

## FAQ- HPD Section 8 Landlord Issues April 2012

For Assistance Contact:  
HPD Division of Tenant Resources  
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### **What is Section 8?**

The Housing Choice Voucher (HCV) program, also referred to as Section 8, is a federally funded rental assistance program. The U.S. Department of Housing and Urban Development (HUD) funds and regulates the program and HPD administers the subsidy locally. Under the Section 8 program, HPD subsidizes housing costs so that low-income families can pay an affordable percentage of their monthly adjusted income towards rent.

In the five boroughs of New York City there are multiple Section 8 programs. The New York City Housing Authority (NYCHA), HPD and the NYS Division of Housing and Community Renewal (DHCR) all have Section 8 programs that operate similarly but separately.

### **How can I find tenants with a HPD Section 8 voucher?**

HPD provides listings of available apartments to its Section 8 clients upon request. Landlords and brokers interested in posting available rental units on this list may do so by providing the basic unit information to HPD by calling the number listed above. Please keep in mind that landlords are responsible for screening prospective tenants.

### **My tenant or prospective tenant already has a HPD Section 8 voucher. When do I start getting paid?**

Once an existing or prospective tenant has a voucher, four critical steps must be undertaken in the following order, in order to start Section 8 payments:

1. The landlord must submit a completed Landlord Package to HPD.
2. HPD will then register the landlord and unit in our system, and determine whether the proposed rent is reasonable. Rents must be deemed reasonable.
3. HPD will then conduct a mandatory Housing Quality Standards (HQS) inspection of the unit. The unit must pass inspection.
4. Finally, HPD will generate a Housing Assistance Payments (HAP) Contract, which the landlord must sign and promptly return to HPD, along with an executed lease that matches the HAP contract dates.

Once all steps are completed, payments will begin, and will continue as long as all parties remain in compliance with program and eligibility requirements.



### **How do I obtain a Landlord Package? What does it include?**

Landlords receive Landlord Packages directly from prospective Section 8 tenants who want to reside in their units. Completed Landlord Packages should be submitted by the landlord or tenant to HPD as soon as possible and must include:

- Copies of unsigned leases and contracts
- Substitute W-9 Form (available at <http://www.nyc.gov/html/hpd/downloads/pdf/section8-w9.pdf>)
- IRS Tax ID Verification
- Copy of recorded deed to the property
- Certificate of Occupancy (if structure is new or substantially altered)
- Rent Comparable form
  - HCR Annual Registration, if subject to rent regulation
  - Regulatory Agreement (if applicable)
- Lead Based Paint Disclosure Form
- Completed Request for Tenancy Approval (RFTA, HUD Form 52517)

### **What if I need help filling out the Landlord Package?**

The Landlord Package includes information on the above components and directions on how to return your completed package to HPD. However, if additional questions arise or you need assistance, please call us at 917-286-4300 or visit our Client Services office.

### **How is rent approved or determined “reasonable”?**

Per federal regulation, the rent landlords charge for a Section 8 subsidized unit can never be more than rents charged for comparable unsubsidized units within the development or in the vicinity. After landlords submit their Landlord Packages, HPD will review the requested contract rents to determine if the requested rents are reasonable.

Rent reasonableness is determined on a case-by-case basis. HPD’s Owner Services Unit will compare proposed rents to the rents currently charged for similar sized units within the same building, or by other landlords for comparable units in the vicinity. HPD will take into consideration unit type, amenities included in rent (e.g., balconies, on site laundry), location, overall condition, as well as any leasing incentives offered to the assisted or comparable units. HPD utilizes [www.GoSection8.com](http://www.GoSection8.com), a web-based tool, to complete rent reasonableness determinations in compliance with HUD regulations.

Additionally, if the unit is subject to any rent regulation or a regulatory agreement that applies rent restrictions as a result of the owner receiving another subsidy or financial benefit, the rent contract rent for the Section 8 assisted unit may not exceed the maximum allowable rent under that agreement or program.



HUD recently issued additional guidance on rent reasonableness requirements, PIH notice 2009-51 and PIH notice 2010-18. You may find this guidance at HUD's website:  
<http://www.hud.gov/offices/pih/publications/notices/2009.cfm>

**What are Section 8 Payment Standards?**

The Payment Standards is the maximum amount of subsidy that the PHA may pay for a unit, based on the size and utilities included in the contract rent. This not the amount of rent that the landlord is entitled to; the landlord is entitled to the reasonable rent, as determined by HPD. The reasonable rent may be determined to be higher or lower than, or equal to the payment standard.

The Payment Standard is the amount generally needed to rent a moderately priced dwelling unit in the local housing market. The Payment Standard may be set 90% to 110% of the Fair Market Rent (FMR) that HUD determines each year for New York City. HPD sets this amount at 110% of the FMR, the maximum allowable for NYC.

The applicable payment standard is provided on the HPD website at:  
<http://www.nyc.gov/html/hpd/html/section8/section8-tenants.shtml>

The Payment Standards (for rent inclusive of all utilities) effective October 1, 2011 are:

SRO	0BR	1BR	2BR	3BR	4BR	5BR	6BR	7BR	8BR
\$976	\$1301	\$1408	\$1566	\$1927	\$2167	\$2493	\$2817	\$3143	\$3467

The following are the utility allowances effective October 1, 2011:

# of Bedrooms	Gas	Electric	Total Gas & Electric	Gas Heat & Hot Water	Oil Heat & Hot Water	Electric Heat & Hot Water
SRO	\$16	\$57	\$73	\$50	\$78	\$172
Studio	\$16	\$57	\$73	\$50	\$78	\$172
1	\$17	\$58	\$75	\$67	\$111	\$238
2	\$17	\$61	\$78	\$78	\$133	\$282
3	\$18	\$77	\$95	\$89	\$155	\$326
4	\$20	\$79	\$99	\$100	\$178	\$370
5	\$21	\$92	\$113	\$111	\$200	\$413

**How do I know how much the tenant and Section 8 will each pay?**

If the unit's gross reasonable rent (rent plus utilities) is equal to or below the Payment Standard, the family's contribution is based on 30% of its income, and HPD subsidizes the balance. If the unit's gross rent exceeds the Payment Standard, the family must make up the difference. However, families



are not allowed to pay more than 40% of their income towards rent when they first rent an apartment. HPD encourages families to find rental units that are affordable based on their income.

**What happens if my proposed rent is not approved?**

If the contract rent that you've proposed is determined to be unreasonable, HPD staff will notify you of this and instruct you in what you should do to revise the request.

**Can I charge tenants more than the contract rent?**

Section 8 participants must pay only the amount authorized by HPD. **SIDE RENTAL AGREEMENTS ARE A VIOLATION OF FEDERAL LAW.** Any amount paid by a Section 8 participant other than the HPD-authorized amount is considered an unauthorized side payment. Unauthorized side payments are grounds for termination of the HAP contract and may adversely affect the landlord's ability to participate in the program in the future.

HPD may authorize participants to make additional payments to the landlord for additional services or amenities, such as parking spaces or appliances (other than range and refrigerator), however, any side payment agreement between the participant and landlord, for items not included in the lease, must be made in writing, and *pre-approved* by HPD.

**Who should pay for the utilities?**

The landlord decides whether and which utilities will be paid by the owner and which will be paid by the tenant. This is indicated on the Request for Tenancy Approval Form (RFTA), is reflected on the HAP contract, and must be indicated in the lease agreement as well. Landlords should not deem the tenant responsible for paying for any utility that is not directly metered by a utility company or individually sub-metered by the landlord.

If the tenant is responsible for paying utilities they will be granted the corresponding allowances as listed in the above chart. The tenant's share of the rent to owner will be reduced by the amount of any applicable utility allowances.

**How do I change who pays for the utilities?**

This may only be changed at lease expiration and requires a new HAP contract. To request this change, submit an updated RFTA form, signed by both landlord and tenant, along with the renewal lease to the Owner Services Unit.

**How is the effective date of the HAP contract determined?**

Per HUD regulations, HAP contracts will be generated after the voucher has been issued, HPD has approved the rent and Landlord Package, and the unit has passed the HQS inspection. The effective date of a HAP contract will be at least two weeks after the HAP generation date and will be on either the 1st or the 15<sup>th</sup> of the month.



*If a HAP contract is not signed and returned, along with a matching executed lease, to HPD within 30 days of issuance, the effective date of the subsidy may be delayed, or the contract may be deemed void by HPD. The sooner an executed HAP contract and matching lease are returned to HPD, the sooner Section 8 payments will start.*

### **Where will my Section 8 payments come from?**

Section 8 payment checks are mailed out by the NYC Department of Finance on or about the first of every month. Please note that HPD sends payment registers, which outline payments processed for individual tenants and units, separately from the subsidy checks. Registers are generally sent by the 15<sup>th</sup> of the month.

If you are not receiving registers or if the register does not list a check number, please contact the Owner Services Unit to verify your address and resolve any outstanding issues.

You may choose to register for Direct Deposit Electronic Funds Transfer (EFT) through the Department of Finance. Payments will be deposited directly into the designated bank account and the HPD check register will follow in the mail. To register for this service, please complete the Department of Finances Enrollment Application. This application is included in the Landlord Package or may be completed on the Department of Finance website: [www.nyc.gov/html/dof/html/services/services\\_vendors\\_eft.shtml](http://www.nyc.gov/html/dof/html/services/services_vendors_eft.shtml).

### **Once payments start, what are my obligations?**

Landlord and participant obligations under the Section 8 program are outlined in the HAP contract and re-iterated in the Tenancy Addendum (HUD form 52641-A), which must be attached to the lease at the time of signing by both parties.

HPD will continue to make payments as long as all program requirements are met. Some of the basic obligations include:

- The unit meets HQS standards (an inspection will occur at least annually)
- The tenant is eligible for assistance (participants are re-certified at least annually)
- The tenant resides in the unit (landlords MUST notify HPD if there is a change in occupancy)
- The owner is in compliance with the HAP contract

For additional guidance, you should review HPD's Housing Choice Voucher (HCV) Administrative Plan (available online) as well as information and rules pertaining to the HCV program available on the HUD website.



### **How do I get information about the status of the Section 8 assisted unit?**

HPD primarily communicates with participating landlords through notices that are mailed to the address the landlord provided on the W9 form. It is very important that you keep your contact information updated with HPD.

In addition to the mail, HPD has recently launched a new service for participating landlords called the Partner Portal. The Partner Portal is a web-based tool where enrolled users may access their account, which provides basic information (such as HQS status, contract rent, and recent payments) about the subsidized units associated with the account. To request enrollment in this service, please send an email to [DTRPartnerPortal@hpd.nyc.gov](mailto:DTRPartnerPortal@hpd.nyc.gov) and include at least one HPD assisted address and the name of the ownership entity of that address.

### **What should I do if I would like to buy or sell a property that includes units subsidized by HPD Section 8?**

Federal regulations mandate that any potential Section 8 landlords be cleared for participation in the program. Therefore, it is important that buyers and sellers of properties that include subsidized units contact the Owner Services Unit **prior** to entering into a contractual agreement. To help minimize the possibility of interruptions in subsidy, please contact us at least 30 days prior to the sale of the building. Once the sale is completed, the new owner will be required to submit a Substitute W9, tax ID affirmation, and deed.

### **What should I do if I change my address or managing agent?**

If you change any of your contact information or managing agent, you must contact the Owner Services Unit. You will need to complete a Change of Address request and updated Substitute W9. If the tax ID number associated with the payments is changing, you will also need to supply the IRS issued tax ID affirmation documentation.

### **Can I move Section 8 tenants from one of my units to another?**

Section 8 tenants cannot be moved without HPD approval, even within the same development. If you need to relocate a participant, please contact the Move Unit to begin the necessary process. Moving tenants without official HPD approval will result in a loss of subsidy.

### **How do I increase the rent or renew the lease?**

To request a lease renewal or rent increase, landlords must submit a rent increase request to both the participant and to HPD at least 60 days in advance of the proposed effective date. HPD does not notify landlords of upcoming lease expirations or automatically process lease renewals or rent increases. It is the landlord's sole responsibility to request a rent increase or lease renewal.

When requesting a lease renewal or rent increase, landlords should complete the HPD Rent Increase Request form (available through the Owner Services Unit or at



<http://www.nyc.gov/html/hpd/downloads/pdf/section8-rent-inc.pdf> ) and submit it with the signed renewal lease as well as any additional required documentation needed to justify the increase request.

Please remember that all contract rent requests must be in accordance with the terms of the currently existing lease agreement and the HUD tenancy addendum (HUD form 52641-A). When HPD receives a contract rent request, any proposed rent amount will be subject to a rent reasonableness review, as described above. Additionally, approvals of all reasonable rent increases are contingent upon availability of funds.

### **How long does it take to process a lease renewal or rent increase?**

Normally, HPD processes lease renewals or rent increase requests within 60 days of receipt. Unfortunately, due to the high volume of these requests, some delays may occur during peak times. Once a determination is made by the Owner Services Unit of the reasonable rent, you and the tenant will receive notice of the approval or rejection of the requested rent. If approved, the letter will state the effective date of the approved rent.

Rent increases may take approximately 60 days for processing the changes in payments. The changes will be made retroactive to the effective date listed on the approval letter. In the meantime, landlords may not ever charge the participant any more than the amount reflected on the most current *Rent Breakdown Letter*.

### **What can I do if my Rent Increase Request is denied?**

If a requested rent is not considered reasonable, or not all documentation has been received, a landlord will receive a rejection letter. In order for a rent request to be reviewed again, the landlords must submit in writing all documentation requested from the Owner Services Unit, as indicated on the *Rent Rejection Letter*. We welcome landlords to provide copies of their own comparables that justify their contract rent requests. Comparables submitted by landlords directly will be taken under consideration, but will not be used exclusively for our rent reasonableness determination.

### **What should landlords do if they have questions?**

If you have any Section 8-related questions, please contact HPD at 917-286-4300 Monday through Friday, between the hours of 9:00 AM and 5:00 PM. Please listen to the menu options for the Owner Services Unit.

You may also visit our office at 100 Gold Street, Room 1-0, Monday through Friday between 9:00 AM and 4:00 PM. Drop-ins are welcome but to minimize wait times, please call us to schedule an appointment. Please note that you must present a valid Photo ID to be admitted into the building.

