the owner may only evict for:

1. Serious or repeated violations of the lease; including but not limited to failure to pay rent or other amounts due under the lease;
2. Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises or repeated violations of the terms and conditions of the lease or;
3. Other good cause, including; but not limited to:
  - Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises including engaging in Domestic Violence Crimes.
  - Any drug-related criminal activity on or near the premises.
  - Tenant history of disturbance of neighbors, destruction of property, or behavior resulting in damage to the premises.
4. Other good cause, after the first year of the lease, includes:
  - Failure by the family to accept the offer of a new lease or revision;
  - A family history of disturbance of neighbors or destruction or property, or of living or housekeeping habits resulting in damage to the units or premises;
  - The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential unit; or
  - A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rental.)

The owner should specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as document for Authority termination of assistance. The eviction notice must specify the cause for the eviction.

Housing Assistance Payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the Authority must continue to make Housing Assistance Payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The owner must give the Tenant a written notice that specifies the grounds for termination of the tenancy during the term of the lease. This notice may be included in, or may be combined with, any owner eviction notice to the Tenant. The eviction notice is a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the Tenant from the unit by instituting a court action.

The Authority will continue Housing Assistance Payments until the family moves or is evicted from the unit. If the action is finalized in court, the owner must provide the Authority with the documentation, including notice of the lock-out date.

If the owner opts out for business or economic reasons, the tenant must be given ninety (90) days notice, with a copy to the Authority. Such reasons include desire to sell the property, renovation of the unit, or desire to obtain a higher rent than the Authority will approve.

The Authority must continue making Housing Assistance Payments to the owner in accordance with the Contract as long as the tenant continues to occupy the unit and the Contract is not violated. By endorsing the monthly check or utilizing the monies from the direct deposit from the Authority, the owner certifies that the tenant is still in the unit and s/he is in compliance with the contract.

If the eviction is not due to a serious or repeated violation of the lease, and if the Authority has no other grounds for termination of assistance, the Authority may issue a new certificate or voucher so that the family can move with continued assistance.

**D. TERMINATION OF THE CONTRACT BY THE AUTHORITY**  
**[24 CFR 982.404 (a), 982.453, 982.454, 982.552 (a)(3)]**

The term of the HAP contract terminates when the lease terminates, when the Authority terminates program assistance for the family, and when the owner has breached the HAP contract. Any of the following actions will be considered a breach of contract by the owner:

1. The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit to HQS standards, including any standards the Authority has adopted in this policy.
2. The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
3. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
4. The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.
5. The owner has engaged in drug trafficking.

*The Authority may also terminate the contract if:*

- The Authority terminates assistance to the family.
- The family is required to move from a unit which is under-occupied or overcrowded.
- Funding is no longer available under the ACC.

The Contract will terminate automatically if one hundred eighty (180) days have passed since the last Housing Assistance Payment to the owner.



**Notice of Termination:** The Authority will provide the owner and family with at least thirty (30) days written notice of termination of the contract.

**E. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS [24 CFR 5.514]**

Families who were participants on June 19, 1995, but are ineligible for continued assistance due to the ineligible immigration status of all members of the family, or because a “mixed” family chooses not to accept pro-ration of assistance, are eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for transition to affordable housing. Deferrals may be granted for intervals not to exceed six (6) months, up to an aggregate maximum of:

- three (3) years for deferrals granted prior to 11/29/96, or
- eighteen (18) months for deferrals granted after 11/29/96

The family will be notified in writing at least sixty (60) days in advance of the expiration of the deferral period that termination of assistance will not be deferred because:

- a) granting another deferral will result in an aggregate deferral period of longer than the statutory maximum (three years for deferrals granted before 11/29/96; eighteen (18) months for deferrals granted after 11/29/96), or
- b) a determination has been made that other affordable housing is available.

**F. TERMINATION DUE TO OWNER DISAPPROVAL**

If the Authority terminates the contract due to owner disapproval (See Chapter 9, “Lease and Tenancy Lease Addendum and Contract Execution”), the Authority will provide the owner and family with at least thirty (30) days written notice of termination of the contract.

## Chapter 15

### DENIAL OR TERMINATION OF ASSISTANCE

#### INTRODUCTION

The Authority may deny or terminate assistance for a family because of the family's action or failure to act. The Authority will provide families with a written description of the Family Obligations under the Program, the grounds under which the Authority can deny or terminate assistance, as well as the Authority's informal hearing procedures. This Chapter describes when the Authority is required to deny or terminate assistance; the Authority's policies for the denial of a new commitment of assistance; and the grounds for termination of assistance under an outstanding HAP Contract.

#### A. GROUND FOR DENIAL/TERMINATION OF ASSISTANCE

If denial or termination is based upon behavior resulting from a disability, the Authority will delay the denial or termination in order to determine if there is an accommodation which would meet the negate the behavior resulting from the disability.

**Form of Denial/Termination:** Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the Authority waiting list.
- Denying or withdrawing a Voucher.
- Refusing to enter into a HAP contract or approve a lease.
- Refusing to process or provide assistance under portability procedures.

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

- Refusing to enter into a HAP Contract or approve a lease.
- Terminating Housing Assistance Payments under an outstanding HAP contract.
- Refusing to process or provide assistance under portability procedures.

**Mandatory Denial and Termination:** The Authority must deny assistance to applicants, and terminate assistance for participants under the following conditions:

- If any member of the family fails to sign and submit to the Authority required consent forms for obtaining information.
- If any family member does not establish citizenship or eligible immigration status
- If the family is under contract and one hundred eighty (180) days have elapsed since the Authority's last housing assistance payment was made.

The Authority may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following additional reasons:

1. The family violates any family obligation under the program as listed in 24 CFR 982.551, fails to submit recertification information, fails to attend informal hearings, and other scheduled appointments.
2. Any member of the family has ever been evicted from public housing.
3. The family currently owes rent or other amounts to the Authority or to another Authority in connection with Section 8 or public housing assistance under the 1937 Act.
4. The family has not reimbursed any Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
5. The family breaches a repayment agreement with an Authority to pay amounts owed to the Authority, or amounts paid to an owner by an Authority. Fails to abide by terms of the repayment agreement.
6. Have demonstrated unsatisfactorily, by past performance, the ability to pay such monthly rent.
7. Have demonstrated, through unacceptable references, the ability to conduct themselves in a manner that will not impair the environment and/or security of other tenants residing in the development. This includes a record of a serious disturbance of neighbors, destruction of property or other disruptive or dangerous behavior and neglect of children which endangers their health, safety or welfare;
8. The family has engaged in or threatened abusive or violent behavior toward Authority personnel. "Abusive or violent behavior towards Authority personnel" includes verbal as well as physical abuse or violence, such as the use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. "Threatening" refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence. Actual physical abuse or violence will always be cause for termination.
9. If a family member is involved in other criminal activity which may threaten the health or safety of other residents, the owner, property management staff or persons performing responsibilities on behalf of the Authority or the peaceful enjoyment of the premises by other residents.
10. Have demonstrated, by past performance and behavior, that family members are unlikely to obey all rules and regulations as embodied in the tenant's lease, as well as the rules and regulations embodied herein;
11. Have demonstrated, by past behavior, that family members will not maintain both the apartment they are seeking to lease as well as the common area of the development in which the apartment is located in a safe, healthy and sanitary condition. This includes the creation of a fire hazard through acts such as the boarding of rags and papers; damage to premises and equipment, if it is established that the family is responsible for the condition; seriously affecting neighbors by causing infestation, foul odors, depositing garbage in the halls, or serious neglect of the premises;

12. The Authority will not assist a family if they owe rent, other amounts or have judgments to any housing authority or any other federal subsidized housing program.
13. The Authority will not assist a family if they have previously vacated a public or assisted housing unit in violation of the terms of their lease;
14. Have been previously evicted from public housing for any reason. Also, any applicant who has been evicted from public housing or any Section 8 rental assistance program for drug related criminal activity is ineligible for admission. To obtain eligibility for readmission, the individual, who engaged in the activity, must have completed successfully a rehabilitation program approved by the Authority or if the Authority determines that the circumstances leading to the eviction no longer exist.
15. Have committed acts that would constitute fraud in connection with any federal housing program.
16. Did not provide information required within the specified timeframe as outlined in Section B – Family Obligations, Part 1.
17. Has been convicted of a drug-related criminal offense or violent criminal activity. The Authority shall deny admission to a family whose household member(s) is subject to the lifetime registration for sex offenders; and
18. The family has engaged in or threatened abusive or violent behavior toward an Authority personnel. "Abusive or violent behavior towards an Authority personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. "Threatening" refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence. Actual physical abuse or violence will always be cause for termination.

If the Authority determines that a person is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other Tenants. The Authority may waive this requirement if:

- The person demonstrates to the Authority's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
- Has successfully completed a supervised drug or alcohol rehabilitation Program;
- Has otherwise been rehabilitated successfully; or is participating in a supervised drug or alcohol rehabilitation program;
- Has a history of criminal activity involving crimes of physical violence to persons or property and other criminal activities that may affect adversely the health, safety and welfare of other tenants;
- Intentional or unintentional misrepresentation of verification information as outlined in Section 2.8 above;

- Has been convicted of manufacturing or producing methamphetamine;
- Rape or sexual deviation which includes individuals who have been involved as offenders in rape, indecent exposure, sodomy and carnal abuse;

If there is evidence of a confirmed drug addiction, such as a record of more than one conviction for possession or use of heroin or other addictive narcotics. The Authority may waive this requirement if:

- The person demonstrates to the Authority's satisfaction that the person is no longer engaging in drug-related criminal activity;
- Has completed successfully a supervised drug rehabilitation program;
- Has otherwise been rehabilitated successfully; or is participating in a supervised drug rehabilitation program

The Authority will deny or terminate the housing assistance if the applicant or participant has: a history of bad credit; and/or has a history of bad housekeeping, based upon inspection of prior unit; or fails to disclose all aspects of an applicant's criminal history as requested on his/her application prior to the Authority's discovery of the same, if any; or if the Authority determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse or rehabilitation of illegal drug users alcohol abusers.

This list is not to be construed as totally inclusive and there may be circumstances not listed which may be used for denial of admission if the Authority determines that the admission of the household or member thereof would have a detrimental effect on the health, safety or right to peaceful enjoyment of the premises by other Tenants.

A written denial notification will be sent to the applicant indicating the specific reasons for such action. This notification will also explain the applicant's right to request an informal hearing. The instructions to request a hearing will be explained in this correspondence. Once a hearing is held, a written notification will be forwarded to the applicant, indicating the decision of the person reviewing the file. This correspondence will specify the reasons for the decision being upheld or the reasons overturning the initial decision to deny admission.

**Misrepresentation by the Applicant or Tenant:** If an applicant or tenant is found to have made intentional or tenant is found to have made intentional or unintentional misrepresentations at any time which resulted in the applicant or tenant being classified as eligible, when, in fact, they were ineligible, the applicant will be declared ineligible and the lease and/or application will be terminated because of the misrepresentation by the applicant/tenant. If such misrepresentation resulted in the tenant paying a lower rent that was appropriate, tenant shall be required to pay the difference between the actual payments and the amount, which should have been paid. In justifiable instances, the Authority may take such other actions, as it deems appropriate, including referring the tenant to the proper authorities for possible criminal prosecution.

**Grounds for Terminating Assistance:** includes if the Authority determines that a member of the household is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees or a high misdemeanor in New Jersey. If the Authority determines that a member of the household is violating a condition of probation or parole imposed under Federal or State law.

The family fails to disclose to the Authority any HUD or other official notification it has received regarding discrepancies in the amount or verification of family income or for any Housing Choice (Section 8) Voucher related issue.

The Authority may also deny the request of a participating family to add a household member if that person is found to be ineligible for assistance after a review of the above criteria.

## **B. FAMILY OBLIGATIONS**

1. The family must supply any information that the Authority or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 812). "Information" includes any requested certification, release or other documentation within ten (10) business days of said request.
2. The family must supply any information requested by the Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements. A change in Family Composition, Family Income, Composition, or other relevant circumstances must be reported immediately to the Authority.
3. The family must provide social security cards for all members of the family and must sign and submit consent forms for obtaining information in accordance with 24 CFR part 760 and 24 CFR part 813.
4. All information supplied by the family must be true and complete.
5. The family is responsible for a Housing Quality Standard breach caused by the family as described in 24 CFR 982.404(b).
6. The family must allow the Authority to inspect the unit at reasonable times and after reasonable notice.
7. The family may not commit any serious or repeated violation and breach of the lease.
8. The family must notify the owner and, at the same time, notify the Authority before the family moves out of the unit or terminates the lease on notice to the owner. Notice must be given in writing to the owner and the Authority.
9. The family must promptly give the Authority a copy of any owner eviction notice.
10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

11. The composition of the assisted family residing in the unit must be approved by the Authority. The family must promptly inform the Authority of the birth, adoption or court-awarded custody of a child. The family must request Authority approval to add any other family member as an occupant of the unit.
12. The family must promptly notify the Authority if any family member no longer resides in the unit.
13. If the Authority has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or the Authority approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family. The Authority will annually request the family to justify and document the necessity for/and verify services that the live-in-aide is providing. A person who is the primary care provided for additional family members (e.g. young children) and would require additional bedrooms, will not be approved as a live-in-aide.
14. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family. The income must be reported to the Authority and the owner approval is required.
15. The family must not sublease or sublet the unit.
16. The family must not assign the lease or transfer the unit.
17. The family must supply any information or certification requested by the Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any Authority requested information or certification on the purposes of family absences. The family must cooperate with the Authority for this purpose. The family must promptly notify the Authority of absence from the unit.
18. The family must not own or have any interest in the unit.
19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
20. The members of the family may not engage in drug-related criminal activity.
21. The members of the family may not engage in violent criminal activity.
22. The family must not damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.
23. The family must not make any payments or other consideration to the landlord in addition to their monthly rental payment specified by the Authority, additional rent is prohibited.

24. The members of the family may not engage in criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
25. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.
26. The members of the family may not engage in or threaten abusive or violent behavior toward Housing Authority personnel.
27. The members of the family must not abuse alcohol in a way that threaten the health, safety, or right to peaceful enjoyment of other residents and persons residency in the immediate vicinity of the premises.

**Limited Periods of Denial of Admissions:** If an applicant is denied admission, it may be determined by the Authority to only be a limited denial. These time frames are only a guideline and may be extended if the Authority deems it is in the best interest of the Authority and/or the tenants. The timeframe for these denials is as follows:

*a. One (1) Year Limited Denial:*

- Bad credit history
- Bad housekeeping habits
- Bad landlord references
- Bad rent payment history
- Minor violation of lease
- Failure to provide adequate verifiable documentation; and/or
- Failure to provide documentation in the specific timeframe
- Non-disclosure

*b. Three (3) Year Limited Denial:*

- Eviction from public and or assisted housing because of drug related criminal activity; and/or
- Past behavior which may be considered a threat to other Tenants.
- Fraud or give false information during the initial or any subsequent certifications to the Authority
- Non-disclosure

*c. Five (5) Year Limited Denial:*

- Drug use without any evidence of rehabilitation;
- Conviction that indicates that the applicant may be a threat to tenants; and/or

*d. Ten (10) Year Limited Denial:*

- Conviction of drug trafficking



*e. Lifetime Denial:*

- Household with a member who is subject to a lifetime registration under the State's sex offender registration law; and/or
- Applicant who has been convicted of manufacturing or producing illegal controlled substances on or around the premises of a housing authority

**Housing Authority Discretion:** In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the Authority has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, the length of time since the violation occurred and more recent record of compliance, and consider the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The Authority 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 will not reside in the unit. The Authority may permit the other members of a family to continue in the program, (removal of a culpable household member), repayment of family debts; consideration of rehabilitation, unfavorable behavior of a family member with disabilities upon determination that alternative measures would warrant a "reasonable accommodation."

**Enforcing Family Obligations/Explanations and Terms:**

The term "Promptly" when used with the Family Obligations always means "within seven (7) business days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

HQS Breach: The Authority's will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Executive Director, or the Director of Housing Choice Voucher.

Serious or Repeated Lease Violations: The following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance:

- If the owner notifies the family of termination of the lease for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the Authority determines that the cause is a serious or repeated violation of the lease based on available evidence.
- If the owner terminates tenancy through court action.
- If there are police reports, neighborhood complaints or other third party information, and the Authority has verified the information.

Notification of Eviction: If the family requests assistance to move and they did not notify the Authority of an eviction within ten (10) business days of receiving the Notice of Lease Termination, the move will be denied.

Proposed additions to the family may be denied to:

- Persons who have been evicted from public housing;
- Persons who have previously violated a family obligation listed in 24CFR 982.51 of the HUD regulations;
- Persons who have been part of a family whose assistance has been terminated under the Voucher program;
- Persons who commit drug-related criminal activity or violent criminal activity;
- Persons who do not meet the Authority's definition of family;
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- Persons who currently owe rent or other amounts to the Authority or to another Authority in connection with Section 8 or public housing assistance under the 1937 Act;
- Persons who have engaged in or threatened abusive or violent behavior toward Authority personnel;
- Persons who are convicted sex offenders;
- Lack of credit worthiness;
- Non-disclosure of information;
- Persons who have been convicted of manufacturing or producing illegal controlled substances on or around the premises or the premises of an Authority.

Family Member moves out: Families are required to notify the Authority if any family member leaves the assisted household. When the family notifies the Authority, they must furnish a statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-making Activity in Unit: If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.

Fraud: In each case, the Authority will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members. In the event of false citizenship claims, the Authority will give the family member the opportunity to elect not to contend their status in lieu of termination of the entire family.

**C. DRUG ABUSE AND OTHER CRIMINAL ACTIVITY POLICY**

1. Any applicant for admission to the Housing Choice Voucher (Section 8) Program that has been evicted from public housing or any Section 8 rental assistance programs for drug related criminal activity is ineligible for admission to the Section 8 rental assistance programs for a (3) three-year period, beginning from the date of eviction. The evicted family becomes eligible for readmission, however, if the individual who engaged in the activity has successfully completed a rehabilitation program approved by the Authority or if the Authority determines that the circumstances leading to the eviction no longer exist.
2. Any sex offenders who are subject to a lifetime registration requirement under a State Sex Offenders' Registration Program will be denied admission permanently to the Section 8 rental assistance program.

3. Any persons convicted of manufacturing or producing methamphetamine are ineligible permanently for admission to any Section 8 assisted housing.
4. The Authority may prohibit admission of a household to a Section 8 rental assistance program if it has been determined that any household member is currently engaging in, or has engaged in:
  - Drug related criminal activity;
  - Violent criminal activity (defined as any criminal activity that has one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause or be reasonably likely to cause serious bodily injury or property damage;
  - Other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants; or
  - Other criminal activity that would threaten the health or safety of any Section 8 owner/landlord, Authority employee, contractor, subcontractor or agent of the Authority.
5. Any HCVP participant or member of a participant family who engages in the activity described above or is fleeing to avoid prosecution, custody or confinement after conviction for a felony (or a high misdemeanor in New Jersey) or who is violating a condition of probation or parole imposed under federal or state law will/may be terminated from the Section 8 rental assistance program.

**D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]**

**Termination due to Ineligible Immigrant Status:** Assistance may not be terminated while verification of the participant family's eligible immigration status is pending. Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated. They must be given an opportunity for a hearing.

**Temporary Deferral of Termination of Assistance:** Ineligible families who were participants as of June 19, 1995, may request a temporary deferral of termination of assistance in order to allow time to locate affordable housing and thereby preserve the family.

**Criteria for Approving Temporary Deferral of Termination of Assistance:** The Authority will grant temporary deferral so long as the family makes reasonable efforts to find affordable housing. Affordable housing is defined as housing that is standard based on HQS of appropriate size based on HQS, and for which the rent plus utilities is no more than twenty five percent (25%) greater than the Authority calculated Total Tenant Payment. To determine whether a family is eligible for temporary deferral of termination of assistance, or for a renewal of temporary deferral of termination of assistance, the Authority will:

- Calculate Total Tenant Payment plus twenty five (25%) for the family, and compare this amount to the data in its rent reasonableness survey for the unit size. If the Authority's data indicates that units are not available at the affordable rent, the deferral will be renewed.
- If the Authority determines that the vacancy rate for affordable housing is less than five percent (5%) in its jurisdiction, it will accept a written statement from the family that they have been unable to find affordable housing.

- Require a search record to document the family's efforts to locate housing before granting or extending temporary deferral of termination of assistance.
- Conduct market studies to determine the availability of affordable housing and, if the vacancy rate in affordable housing is less than five percent (5%), the Authority may continue temporary deferral of termination of assistance.
- Automatically grant and extend temporary deferral of termination of assistance so long as the market for affordable housing is limited in the jurisdiction.

**Length of Deferral:** The initial temporary deferral is granted for an interval not to exceed six months. Additional deferrals can be made up to a maximum of three years, if the initial deferral was granted prior to 11/29/96. For deferrals granted after 11/29/96, additional deferrals may be made up to an aggregate total of eighteen (18) months. A notice is sent to the family at the beginning of each deferral period reminding them of their ineligibility for full assistance and their responsibility to seek other housing.

The family will be notified in writing sixty (60) days before the end of the maximum deferral period that there cannot be another deferral, and will be offered the option of prorated assistance if they are a mixed family and have made a good-faith effort to locate affordable housing.

**False or Incomplete Information:** When the Authority has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the Authority may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The Authority will then verify eligible status, deny, terminate, or prorate as applicable. The Authority will deny or terminate assistance based on the submission of false information or misrepresentations.

**Procedure for Denial or Termination:** If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the Authority either after the INS appeal or in lieu of the INS appeal.

Kindly provide the Authority a copy of the written request of appeal as well as proof of mailing. The INS will issue a written decision and the family is encouraged to provide the Authority with a copy of the INS decision upon receipt.

After the Authority 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) or, for participants who qualify, for Temporary Deferral of Termination of Assistance.

## **E. ZERO ASSISTANCE TENANTS**

**Old Contracts:** For contracts which were effective prior to 10/2/95, the Authority is liable for unpaid rent and damages if the family vacates during the allowable twelve (12) months after the last HAP payment. The Authority must perform all of the functions normally required, such as reexaminations and inspections. The participant will be notified of the right to remain on the program at \$0 assistance for twelve (12) months. If the family is still in the unit after twelve (12) months, the assistance will be terminated.

**New Contracts:** For contracts effective after 10/2/95, the Authority has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to one hundred eighty (180) days after the last HAP payment. If the family is still in the unit after one hundred eighty (180) days, the assistance will be terminated. If within the one hundred eighty (180) day timeframe an owner rent increase or a decrease in the Total Tenant Payment cause the family to be eligible for a housing assistance payment, the Authority will resume assistance payments for the family.

In order for a family to move to another unit during the one hundred eighty (180) days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

## **F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

If the family has misrepresented any facts that caused the Authority to overpay assistance, the Authority may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses the Authority in full.

## **G. MISREPRESENTATION IN COLLUSION WITH OWNER**

If the family is willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, the Authority may deny or terminate assistance. In making this determination, the Authority will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

## **H. MISSED APPOINTMENTS AND DEADLINES**

It is a Family Obligation to supply information, documentation, and certification as needed for the Authority to fulfill its responsibilities. The Authority schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the Authority to inspect the unit and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the Authority may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the Authority to inspect the unit.

The family will be given information about the requirement to keep appointments, and the number of times appointments will be rescheduled as specified in this Plan. Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for Admissions
- Verification Procedures
- Voucher Issuance and Briefings
- Housing Quality Standards and Inspections
- Re-certifications
- Informal Reviews

Acceptable reasons for missing appointments or failing to provide information by deadlines are for a medical emergency, incarceration or a family emergency.

**Procedure when Appointments are Missed or Information not Provided:** For most purposes in this Plan, the family will be given one opportunity before being issued a notice of termination or denial for breach of a family obligation. After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing the notice may be rescinded if the family offers to cure and the family does not have a history of non-compliance.

## **Chapter 16**

### **OWNER DISAPPROVAL, RESTRICTION AND CONTRACT TERMINATION**

#### **INTRODUCTION**

It is the policy of the Authority to recruit owners to participate in the Program, and to provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the Authority. The regulations define when the Authority must disallow an owner participation in the Program, and they provide the Authority discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

#### **A. DISAPPROVAL OF OWNER**

The owner does not have a right to participate in the Program. For purposes of this section, "owner" includes a principal or other interested party. The Authority will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed the Authority that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the Authority that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the Authority that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- The owner has engaged in drug trafficking.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
- The owner has a history or practice of renting units that fail to meet State or local housing codes.
- The owner has not paid State or local real estate taxes, fines or assessments.

## **B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.302 (a)(8), 982.453]**

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, the Authority will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The Authority may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the Authority will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

The Authority guidelines for restrictions are contained in the table below:

<b>DISAPPROVAL OF OWNERS/PARTICIPATION RESTRICTIONS</b>	
<b><u>Breach</u></b>	<b><u>Penalty</u></b>
HUD notification of owner debarment/suspension	Termination
HUD notification of violation of fair housing/federal equal opportunity	Termination
Violation of contract obligations	Termination
Owner fraud, bribery or other corrupt act in federal housing program	Termination
Owner engaged in drug trafficking	Termination
History of noncompliance with HQS	Termination
History of renting units below code	Termination
State/local real estate taxes, fines or assessments	Termination

## **C. OTHER REMEDIES FOR OWNER VIOLATIONS**

**Overpayments:** If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the Authority may terminate the Contract and will arrange for restitution to the Authority and/or family as appropriate. The Authority will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the Authority or the tenant, as applicable.

## **D. HAP CONTRACT TERMINATION**

The Housing Assistance Payments (HAP) Contract is the Contract between the owner and the Authority which defines the responsibilities of both parties. The HAP Contract can be terminated by the Authority and by the owner. The term of the HAP Contract is the same as the term of the lease between the owner and the Section 8 participant. The Authority can terminate the HAP Contract due to repeated failure by the owner to maintain the apartment according to HQS standards; for neglect of the property; and for material breach of the HCVF Section 8 rules and regulations.



Upon termination of the HAP Contract, no future payments will be made to the owner by the Authority on behalf of the family after the month in which the HAP Contract is terminated. The owner must reimburse the Authority for any payments made in error after termination of the HAP Contract. If the family continues to occupy the apartment after the HAP Contract is terminated, the family chooses to do so without rental assistance from the Authority. If the family meets the criteria for a move with continued assistance, the family may lease-up in another apartment. The HAP Contract for the new apartment may begin during the month in which the family moved from the former apartment.

**Termination by the Owner:** If the owner wishes to terminate the lease, the owner is required to evict using the notice procedures in accordance with HUD regulations and under New Jersey law. The owner must provide the Authority with a copy of the eviction notice and provide the tenant with a written notice specifying the grounds for termination of tenancy. If the owner has begun eviction proceedings and the family continues to reside in the apartment, the Authority must continue to make Housing Assistance Payments to the owner until the owner has obtained a court judgment or other legal process to evict the tenant.

**Termination by the Authority:** The Authority will terminate the HAP Contract to the owner when the lease terminates or when the Authority terminates program assistance for the family or if the owner has breached the HAP Contract. The Authority will also terminate the HAP Contract if the family is required to move or if sufficient funding is no longer available under the ACC.

## **Chapter 17**

### **CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS (For Contracts Effective Before October 2, 1995)**

#### **INTRODUCTION**

This Chapter describes the Authority's policies, procedures and standards for servicing Contracts which were effective before October 2, 1995. Voucher Contracts in this category have provisions for the Authority's liability to owners when families move out. There may be move-out inspections of units with contracts effective on or after October 2, 1995.

#### **A. OWNER CLAIMS**

Vacancy loss cannot be claimed in the Housing Choice Voucher Program after the tenant has vacated the unit. Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The Authority establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, the Authority will ascertain whether or not the family gave proper notice of its intent to move. The file will also be reviewed to verify owner compliance at the time the contract was terminated.

#### **B. UNPAID RENT [24 CFR 982.451 (iii)]**

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP Contract. Separate agreements are not considered a tenant obligation under the lease and the Authority will not reimburse the owner for any claims under these agreements.

#### **C. MOVE-OUT AND CLOSE-OUT INSPECTIONS**

Move-out inspections are performed prior to the tenant vacating the unit. These inspections are performed to assess the condition of the unit, not to evaluate the HQS. Vacate inspections will be conducted by Authority inspectors. The Authority may conduct a move-out inspection on tenant's request if the owner does not also request an inspection.

The Authority's initial inspection of the unit will include a "conditions" report which will be compared to the conditions found during the move-out inspection. The owner must notify the Authority of the move-out and request an inspection within forty-eight (48) hours of learning of the move-out in order to submit a claim for damages. A damage claim will not be approved unless the move-out inspection is requested and completed prior to any work being done.

If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection. The owner and tenant will be notified of the date and time of the inspection. If the owner is not present, the move-out inspection may be rescheduled.

#### **D. PROCESSING CLAIMS**

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum security deposit which the owner could have collected under the Program rules. If the maximum allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts which the family owes under the lease, the participant will be responsible for paying damages.

If the owner claims vacancy loss, the security deposit that s/he collected or could have collected will be deducted from the vacancy loss claim. The Authority reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of amount payable. The family is informed that a claim is pending (notice sent to last known address). The notification will state the preliminarily determined amount, the type of claim, and describe the procedure for contesting the claim.

The Authority will offer the family seven (7) business days to contest the claim. If the family disputes the claim, the Authority may schedule an informal meeting with the owner and tenant in order to resolve the differences. The Authority may schedule a Claim Review. If the family misses the Claim Review, another will not be scheduled unless there are extenuating circumstances. At the Claim Review, the amount and type of claim will be discussed with the family. If the family agrees with the amount and type of claim, the family will be offered a Repayment Agreement. If the family does not agree to sign a Payment Agreement, the Authority will process the account for collection. If the family demonstrates that the claim, or parts of it, is invalid, the Authority will adjust the amount. The Authority may offer the tenant an opportunity for an Informal Hearing regarding the claim if disputes cannot be resolved.

After a determination has been made, the Authority will notify the family in writing of the decision. If it has been determined that the family owes money, the Authority will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse the landlord as required.

**Other Requirements for Claims Processing:** The Authority will require proof that the owner has complied with State and local laws applicable to security deposits before making payment on any claim. All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.

Costs of filing eviction to remove the tenant or any other legal fees, may not be reimbursed. No claims will be paid for a unit which is vacant as the result of the landlord voluntarily moving a family to another unit owned by the same landlord. All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within five (5) business days of the date the owner learned of the move-out.

## Chapter 18

### OWNER OR FAMILY DEBTS TO THE HOUSING AUTHORITY

#### INTRODUCTION

This Chapter describes the Authority's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the Authority's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the Authority's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the Authority, the Authority will make every effort to collect it. The Authority will use a variety of collection tools to recover debts including, but not limited to: requests for lump sum payments; civil suits; repayment agreements; salary garnishments; collection agencies; credit bureaus; and income tax set-off programs.

**Program Fraud:** HUD's definition of Program fraud and abuse is a single act or pattern of actions that: "Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 Program requirements." If a family owes an amount that equals or exceeds \$10,000 as a result of Program fraud, the case will be referred to the HUD Inspector General and Authority legal counsel. Where appropriate, the Authority will refer the case for criminal prosecution.

**Family Error/Late Reporting:** Families who owe money to Authority due to program fraud or the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment section of this Chapter.

#### A. **REPAYMENT AGREEMENT FOR FAMILIES**

A Repayment Agreement as used in this Plan is a document entered into between the Authority and a person or entity who owes a debt to the Authority. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and the remedies available to the Authority upon default of the agreement. There is no maximum amount for which the Authority will enter into a repayment agreement with a family. The maximum length of time the Authority will enter into a repayment agreement with a family is twelve (12) months. The minimum monthly amount of monthly payment for any repayment agreement is twenty-five (\$25.00.).

**Late Payments:** A payment will be considered to be in arrears if the payment is not received by the close of the fifth (5<sup>th</sup>) business day. If the family's repayment agreement is in arrears, the Authority may:

- Require the family to pay the balance in full; or
- Pursue civil collection of the balance due; or
- Terminate the housing assistance; or
- Grant an extension; or
- Amend the agreement

If the family requests a move to another unit and has a repayment agreement in place for the payment of an owner claim, and the repayment agreement is not in arrears and the family will be permitted to move. If the family requests a move to another unit and is in arrears on a repayment agreement for the payment of an owner claim the family will be required to pay the balance in full or be terminated from the program.

If the family repays the past due amount, they may be permitted to move. There are some circumstances in which the Authority will not enter into a repayment agreement. They are:

- If the family already has a Repayment Agreement in place.
- If the Authority determines that the family committed program fraud.
- If the family has already violated a prior repayment agreement.

**Guidelines for Repayment Agreements:** Repayment Agreements will be executed between the Authority and the head of household and spouse. Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Executive Director.

No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the Repayment Agreement is current:

- Family size exceeds the HQS maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster

**Additional Monies Owed:** If the family has a Repayment Agreement in place and incurs an additional debt to the Authority:

- The Authority will not enter into more than one Repayment Agreement at a time with the same family
- Additional amounts owed by the family will be added to the existing repayment agreement
- If a Payment Agreement is in arrears more than thirty (30) days, any new debts must be paid in full

## **B. DEBTS OWED FOR CLAIMS [24 CFR 792.103, 982.552 (b)(6-8)]**

If a family owes money to the Authority for claims paid to an owner, the Authority may enter into a Repayment Agreement.

## **C. OWNER DEBTS TO THE AUTHORITY**

If the Authority determines that the owner has retained Housing Assistance or Claim Payments that the owner is not entitled to, the Authority may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under contract. If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, the Authority may:

- Require the owner to enter into a repayment agreement for the amount owed **or** pay the amount in full in sixty (60) days
- Pursue collections through the local court system
- Restrict the owner from future participation

## **D WRITING OFF DEBTS**

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than one (1) year old.
- A determination is made that the debtor is judgment proof.
- The debtor is deceased.
- The debtor is confined to an institution indefinitely or for more than (1) year.
- The amount is less than five hundred dollars (\$500.00) and the debtor cannot be located.

## **Chapter 19**

### **COMPLAINTS AND APPEALS**

#### **INTRODUCTION**

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the Authority. This Chapter describes the policies, procedures and standards to be used when families disagree with an Authority decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the Authority to ensure that all families have the benefit of all protections due to them under the law.

#### **A. COMPLAINTS TO THE HOUSING AUTHORITY**

The Authority will respond promptly to complaints from families, owners, employees, members of participants, participants, and members of the public. All complaints will be documented. The Authority does not require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

##### **Categories of Complaints:**

1. Complaints from families - a family disagrees with an action or inaction of the Authority or owner they will be referred to the tenant interviewer.
2. Complaints from owners - if an owner disagrees with an action or inaction of the Authority or a family.
3. Complaints from staff - if a staff person reports an owner or family either violating or not complying with program rules.
4. Complaints from the general public - complaints or referrals from persons in the community in regard to the Authority, a family or an owner.

The Authority hearing procedures will be provided to families in the briefing packet.

#### **B. PREFERENCE DENIALS [24 CFR 982.207]**

When the Authority denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with Authority staff to discuss the reasons for the denial and to dispute the Authority's decision. The person who conducts the meeting must be any officer or employee of the Authority including the person who made the decision.

**C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54 (d) (12), 982.554]**

Informal Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

When the Authority determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain: the reason(s) they are ineligible; the procedure for requesting a review if the applicant does not agree with the decision; and, the time limit for requesting a review.

The Authority must provide applicants with the opportunity for an informal review of decisions denying:

- Qualification for preference;
- Listing on the Authority's waiting list;
- Issuance of a Housing Choice Voucher;
- Participation in the program.

Informal reviews are not required for established policies and procedures and Authority determinations such as:

- Discretionary administrative determinations by the Authority;
- General policy issues or class grievances;
- A determination of the family unit size under the Authority subsidy standards;
- Refusal to extend or suspend a Housing Choice Voucher;
- Disapproval of lease;
- Determination that unit is not in compliance with HQS;
- Determination that unit is not in accordance with HQS due to family size or composition.

**Procedure for Informal Review:** A request for an informal review must be received in writing by the close of the business day, no later than seven (7) business days from the date of the Authority's notification of denial of assistance. The informal review will be scheduled within fourteen (14) days from the date the request is received. The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. The informal review may be conducted by a staff person who is at the supervisory level or above.

The applicant will be given the option of presenting oral or written objections to the decision. Both the Authority and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A Notice of the Review findings will be provided in writing to the applicant within seven (7) business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision. All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.



**D. INFORMAL HEARING PROCEDURES for PARTICIPANTS [24 CFR 982.555 (a-f), 982.54(d)(13)]**

When the Authority makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The Authority will give the family prompt notice of such determinations, which will include:

- The proposed action or decision of the Authority;
- The date the proposed action or decision will take place;
- The family's right to an explanation of the basis for the Authority's decision;
- The procedures for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing;
- To whom the hearing request should be addressed.

The Authority must provide participants with the opportunity for an informal hearing for decisions related to any of the following Authority determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment;
2. Appropriate utility allowance used from schedule;
3. Family unit size determination under Authority subsidy standards;
4. Determination that Housing Choice Voucher program family is under-occupied in their current unit and a request for exception is denied;
5. Determination to terminate assistance for any reason;
6. Determination to terminate a family's FSS Contract, withholds supportive services, or proposes forfeiture of the family's escrow account;
7. Determination to pay an owner claim for damages, unpaid rent or vacancy loss.

The Authority must always provide the opportunity for an informal hearing before termination of assistance. Informal hearings are not required for established policies and procedures and the Authority determinations such as:

- Discretionary administrative determinations by the Authority;
- General policy issues or class grievances;
- Establishment of the Authority schedule of utility allowances for families in the program;
- Authority determination not to approve an extension or suspension of voucher term;
- Authority determination that an assisted unit is not in compliance with HQS (Authority must provide hearing for family breach of HQS because that is a family obligation determination);
- Authority determination that the unit is not in accordance with HQS because of the family size;
- Authority determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

**Notification of Informal Hearing:** It is the Authority's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the Authority will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

The participant must send a written request for an informal hearing by the close of the business day, no later than 14 days from the date of the Authority letter terminating assistance. The informal hearing will be scheduled within a reasonable time frame (generally within two weeks) from the date the request is received.

When the Authority receives a request for an informal hearing, a hearing shall be scheduled within fourteen (14) business days. The notification of hearing will contain:

1. The date and time of the hearing;
2. The location where the hearing will be held;
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense;
4. The right to view any documents or evidence in the possession of the Authority upon which the Authority based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Such documents or evidence must be received no later than two (2) days before the hearing date.
5. A notice to the family that the Authority will request a copy of any documents or evidence the family will use at the hearing. Such documents or evidence must be received by the authority no later than two (2) days before the hearing date.

**The Authority's Hearing Procedures:** After a hearing date is agreed to, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the Authority within forty-eight (48) hours, excluding weekends and holidays. The Authority will reschedule the hearing only if the family can show good cause for the failure to appear. Families have the right to:

- Present written or oral objections to the Authority's determination;
- Examine the documents in the file which are the basis for the Authority's action, and all documents submitted to the Hearing Officer;
- Copy any relevant documents at their expense;
- Present any information or witnesses pertinent to the issue of the hearing;
- Request that Authority staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of documents relevant to the hearing, the Authority will make the copies for the family and assess a charge of 25 cents twenty-five cents per copy. In no case will the family be allowed to remove the file from the Authority's office.

In addition to other rights contained in this Chapter, the Authority has a right to:

- Present evidence and any information pertinent to the issue of the hearing;
- Be notified at least 48 hours if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have its attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the Hearing Officer appointed by the Authority who is neither the person who made or approved the decision, nor a subordinate of that person. The hearing shall concern only the issues for which the family has received the opportunity for the hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations. The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the Authority shall take effect and another hearing will not be granted. The Hearing Officer will determine whether the action, inaction or decision of the Authority is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing decision shall be provided in writing to the Authority and the family within fourteen (14) business days and shall include: a clear summary of the decision and reasons for the decision; if the decision involves money owed, the amount owed; and the date the decision goes into effect.

The Authority is not bound by Hearing Officers determination for the following:

- Matters in which the Authority is not required to provide an opportunity for a hearing;
- Matters that conflict with or contradict HUD regulations or requirements;
- Matters that conflict with or contradict Federal, State or local laws; or
- Matters that exceed the authority of the person conducting the hearing.

The Authority shall send a letter to the participant if it determines the Authority is not bound by the Hearing Officer's determination within fourteen (14) business days. The letter shall include the Authority's reasons for the decision. All requests for a hearing, supporting documentation and a copy of the final decision will be retained in the family's file.

**E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal. Assistance to a family may not be terminated or denied while the Authority hearing is pending but assistance to an applicant may be delayed pending the Authority hearing.

**INS Determination of Ineligibility:** If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the Authority must notify the applicant or participant within ten business days of their right to appeal to the INS within thirty days or to request an informal hearing with the Authority either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the Authority a copy of the appeal and proof of mailing or the Authority may proceed to deny or terminate. The time period to request an appeal may be extended by the Authority for good cause. The request for an Authority hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen (14) days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in Section D of this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the Authority will:

- Deny the applicant family;
- Defer termination if the family is a participant and qualifies for deferral;
- Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, the Authority will offer to prorate assistance or give the family the option to remove the ineligible members. If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide required documentation, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination. Participants whose assistance is prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

**F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES**

When applicants are denied placement on the waiting list, or the Authority is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

## Chapter 20

### PROGRAM INTEGRITY

#### INTRODUCTION

The BHA Is committed to ensuring that subsidy funds made available to the BHA are spent in accordance with HUD requirements. This chapter covers HUD and the BHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents BHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the BHA must and may take when errors or program abuses are found.

#### **PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

##### **A. PREVENTING ERRORS AND PROGRAM ABUSE**

The BHA anticipates that the vast majority of families, owners, and BHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. To ensure that the BHA's HCV program is administered effectively and according to the highest ethical and legal standards, the BHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The BHA will discuss program compliance and integrity issues during the voucher briefing sessions.
- The BHA will provide each applicant and participant with the publication Things You Should Know (HUD-1140-OIG) and Is Fraud Worth It? (HUD-1141-OIG) that explains the types of actions a family must avoid and the penalties for program abuse.
- The BHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key BHA forms and form letters that request information from a family or owner.
- The BHA will provide each applicant and participant with a copy of "What You Should Know about EIV", a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, the Authority will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- BHA staff will be required to review and explain the contents of all HUD-and BHA-required forms prior to requesting family member signatures.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

## **B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the BHA will use a variety of activities to detect errors and program abuse.

**Quality Control and Analysis of Data:** Under the Section 8 Management Assessment Program (SEMAP), HUD requires the BHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985].

In addition to the SEMAP quality control requirements, the BHA will employ a variety of methods to detect errors and program abuse. The BHA routinely will use available sources of up-front income verification to, including HUD's EIV System, compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information. The BHA will compare family-reported income and expenditures to detect possible unreported income.

**Independent Audits and HUD Monitoring:** OMB circular A-133 requires all BHA that expend \$500,000 or more in federal awards annually to have an independent audit (IPA.) In addition, HUD conducts periodic on-site and automated monitoring of BHA activities and notifies the BHA of errors and potential cases of program abuse. The BHA will see the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the BHA's error detection and abuse prevention efforts.

**Individual Reporting of Possible Errors and Program Abuse:** The BHA will encourage staff, program participants, and the public to report possible program abuse.

## **C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

**When the BHA Will Investigate:** The BHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order the BHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member. The BHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

**Consent to Release of Information:** The BHA may investigate possible instances of error or abuse using all available BHA and public records. If necessary, the BHA will require HCV families to give consent to the release of additional information.

**Analysis and Findings:** The BHA will base its evaluation on a preponderance of the evidence collected during its investigation. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence. For each investigation the BHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to the BHA, and (3) what corrective measures or penalties will be assessed.

**Consideration of Remedies:** All errors and instances of program abuse must be corrected prospectively. Whether the BHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-cause errors or program abuse, the BHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the BHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

**Notice and Appeals:** The BHA will inform the relevant party in writing of its findings and remedies within fifteen (15) business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the BHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable.

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **D. SUBSIDY UNDER - OR OVERPAYMENTS**

A subsidy under – or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) and incorrect utility reimbursement to a family.

**Corrections:** Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the BHA must promptly correct the HAP, family share, and any utility reimbursement prospectively. Increases in the family share will be implemented only after the family has received thirty (30) days-notice. Any decreases in family share will become effective the first of the month following the discovery of the error.



**Reimbursement:** Whether the family or owner is required to reimburse the BHA or the BHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

#### **E. FAMILY-CAUSED ERRORS OR PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members. An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the BHA to use incorrect information provided by a third party.

**Family Reimbursement to BHA:** In the case of family-cause errors or program abuse, the family will be required to repay an excess subsidy received. The BHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 18. If the family fails to repay the excess subsidy, the BHA will terminate the family's assistance in accordance with the policies in Chapter 15.

**BHA Reimbursement to Family:** The BHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

**Prohibited Actions:** An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the BHA [Title 18 U.S.C. Section 1001];
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.522 (c)(iv)];
- Any of the following will be considered evidence of family program abuse;
- Payment to the owner in excess of amounts authorized by the BHA for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the BHA Board of Commissioners, employees, contractors, or other BHA representatives;
- Offerings payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the BHA on the family's behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (e.g., income, family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income);

- Admission of program abuse by an adult family member;
- The BHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined, as defined earlier in this chapter.

**Penalties for Program Abuse:** In the case of program abuse caused by a family the BHA may, at its discretion, impose any of the following remedies:

- The BHA may require the family to repay excess subsidy amounts paid by the BHA, as described earlier in this section.
- The BHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in chapter 3 (for applicants) and Chapter 12 (for participants.)
- The BHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The BHA may refer the family for state or federal criminal prosecution.

#### **F. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family.) It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

**Owner Reimbursement to the BHA:** In all cases of overpayment of subsidy caused by the owner, the owner must repay to the BHA any excess subsidy received. The BHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the BHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13.]. In cases where the owner has received excess subsidy, the BHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

#### **G. PROHIBITED OWNER ACTIONS**

An owner participating in the HCV program must not:

- Make any false statement to the BHA [Title 18 U.S.C. Section 1001];
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the BHA;
- Charging a security deposit other than that specified in the family's lease;
- Charging the family for services that are provided to unassisted tenants at no extra charge;
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
- Knowingly accepting incorrect or excess housing assistance payments;
- Offering bribes or illegal gratuities to the BHA Board of Directors, employees, contractors, or other BHA representatives;
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the BHA;
- Residing in the unit with an assisted family.

## **H. OWNER REMEDIES AND PENALTIES**

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, the Authority will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The Authority may also terminate some or all contracts with the owner. Before imposing any penalty against an owner the Authority will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

The Authority guidelines for restrictions are contained in the table below:

### **DISAPPROVAL OF OWNERS/PARTICIPATION RESTRICTIONS**

<b>BREACH</b>	<b>Penalty</b>
HUD notification of owner debarment/suspension	<u>Termination</u>
HUD notification of violation of fair housing/federal equal opportunity	<u>Termination</u>
Violation of contract obligations	<u>Termination</u>
Owner fraud, bribery or other corrupt act in federal housing program	<u>Termination</u>
Owner engaged in drug trafficking	<u>Termination</u>
History of noncompliance with HQS	<u>Termination</u>
History of renting units below code	<u>Termination</u>
State/local real estate taxes, fines or assessments	<u>Termination</u>

## **I. OTHER REMEDIES FOR OWNER VIOLATIONS**

**Overpayments:** If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the Authority may terminate the Contract and will arrange for restitution to the Authority and/or family as appropriate. The Authority will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the Authority or the tenant, as applicable.

**Remedies and Penalties:** When the BHA determines that the owner has committed program abuse, the BHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 14.)
- Bar the owner from future participation in any BHA programs.
- Refer the case to state or federal officials for criminal prosecution as described.

## **J. BHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of BHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a BHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the BHA personnel policy.

BHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

**Repayment to the BHA:** Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by BHA staff [HCV GB. 22-12.].

**BHA Reimbursement to Family or Owner:** The BHA must reimburse a family for any underpayment of subsidy, regardless of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the BHA's administrative fee reserves [HCV GB p. 22-12.].

**Prohibited Activities:** Any of the following will be considered evidence of program abuse by BHA staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the BHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of BHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

## **K. CRIMINAL PROSECUTION**

When the BHA determines that program abuse by an owner, family, or BHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the BHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG). Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

## **L. FRAUD AND PROGRAM ABUSE RECOVERIES**

The BHA may retain a portion of program fraud losses that the BHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163]. The BHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the BHA to retain the greater of:

- Fifty percent (50%) of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the BHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the BHA related to the collection, these costs must be deducted from the amount retained by the BHA.

## **GLOSSARY**

### **A. ACRONYMS USED IN SUBSIDIZED HOUSING**

<b>AAF</b>	Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustments.
<b>ACC</b>	Annual Contributions Contract
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant
<b>CFR</b>	Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.
<b>CMIV</b>	Computer Matching Income Verification
<b>CPI</b>	Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.
<b>CR</b>	Contract Rent
<b>EIV</b>	Enterprise Income Verification
<b>ELI</b>	Extreme Low Income
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration
<b>FHEO</b>	Fair Housing and Equal Opportunity
<b>FICA</b>	Federal Insurance Contributions Act - Social Security taxes
<b>FmHA</b>	Farmers Home Administration
<b>FMR</b>	Fair Market Rent
<b>FY</b>	Fiscal Year
<b>FYE</b>	Fiscal Year End
<b>GAO</b>	Government Accounting Office

<b>GFC</b>	Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP).
<b>GR</b>	Gross Rent
<b>HA</b>	Housing Agency.
<b>HAP</b>	Housing Assistance Payment
<b>HAP Plan</b>	Housing Assistance Plan
<b>HCDA</b>	Housing and Community Development Act
<b>HCVP</b>	Housing Choice Voucher Program
<b>HQS</b>	Housing Quality Standards
<b>HUD</b>	The Department of Housing and Urban Development or its designee.
<b>HURRA</b>	Housing and Urban/Rural Recovery Act of 1983
<b>IG</b>	Inspector General
<b>IT</b>	Income Targeting
<b>IGR</b>	Independent Group Residence
<b>IPA</b>	Independent Public Accountant
<b>IRA</b>	Individual Retirement Account
<b>MSA</b>	Metropolitan Statistical Area established by the U.S. Census Bureau
<b>PHA</b>	Public Housing Agency
<b>PMSA</b>	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
<b>PS</b>	Payment Standard
<b>QC</b>	Quality Control
<b>RAP</b>	Rental Assistance Payment
<b>REAC</b>	Real Estate Assessment Center
<b>RFP</b>	Request for Proposals
<b>RFP</b>	Request for Proposals

<b>RRP</b>	Rental Rehabilitation Program
<b>SRO</b>	Single Room Occupancy
<b>SSN</b>	Social Security Number
<b>SSMA</b>	Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area.
<b>SWICA</b>	State Wage Information Collection Agencies
<b>TASS</b>	Tenant Assessment Sub-System
<b>TLA</b>	Tenancy Lease Addendum
<b>TR</b>	Tenant Rent
<b>TTP</b>	Total Tenant Payment
<b>UA</b>	Utility Allowance
<b>UIV</b>	Upfront Income Verification
<b>URP</b>	Utility Reimbursement Payment



## **B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING**

**ABSORPTION** In portability, the point at which a receiving HA stops billing the initial HA for assistance on behalf of a portability family. The receiving HA uses funds available under the receiving HA consolidated ACC.

**ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE").** Account established by HUD from amounts by which the maximum payment to the HA under the consolidated ACC (during an HA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ACCESSIBLE (SECTION 504).** When used with the respect to the design, construction, or alteration of a facility other than an individual dwelling unit, means that the facility or a portion of a facility, when designed, constructed, or altered, can be approached, entered, and used by individuals with a physical impairment (handicaps). 1 The phrase accessible to, and usable by, is synonymous with accessible.[24 CFR 8.3] Accessible, when used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered or adapted can be approached, entered, and used by individuals with a physical impairment (handicaps). 1 A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 is accessible within the meaning of this paragraph. When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified person with a disability (handicaps)1 (e.g., a current occupant of such a unit or of another unit under the control of the same recipient, or an applicant on a waiting list), the unit will be deemed accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person. [24 CFR 8.3]

**ACCESSIBLE ROUTE (ROUTE 504).** A continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by 24 CFR 8.32. An accessible route that serves only accessible units occupied by persons with hearing or vision impairments need not comply with those requirements intended to effect accessibility for persons with mobility impairments. [24 CFR 8.3]

**ADAPTABILITY (SECTION 504).** The ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without disabilities (handicaps), 1 or different types or degrees of disability. For example, in a unit adaptable for a hearing-impaired person, the wiring for visible emergency alarms may be installed, but the alarms need not be installed, until such time as the unit is made ready for occupancy by a hearing-impaired person. [24 CFR 8.3]

**ADJUSTED INCOME.** Annual income, less allowable HUD deductions.

**ADMINISTRATIVE FEE.** Fee paid by HUD to the HA for administration of the program.

**ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve").** Account established by HA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

**ADMISSION.** The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

**ALTERATION (SECTION 504).** Any change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts, and extraordinary repairs. It does not include normal maintenance or repairs, reproofing, interior decoration, or changes to mechanical systems. [24 CFR 8.3]

**ANNUAL CONTRIBUTIONS CONTRACT (ACC).** A written contract between HUD and an HA. Under the contract HUD agrees to provide funding for operation of the program, and the HA agrees to comply with HUD requirements for the program

**ANNUAL INCOME.** The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**ANNUAL INCOME AFTER ALLOWANCES.** The Annual Income (described above) less the HUD-approved allowances.

**APPLICANT.** (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

**"AS-PAID" STATES.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**ASSETS.** (See Net Family Assets.)

**ASSISTED TENANT.** A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

**AUXILIARY AIDS (SECTION 504).** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance. For example, auxiliary aids for persons with impaired vision may include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids for persons with impaired hearing may include telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, notetakers, written materials, and other similar services and devices. [24 CFR 8.3]

**BRIEFING.** A meeting between the owner and the tenant prior to signing the lease during which the owner discusses various topics related to living in the unit. Topics include, but are not limited to, tenant rights, house rules, and lease terms.

**BUDGET AUTHORITY.** An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in an HA program, budget authority is the maximum amount that may be paid by HUD to the HA over the ACC term of the funding increment.

**CHILD CARE EXPENSES.** Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education, or to seek employment.

**CITIZEN.** A citizen or national of the United State. [24 CFR 5.504)] (See definition of National.)

**COMPLIANCE REVIEW.** An annual review which is conducted by HUD staff to evaluate a BHAs overall performance in accordance with the required Incentive Based Performance Standards (IBPS) under the Request for Proposal. A review of the BHA files and records is performed.

**COMPUTER MATCHING AGREEMENTS.** The agreements between HUD and the Internal Revenue Service (IRS) and the Social Security Administration (SSA) that allow the matching of data between each entity's database.

**CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT.** (Consolidated ACC). See 24 CFR 982.151.

**CONTIGUOUS MSA.** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial HA is located.

**CONTINUOUSLY ASSISTED.** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the certificate or voucher program.

**CONTRACT.** (See Housing Assistance Payments Contract.)

**CONTRACT AUTHORITY.** The maximum annual payment by HUD to an HA for a funding increment.

**CONTRACT RENT.** In the Housing Choice Voucher Program, Contract Rent is the total rent paid to the owner, including the tenant payment and the HAP payment from the PHA.

**CURRENTLY ENGAGING IN.** With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current. [24 CFR 5.853]

**DEDUCTIONS.** In determining adjusted income, the owner must deduct the following from annual income: 1. \$480 for each dependent; 2. \$400 for any elderly family or disabled family; 3. The sum of the following to the extent the sum exceeds 3% of annual income: a. Unreimbursed medical expense of any elderly or disabled family; and b. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and 4. Any reasonable child care expense necessary to enable the family member to be employed or to further his or her education. [24 CFR 5.611]

**DENIAL OF TENANCY OR ASSISTANCE.** The process of rejecting an applicant's request for either occupancy or assistance because the household does not meet eligibility criteria for the program or the owner's criteria for suitability for tenancy.

**DEPENDENT.** A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

**DISABILITY (HANDICAP)<sup>1</sup> (SECTION 504) [as defined for Civil Rights Protections].** Any condition or characteristic that renders an individual a person with disabilities (handicaps). 1 [24 CFR 8.3]

**DISABLED 1 FAMILY.** [Also appears as G – Disabled Family in Figure 3-6.] 1. Families of two or more persons the head of which (or his or her spouse) is a persons with disabilities 1; 2. The surviving member or members of any family described in paragraph (1) of this definition living in a unit assisted under 24 CFR891, subpart E (Section 202 loans) with the deceased member of the family at the time of his or her death; 3. A single person with disabilities (handicapped person)<sup>1</sup> over the age of 18; or 4. Two or more persons with disabilities (person (1) living together, or one or more such persons living with another person who is determined by HUD, based upon a license physician's certificate provided by the family, to be essential to their care or well-being. [24 CFR 891.505]

**DISABLED FAMILY.** [Also appears as Definition D – Disable family in Figure 3-6.] A family whose head, spouse, or sole member is a person with disabilities (as defined by 24 CFR 5.4030. It may include two or more persons living with another person who is determined by HUD, based upon a licensed physician's certificate provided by the family, to be essential to their care or well-being. [24 CFR 5.403] (See definition of Person with Disabilities as defined for program eligibility purposes.)

**DISABLED HOUSEHOLD.** [Also appears as F – Disabled Household in Figure 3.6] Disabled household means a household composed of: 1. One or more persons at least one of whom is an adult (18 years or older) who has a disability; 2. Two or more persons with disabilities living together, or one or more such persons with another person who is determined by HUD, based upon a certification from an appropriate professional (e.g., a rehabilitation counselor, social worker, or licensed physician to be important to their care or well being; or 3. The surviving member or members of any household described in paragraph (1) of this definition who were living in a unit assisted under this part with the deceased member of the household at the time of his or her death. [24 CFR 891.305]

**DISABLED PERSON.** A person who is any of the following:

- (1) A person who has a disability as defined in section 223 of the Social Security Act. (42 U.S.C.423).
- (2) A person who has a physical, mental, or emotional impairment that:  
Is expected to be of long-continued and indefinite duration;  
Substantially impedes his or her ability to live independently; and  
Is of such a nature that ability to live independently could be improved by more suitable housing conditions.
- (3) A person who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

**DISPLACED PERSON.** A person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

**DOMICILE.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**DRUG.** A controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802). [24 CFR 5.100]

**DRUG-RELATED CRIMINAL ACTIVITY.** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug. [24 CFR 5.100]

**DRUG TRAFFICKING.** The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**ELDERLY FAMILY.** A family whose head or spouse or whose sole member is at least 62 years of age or a Disabled Person as defined in this section or a Handicapped Person as defined in this section or may include two or more elderly, disabled persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

**ELDERLY PERSON.** A person who is at least 62 years old.

**ELGIBLE NONCITIZEN.** A person who has eligible immigration status in one of the following categories: 1. A non-citizen lawfully admitted for permanent residence, as defined by section 101(a)(20) of the INA (8 U.S.C. 1101(a)(20) and U.S.C. 1101(a)(15), respectively) [immigrants]. (This category includes a non-citizen admitted under section 210 or 210A of the INA (8 U.S.C. 1160 or 1161) [special agricultural worker], who has been granted lawful temporary resident state); 2. A non-citizen who entered the United States before January 1, 1972, or such later date as enacted by law, and has continuously maintained residence in the United States since then, and who is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General under section 249 of the INA (8 U.S.C. 1259); 3. A non-citizen who is lawfully present in the United States pursuant to an admission under

section 207 of the INA (8 U.S.C. 1157) [refugee status]; pursuant to the granting of asylum (which has not been terminated) under section 208 of the INA (8 U.S.C. 1158) [asylum state]; or as a result of being granted conditional entry under section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic national calamity; 4. A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest under section 212 (d)(5) of the INA (8 U.S.C. 1182 (D)(5) [parole status]; 5. A non-citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation under section 243(h) of the INA (8 U.S.C. 1253(h)) [threat to life or freedom]; 6. A non-citizen lawfully admitted for temporary or permanent residence under section 245A of the INA (8 U.S.C. 1255a) [amnesty granted under INA 245A]; or 7. A non-citizen who is a lawful resident in the United States and its Territories and possessions under section 141 of the Compacts of Free Association between the government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia and Palau (collectively referred to as "the Freely Associated State" (FAS)) [Section 3 (b) of Public Law 106-504]. A nonimmigrant student, while lawfully admitted to the United States, is not eligible.

**ELIGIBILITY INCOME.** May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY (Family).** A family is defined by the HA in the administrative Plan, which is approved by HUD.

**EXCEPTIONAL MEDICAL OR OTHER EXPENSES.** Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

**EXCEPTION RENT.** In the certificate program an initial rent (contract rent plus any utility allowance) in excess of the published FMR. In the certificate program the exception rent is approved by HUD, or the HA under prescribed conditions, and is used in determining the initial contract rent. In the voucher program the HA may adopt a payment standard up to the exception rent limit approved by HUD for the HA certificate program.

**EXCESS MEDICAL EXPENSES.** Any medical expenses incurred by elderly families only in excess of 3% of Annual Income which are not reimbursable from any other source.

**EXTREMELY LOW INCOME.** Very low income family whose income does not exceed the higher of: 30% of the area median or the poverty rate

**FAIR HOUSING ACT.** Title VIII of the Civil Rights Act, 42 U.S.C. 3601. The Fair Housing Act is a broad statute that prohibits discrimination based upon race, color, religion, sex, national origin, disability, or familial status in most housing and housing-related transaction.

**FAIR HOUSING AND EQUAL.** Office in HUD responsible for enforcing the requirements of the Fair Housing Act, as amended, including the provision prohibiting discrimination in selling or renting housing.

**FAIR MARKET RENT (FMR).** Rents established by HUD for existing housing according to bedroom sizes, published in the Federal Register at 24 CFR Part 888. The fair market rent, including the cost of utilities (except telephone), is the amount required in the housing market to obtain privately owned, decent, safe, and sanitary housing of modest nature with suitable amenities.

**FAMILY.** The applicant must qualify as a family as defined by the HA.

**FAMILY OF VETERAN OR SERVICEPERSON.** A family is a "family of veteran or serviceperson" when:

1. The veteran or serviceperson (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.
2. The veteran or serviceperson, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM).** The program established by an HA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FEDERAL FINANCIAL ASSISTANCE (SECTION 504).** Any assistance provided or otherwise made available by the Department through any grant, loan, contract, or any other arrangements, in the form of: 1. funds; 2. Services of Federal personnel; or 3. Real or personal property or any interest in or use of such property, including: a. Transfers or leases of the property for less than fair market value or for reduced consideration; and b. Proceeds from a subsequent transfer or lease of the property if the Federal share of its fair market value is not returned to the Federal Government. Federal financial assistance includes community development funds in the form of proceeds from loans guaranteed under Section 108 of the Housing and Community Development Act of 1974, as amended, but does not include assistance made available through direct federal procurement contracts or payments made under these contracts of insurance or guaranty. [24 CFR 8.3]

**FMR/EXCEPTION RENT LIMIT.** The section 8 existing housing fair market rent published by HUD headquarters or any exception rent. In the certificate program the initial contract rent for a dwelling unit plus any utility allowance may not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the HA may adopt a payment standard up to the FMR/exception rent limit.

**FOSTER CHILD CARE PAYMENT.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**FULL-TIME STUDENT.** A person who is carrying a subject load that is considered full time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

**FUNDING INCREMENT.** Each commitment of budget authority by HUD to an HA under the consolidated annual contributions contract for the HA program.

**GROSS FAMILY CONTRIBUTION.** Changed to Total Tenant Payment.

**GROSS RENT.** The sum of the Contract Rent and the utility allowance. If there is no utility allowance, Contract Rent equals Gross Rent.

**HANDICAP ASSISTANCE.** Anticipated costs for care attendants and auxiliary apparatus for handicapped or disabled family members which enable a family member (including the handicapped family member) to work.

**HAP CONTRACT.** (See Housing Assistance Payments contract.)

**HARDSHIP EXCEPTION TO \$50.00 MINIMUM RENTS.** A tenant under the Housing Choice Voucher program may be eligible to have their minimum rent reduced to “zero”. The HA shall grant an exception to the minimum rent requirements if the tenant can demonstrate a hardship circumstance expected to be of a long-term basis (over ninety (90) days).

**HEAD OF HOUSEHOLD.** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOUSING AGENCY.** A state, country, municipality or other governmental entity or public body authorized to administer the program. The term "HA" includes an Indian housing authority (IHA). ("PHA" and "HA" mean the same thing.)

**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was re-codified, and which added the Section 8 Programs.

**HOUSING ASSISTANCE PAYMENT.** The monthly assistance payment by an HA. The total assistance payment consists of:

- (1) A payment to the owner for rent to owner under the family's lease.
- (2) An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

**HOUSING ASSISTANCE PAYMENTS CONTRACT.** (HAP contract). A written contract between an HA and an owner in the form prescribed by HUD headquarters, in which the HA agrees to make housing assistance payments to the owner on behalf of an eligible family.



**HOUSING ASSISTANCE PLAN.** (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**HOUSING CHOICE VOUCHER.** A document issued by the Authority to a family selected for admission to the Section 8 HCVP. The voucher describes the program and the procedures for PHA approval of the unit selected by the family.

**HOUSING CHOICE VOUCHER PROGRAM.** Rental voucher program.

**HOUSING QUALITY STANDARDS (HQS).** The HUD minimum quality standards for housing assisted under the tenant-based programs.

**HUD.** The Department of H&U or its division designee.

**HUD REQUIREMENTS.** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

**HURRA.** The Housing and Urban/Rural Recovery Act of 1983 legislation that resulted in most of the 1984 HUD Regulation changes to the definition of income, allowances, and rent calculations.

**IMPUTED ASSET.** Asset disposed of for less than Fair Market Value during two years preceding certification or recertification.

**IMPUTED INCOME.** HUD passbook rate x times the total cash value of assets. When assets exceed \$5,000.

**INCOME.** Income from all sources of each member of the household as determined in accordance with criteria established by HUD. Excludes financial assistance received for mandatory fees and charges (in addition to tuition).

**INCOME DISCREPANCY.** The difference between tenant income data maintained in HUD's tenant databases and Federal tax information.

**INCOME FOR ELIGIBILITY.** Annual Income.

**INCOME TARGETING.** At least 75% of new admissions during a PHA's fiscal year shall be targeted to extremely-low income families (families at or below 30% of the median income).

**INDIAN.** Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

**INDIAN HOUSING AUTHORITY (IHA).** A housing agency established either:

- (1) By exercise of the power of self-government of an Indian Tribe, independent of State law, or
- (2) By operation of State law providing specifically for housing authorities for Indians.

**INTEREST REDUCTION SUBSIDIES.** The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**INVOLUNTARILY DISPLACED PERSON.** Involuntarily Displaced Applicants are applicants who meet the HUD definition for the federal preference.

**LANDLORD.** This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**LEASE.** A written agreement between an owner and an eligible family for the leasing of a housing unit.

**LEASE ADDENDUM:** See Tenancy Addendum

The Section 8 Housing Choice Voucher program has an Addendum to Lease that has mandatory language which must be incorporated into any lease the HA and landlord/owner uses.

**LIVE-IN AIDE.** A person who resides with an elderly person or disabled person and who: 1. Is determined to be essential to the care and well-being of the person; 2. Is not obligated for the support of the person; and 3. Would not be living in the unit except to provide necessary supportive services. [24 CFR 5.403]

**LOCAL PREFERENCE.** A preference used by the HA to select among applicant families without regard to their federal preference status.

**LOW-INCOME FAMILY.** A family whose annual income does not exceed 80% percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

**MARKET RENT.** The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance.

**MAXIMUM INITIAL RENT BURDEN.** A family must not pay more than forty percent (40%) of adjusted income for rent when the family first receives Section 8 tenant based assistance for occupancy of a particular unit. This requirement only applies for a family that initially receives tenant-based assistance for occupancy of a unit after the merger date of October 1, 1999.

**MEDICAL EXPENSES.** Those total medical expenses, including medical insurance premiums that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. A deduction for Elderly families or disabled families qualify. These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

**MINIMUM RENT.** Minimum rent includes the combined (TTP) a family pays towards rent and/or utilities. Minimum family contribution in the Housing Choice Voucher program is \$50.00.

**MINOR.** A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

**MONTHLY ADJUSTED INCOME.** 1/12 of the Annual Income after Allowances or Adjusted Income.

**MONTHLY INCOME.** 1/12 of the Annual Income.

**NEGATIVE RENT.** Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

**NET FAMILY ASSETS.** Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

**NET FAMILY CONTRIBUTION.** Former name for Tenant Rent.

**NONCITIZEN.** A person who is neither a citizen nor a nation of the United States. [24 CFR 5.504]

**OCCUPANCY STANDARDS.** [Now referred to as **Subsidy Standards**] Standards established by an HA to determine the appropriate number of bedrooms for families of different sizes and compositions.

**OWNER.** Any persons or entity having the legal right to lease or sublease housing.

**PARTICIPANT.** A family that has been admitted to the HA's certificate program or voucher program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family (First day of initial lease term).

**PAYMENT STANDARD.** The maximum subsidy payment for a family under the Housing Choice Voucher Program. The PHA sets a payment standard between 90% & 110% of the current HUD published FMR.

**PORTABILITY.** The ability of a family to move with its section 8 Tenant-based Assistance from the jurisdiction of one Housing Authority to that of another.

**PREMISES.** The building or complex in which a dwelling unit is located, including common areas and grounds.

**PUBLIC AND INDIAN HOUSING (PIH).** Office in HUD responsible for processing resident vouchers as part of the opt-out and termination process. PIH also oversees the FMC.

**PUBLIC ASSISTANCE.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**PUBLIC HOUSING AUTHORITY (PHA).** A state, county, municipality, or other government entity or public body (or agency or instrumentality thereof) authorized to engage in the development or operation of low-income housing.

**QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998.** The Act is an amendment to the U.S. Housing Act of 1937.

**RANKING PREFERENCE.** A preference used by the Authority to select among applicant families that qualify for federal preference.

**REAL ESTATE ASSESSMENT CENTER (REAC).** HUD center that conducts physical inspection of HUD properties and that notifies the BHA of any exigent health and safety conditions. REAC also reviews audited annual financial statements and the BHA's audit, and conducts resident surveys and tenant income verification.

**RECERTIFICATION.** Sometimes called re-examination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim recertifications.

**RECIPIENT (SECTION 504).** Any state or its political subdivision any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or subrecipient merely by virtue of receipt of such payments. [24 CFR 8.3]

**REMAINING MEMBER OF TENANT FAMILY.** Person left in assisted housing after other family members have left and become unassisted.

**RENT TO OWNER.** This is called Contract Rent in the Certificate Program and Rent to Owner in the Voucher Program. It is the total amount of rent payable to the owner by the family and the HA per month for an assisted unit.

**RESIDENT ASSISTANT.** A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or wellbeing. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals. (See Sections 882.109(n), 882.106(c) and 882.102 definitions in Appendix 1 of 7420.7.)

**SCREENING.** A review of an applicant's history to identify patterns of behavior that, if exhibited at the assisted housing development, would make the applicant an unsuitable tenant. Screening criteria may include consideration of drug-related or criminal activity, tenancy, credit and rent payment history, or other behaviors that may affect the rights of other residents and management.

**SECRETARY.** The Secretary of Housing and Urban Development.

**SECTION 504.** Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, as it applies to programs or activities receiving Federal financial assistance [24 CFR 8.3]

**SECTION 8.** The housing assistance payments program that implements Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f note). [24 CFR 891.505]

**SECURITY DEPOSIT.** A payment required by an owner to be held during the term of the lease (or the time period the tenant occupies the unit) to offset damages incurred due to the actions of the tenant. Such damages may include physical damage to the property, theft of property, and failure to pay back rent. Forfeiture of the deposit does not absolve the tenant of further financial liability.

**SERVICE PERSON.** A person in the active military or naval service (including the active reserve) of the United States.

**SINGLE PERSON.** A person living alone or intending to live alone.

**SPOUSE.** The husband or wife of the head of the household.

**SUBSIDIZED PROJECT.** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

- (1) Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- (2) Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- (3) Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- (4) Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- (5) Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;
- (6) A Public Housing Project.

**SUBSTANDARD UNIT.** Substandard housing is defined by HUD for use as a federal preference.

**TENANCY ADDENDUM:** A HUD designee addition to a landlord's lease that includes, word for word, all HUD required languages.

**TENANT RENT.** (Formerly called Net Family contribution.) The amount payable monthly by the family as rent to the owner (including a PHA in other programs). Where all utilities (except telephone) and other essential housing services are supplied by the owner, Tenant Rent equals Total Tenant Payment. Where some of all utilities (except telephone) and other essential housing services are not supplied by the owner and the cost thereof is not included in the amount paid as rent to the owner, in the Voucher Program, Tenant Rent is Rent to Owner less HAP.

**TENANT REPAYMENT AGREEMENT.** The agreement signed between the BHA and a tenant in which the tenant agrees to repay excess rental assistance based on the terms specified in the agreement.

**TERMINATION.** The non-renewal or cancellation of a Section 8 contract. Terminations are usually the result of owner noncompliance with regulations and requirements.

**TERMINATION OF ASSISTANCE.** When a tenant fails to comply with certain HUD program requirements, the owner, under agreements with HUD, is obligated to terminate the assistance provided by HUD on behalf of that tenant.

**TERMINATION OF TENANCY.** Termination of tenancy occurs when a tenant violates specific provisions of the lease agreement, and the owner notifies the tenant that he/she no longer has the right to occupy the unit as a result of lease violations. The HUD model leases have very specific conditions under which tenancy may be terminated and procedures that must be followed during the termination process. (See model leases in Appendix 4 and guidance in Chapter 8, Termination.)

**TOTAL TENANT PAYMENT (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**UNIT.** Residential space for the private use of a family.

**UNUSUAL EXPENSES.** Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**UTILITIES.** Utilities mean water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

**UTILITY ALLOWANCE.** If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

**UTILITY REIMBURSEMENT PAYMENT.** The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**VERY LARGE LOWER-INCOME FAMILY.** Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

**VERY LOW INCOME FAMILY.** A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Certificate and Voucher Programs.

**VETERAN.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**VIOLENT CRIMINAL ACTIVITY.** Any illegal criminal activity that has as one of its elements the use attempted use, or threatened use of physical force against the person or property of another.

**WAITING LIST.** A list of families organized according to HUD regulations and HA policy who are waiting for subsidy to become available.

**WELFARE ASSISTANCE.** Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, state, or local governments.

### **C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE**

**CHILD.** A member of the family other than the family head or spouse who is under 18 years of age.

**CITIZEN.** A citizen or national of the United States.

**EVIDENCE.** Evidence of citizenship or eligible immigration status means the documents which must be submitted to evidence citizenship or eligible immigration status.

**HA.** A housing authority- either a public housing agency or an Indian housing authority or both.

**HEAD OF HOUSEHOLD.** The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

**HUD.** Department of Housing and Urban Development.

**INS.** The U.S. Immigration and Naturalization Service.

**MIXED FAMILY.** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

**NATIONAL.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NONCITIZEN.** A person who is neither a citizen nor national of the United States.

**RESPONSIBLE ENTITY.** The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the HA).

**SECTION 214.** Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

**SPOUSE.** Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.



# **ATTACHMENTS**

## **Violence Against Women in Federally Funded Rental Assisted Housing**

# **ATTACHMENTS**

## **Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937**