



Homes and Community Renewal

STATEWIDE SECTION 8 VOUCHER PROGRAM

Section 8 Housing Choice Voucher Administrative Plan

Effective April 1, 2015

**2015 SECTION 8 HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN
TABLE OF CONTENTS**

INTRODUCTION.....Intro-1

Charges Against Section 8 Administrative Fee ReserveIntro-2

Section 1.0 SELECTION AND ADMISSION POLICIES

1.01 Hiring a Housing Choice Voucher Participant as an Employee of the Local Organization 1-1

1.02 Eligibility of Local Administrator’s Employees for Housing Choice Voucher Program Assistance 1-1

1.03 Preferences 1-2

1.04 Opening the Waiting List..... 1-2

1.05 Closing the Waiting List 1-3

1.06 Purging the Waiting List..... 1-3

1.07 Removal of Applicants from the Waiting List..... 1-4

1.08 Screening of Applicants 1-5

1.09 Grounds for Denial of Assistance 1-6

1.10 Confidentiality of Criminal Records..... 1-9

1.11 Notification of Negative Actions 1-9

1.12 Application Procedures 1-10

1.13 Applicant Status While on Waiting List 1-11

1.14 Time of Selection..... 1-12

1.15 Income Targeting Requirement..... 1-12

1.16 Selection of Families from the Waiting List..... 1-13

1.17 First-Year Limitation on Where Family Can Lease a Unit at Initial Participation In the Program..... 1-13

1.18 Eligibility of Students for Assisted Housing under Section 8 1-14

1.19 Initial Eligibility Certification..... 1-15

1.20 Requirement to Attend Interview..... 1-15

1.21 Portability Moves from Other PHAs 1-16

1.22 Income Verification 1-17

1.22.01 *Child Support* 1-17

1.22.02 *Pay Stubs as Verification of Income* 1-17

1.22.03 *Asset Verification*..... 1-17

1.23 Final Determination and Notification of Eligibility..... 1-18

1.23.01 *Submitted Documents* 1-18

1.24	Document Retention for Applicants and Participants.....	1-18
1.24.01	<i>Applicants</i>	1-18
1.24.02	<i>Participants</i>	1-19
1.24.03	<i>Criminal Records</i>	1-19
Section 2.0	ISSUING VOUCHERS	
2.01	Voucher Term	2-1
2.02	Voucher Expirations	2-1
2.03	Suspensions.....	2-2
2.04	Extensions	2-2
2.04.01	<i>Reasonable Accommodation Extensions</i>	2-2
2.04.02	<i>Extensions Due to Extenuating Circumstances</i>	2-2
2.05	LA Assistance to Voucher Holders.....	2-2
2.06	LA to LA Moves	2-3
Section 3.0	SPECIAL ADMISSIONS	
3.01	Special Purpose Programs.....	3-1
3.02	Disaster Recovery	3-1
Section 4.0	OCCUPANCY POLICIES	
4.01	Definition of Groups of Persons That May Qualify as a Family	4-1
4.02	Family Guests	4-2
4.03	“Room-mates”	4-2
4.04	Definition of When an Applicant Is Considered to Be Continuously Assisted	4-2
Section 5.0	ENCOURAGING PARTICIPATION IN AREAS OF NON-CONCENTRATION	5-1
Section 6.0	AFFIRMATIVELY FURTHERING FAIR HOUSING	
6.01	Assistance to Families Claiming Discrimination.....	6-1
6.02	Section 8 Housing Choice Voucher Programs.....	6-2
6.03	Fair Housing Policies.....	6-2
6.04	Violence Against Women Act (VAWA).....	6-4

Section 7.0	PROVIDING PARTICIPANT INFORMATION TO PROSPECTIVE OWNERS	7-1
Section 8.0	DISAPPROVAL OF OWNER	8-1
Section 9.0	 GROUNDS FOR TERMINATING ASSISTANCE	
9.01	Terminating for Alcohol Abuse or Criminal Drug Activity	9-1
9.02	Termination of Assistance to Sex Offenders	9-1
9.03	Other Reasons for Terminating Assistance.....	9-2
Section 10.0	 SUBSIDY STANDARDS	
10.01	Determination of Family Unit (Voucher) Size.....	10-1
10.02	Exceptions to Subsidy Standards	10-3
10.03	Request for Exceptions to Subsidy Standards.....	10-4
10.04	Errors in Subsidy Standards	10-4
10.05	Changes for Applicants.....	10-4
10.06	Changes for Participants	10-4
10.07	Under-Housed and Over-Housed Families	10-5
10.08	Ineligible Housing.....	10-5
Section 11.0	 FAMILY ABSENCE FROM THE DWELLING UNIT	11-1
11.01	Confinement to Nursing Home or Hospital	11-1
Section 12.0	 DETERMINING ASSISTANCE IF A FAMILY BREAKS UP	
12.01	Remaining Member of Tenant Family.....	12-1
Section 13.0	 INFORMAL REVIEW PROCEDURES FOR APPLICANTS	
13.01	Preference Denials	13-1
13.02	Informal Review Procedures for Applicants.....	13-1
13.03	When an Informal Review is Not Required.....	13-1
13.04	Informal Review Process	13-2

13.05	Procedure for Review.....	13-2
13.06	Mitigating Circumstances for Applicants with Disabilities.....	13-3
13.07	USCIS Determination of Ineligibility	13-3
13.08	Restrictions on Assistance to Non-Citizens.....	13-4
13.09	Informal Review Regarding Citizenship Status with LA	13-4
Section 14.0	INFORMAL HEARING PROCEDURES FOR PARTICIPANTS	
14.01	Consideration of Circumstances	14-1
14.02	When a Hearing is Required	14-1
14.03	When a Hearing is Not Required	14-2
14.04	Notice to the Family.....	14-2
14.05	Hearing Procedures	14-3
14.06	Effect of the Decision	14-4
14.07	Mitigating Circumstances for Participants with Disabilities	14-4
14.08	Hearing Provisions for Restrictions on Assistance to Non-Citizens	14-5
14.09	USCIS Determination of Ineligibility	14-5
14.10	Informal LA Hearing.....	14-6
Section 15.0	COMPLAINTS	15-1
Section 16.0	PAYMENT STANDARDS	
16.01	Setting the Payment Standard	16-1
16.02	Revising the Payment Standard	16-1
16.03	Reasonable Accommodation	16-2
Section 17.0	OWNER RENTS AND RENT REASONABLENESS	
17.01	Rent to Owner in the Housing Choice Voucher Program.....	17-1
17.02	Rent Proration	17-1
17.03	Rent Reasonableness Determinations	17-1
17.04	Rent Reasonableness Methodology	17-2
Section 18.0	SPECIAL HOUSING TYPES	18-1

Section 19.0 PARTICIPANT PAYMENTS FOR AMOUNTS OWED THE PHA

19.01 Repayment Agreements - General 19-2
19.02 Repayment Agreements - Fraud Recovery 19-3
19.03 Late Payments 19-4
19.04 Minimum Rents 19-4

Section 20.0 UTILIZING THE ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

20.01 Demonstrating Compliance with Mandatory Use of EIV 20-1
 20.01.01 Debts Owed to PHAs & Termination Module 20-2
 20.01.02 Policy Governing DTDB Entries 20-3
 20.01.03 Screening Families Through EIV Former Tenant Search Module ... 20-3
 20.01.04 Mandatory Monitoring of EIV Reports 20-4
20.02 Income Discrepancy Resolutions 20-4
20.03 EIV Security Measures 20-5
 20.03.01 Handling of Discrepancy Reports 20-5
 20.03.02 Records Retention 20-5
 20.03.03 Disposal of Applicant and Participant Records 20-5
 20.03.04 EIV Security Monitor 20-6
 20.03.05 Storage of EIV Documents 20-6
 20.03.06 Key Control Form 20-6
 20.03.07 EIV Security Awareness Training 20-7
 20.03.08 Breach of EIV Security Policy 20-7

Section 21.0 RECERTIFICATIONS

21.01 Interim Recertifications 21-1
21.02 Effective Date of Changes for Interim Recertifications 21-1
21.03 Annual Recertifications 21-2
21.04 Verification Guidance and Public Assistance Income Calculations 21-3
21.05 Zero Income Families 21-3
21.06 Minimum Rent Hardship Exemption 21-3

Section 22.0 RESTRICTIONS ON MOVES BY A PARTICIPANT FAMILY 22-1

Section 23.0 HOUSING QUALITY STANDARDS (HQS) INSPECTION POLICIES

23.01 Requirements and Guidelines for Inspections 23-1
23.02 Initial HQS Inspections 23-3
23.03 Annual HQS Inspections..... 23-3
23.04 Verification of HQS Deficiencies 23-4
23.05 Reinspections 23-4
23.06 Notification of HQS Failures 23-5
23.07 Time Standards for Repairs 23-5
23.08 Rent Increases 23-5
23.09 Move Out/Vacate Inspections 23-5
23.10 Special/Complaint Inspections..... 23-5
23.11 Quality Control Inspections 23-6
23.12 Accessibility Modifications to HQS 23-6
23.13 Emergency Repair Items 23-6
23.14 Lead Based Paint..... 23-7
 23.14.01 Initial Inspection 23-7
 23.14.02 Annual/Periodic Inspection 23-7
23.15 Smoke and Carbon Monoxide Detectors 23-8
23.16 Determination of Responsibility 23-9
23.17 Consequences When Owner is Responsible (Non-Emergency Items) 23-9
23.18 Reduction of Payments 23-10
23.19 Termination of Contract..... 23-10
23.20 Consequences When Family Is Responsible..... 23-10
23.20 Local Administrator-Owned Units..... 23-11

Section 24.0 SECTION 8 HOME OWNERSHIP

24.01 Introduction..... 24-1
24.02 Permitted Ownership Arrangements 24-2
24.03 Determination of Family Eligibility..... 24-2
24.04 Home Ownership Counseling 24-4
24.05 Home Inspections..... 24-5
24.06 Determination of Home Ownership Assistance Levels 24-6
24.07 Mortgage Financing and Down Payments 24-7
24.08 Home Search..... 24-8
24.09 Post-Purchase Activities 24-8
24.10 Portability..... 24-9
24.11 Length and Continuation of Assistance 24-9
24.12 Home Ownership Option 10 Year Asset Exclusion 24-10
24.13 Recapture Provisions and Re-Sales 24-11

24.14	Defaults	24-11
24.15	Family Obligations.....	24-11
24.16	Termination.....	24-13
24.17	Family Self-Sufficiency (FSS) and Home Ownership.....	24-13
24.18	File Documents for Audit Trail.....	24-14
	<i>24.18.01 Annual Recertification Documents Required in HO Files</i>	24-15
24.19	Re-enrollment in the Home Ownership Program	24-15

Section 25.0 PROJECT-BASED VOUCHER PROGRAM

25.01	PBV Contract Selection	25-1
25.02	Deconcentration of Poverty/Expanding Housing Opportunities Standards.....	25-2
25.03	HAP Term	25-2
25.04	HAP Contract Amendments (Unit Substitution/Addition).....	25-2
	<i>25.04.01 Unit Substitution</i>	25-2
	<i>25.04.02 Unit Addition</i>	25-3
25.05	Selection of Families from the Waiting List for Project-Based Units	25-3
	<i>25.05.01 Preferences</i>	25-4
25.06	Tenant Screening	25-4
25.07	HQS/Inspections	25-4
	<i>25.07.01 New/Turnover, Annual and Special Inspections</i>	25-4
25.08	Over-Housed, Under-Housed and Accessible Units	25-5
25.09	Vacancy Payments	25-6
25.10	25% Project Cap	25-6
25.11	Supportive Service Requirements	25-6
	<i>25.11.01 Requirements</i>	25-7
	<i>25.11.02 Compliance Monitoring</i>	25-7
25.12	Determination and Redetermination of Rent	25-8
	<i>25.12.01 Rent Increase Request Process</i>	25-8

Section 26.0 ENHANCED VOUCHER ASSISTANCE..... 26-1

26.01	Zero Housing Assistance Payments at Initial Conversion	26-1
-------	--	------

Section 27.0 SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) ... 27-1

GLOSSARY	GL-1
-----------------------	------

INTRODUCTION

The overall mission of the New York State Homes and Community Renewal (HCR) is Partnering to Improve and Preserve our Homes and Communities.

The New York State Homes and Community Renewal comprises all of the State's major housing and community renewal agencies, among which are the Division of Housing and Community Renewal (DHCR) and the Housing Trust Fund Corporation (HTFC), a subsidiary public benefit corporation of the NYS Housing Finance Agency (HFA). HTFC contracts with DHCR to administer some of the activities of the Section 8 program.

Within the overall mission of the agency, this Administrative Plan serves as the HCR operational handbook for implementing the U. S. Department of Housing and Urban Development's (HUD) Section 8 Housing Choice Voucher (HCV) Program, including Enhanced and Project-based Vouchers). This Plan has been prepared in such a manner as to ensure compliance with all requirements set forth in 24 CFR §982.54 (Administrative Plan).

In the implementation of the Section 8 Housing Choice Voucher (HCV) Program, HCR acts as the Public Housing Agency (PHA) for all local programs under its purview. In this capacity as PHA, HCR has full responsibility for the satisfactory completion of all contractual obligations with HUD. The Section 8 tenant-based assistance programs are federally funded and administered for the State of New York by HCR through its Statewide Section 8 Voucher Program Office.

In order to effectively and efficiently implement the program over its entire Statewide jurisdiction, HCR has contracted with Local Administrators (LAs) to undertake necessary field activities. Day-to-day responsibility for local administration of the HCV Program in the field is assumed by each LA in its designated local area of operation. The divisions of responsibilities are detailed in a contract between HCR and each of its LAs.

The NYS HCR/Statewide Section 8 Voucher Program is authorized to administer the Section 8/Housing Choice Voucher Program in the following NYS jurisdictions: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Nassau, New York (*Bronx, Brooklyn, Manhattan, Queens, Staten Island*), Niagara, Oneida, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rockland, Saratoga, Seneca, Schuyler, Steuben, St. Lawrence, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Washington, Wayne, Westchester, Wyoming and Yates Counties. HCR is also authorized to administer a mobility counseling program in Westchester County, the Enhanced Section 8 Outreach Program (ESOP).

Administration of the Section 8 Program and the functions and responsibilities of the HCR staff will be in compliance with the HCR Personnel Policy and HUD's Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Charges Against Section 8 Administrative Fee Reserve

As a New York State government department, HCR does not have a Board of Commissioners.

The Commissioner of HCR or, for usual and customary business in the implementation of the Section 8 Housing Choice Voucher Program, the Commissioner's designee is responsible for review and approval of all proposed expenditures that may be made from an operating reserve for "other housing purposes."

Section 1.0 SELECTION AND ADMISSION POLICIES

It is the policy of HCR to ensure that all families who express an interest in housing assistance are given equal opportunity to apply and are treated in a fair and consistent manner. This section describes the policies and procedures for selecting and admitting families to the Statewide Section 8 Housing Choice Voucher (HCV) Program including completion of an application for assistance, placement and/or denial of placement on the waiting list and limitations on who may apply.

Unless otherwise approved by HCR (and HUD if regulatory waiver is required), these selection and admission processes apply to all local program areas in HCR's Statewide Program jurisdiction.

1.01 Hiring a Housing Choice Voucher Participant as an Employee of the Local Administrator's Organization

HUD rules and regulations do not prohibit a PHA from hiring as an employee a person who is also a participant in the PHA's HCV program. However, when hiring such person, the LA should apply the same Section 8 standards and policies set forth in HUD rules and regulations and HCR's Administrative Plan. The standards and policies currently used to safeguard the privacy and confidentiality of tenant information and tenant files should apply equally to the employee. Special efforts should be taken to assure that the employee/recipient is not receiving preferential treatment. This policy also applies to program participants who are relatives of employees.

Where feasible, the LA should utilize the services of another PHA/LA to conduct inspections, interim and annual reexaminations.

The LA **must** submit the names of all employees and relatives of employees who are participants in their Housing Choice Voucher program to the HCR Statewide Section 8 Voucher Program.

1.02 Eligibility of Local Administrator's Employees for Housing Choice Voucher Program Assistance

HUD rules and regulations do not prohibit an employee (*who is otherwise qualified*) of a PHA from applying and receiving HCV program assistance from the PHA with whom he/she is employed.

Therefore, when an employee of the LA submits an application for Housing Choice Voucher Program assistance, the LA should apply the same Section 8 standards and policies set forth in HUD rules and regulations and HCR's Administrative Plan. The standards and policies currently used to safeguard the privacy and confidentiality of tenant information and tenant files should apply equally to the employee. Special efforts

should be taken to assure that the employee/applicant is not receiving preferential treatment. This policy also applies to relatives of employees.

The word “relative” as used in this section pertains to parent, child, grandparent, grandchild, sister, or brother of any employee.

1.03 Preferences

All federal preferences have been eliminated, **except the selection of elderly, disabled, and handicapped singles before other singles.**

Single family households who are elderly, disabled, handicapped or displaced will be selected before other single family households.

1.04 Opening the Waiting List

Each LA will utilize the following procedures for opening the waiting list:

When the LA determines that there are an insufficient number of applicants on its local waiting list, the LA will advertise through public notice in local media of general circulation and any available minority media in the LA jurisdiction. The public notice should provide information on income and other general eligibility requirements; and should also contain the following:

- The dates, time, location, and other relevant contact information regarding where families may apply;
- The programs for which applications will be taken;
- The specified period (if any) for which applications will be received by the LA; and
- A brief description of the program;
- A statement that individuals with disabilities are eligible for the program and that reasonable accommodations will be made where necessary to ensure equal participation in housing assistance;
- A statement affirming compliance with equal housing opportunity requirements; and affirming compliance with equal housing opportunity requirements; and
- The federal Equal Housing Opportunity Logo.

After the closing deadline (if any) for accepting applications and if requested by a person with a disability, additional time will be given as a reasonable accommodation for submission of an application.

In conjunction with opening the waiting list, the LA is required to prepare an Affirmative Fair Housing Marketing Plan which addresses:

- Conducting outreach to advocacy groups (i.e., disability rights groups) on the availability of housing assistance;

- Identifying and outreaching to the population that is least likely to apply, both minority and non-minority groups, through various forms of media (i.e., radio stations, posters, newspapers) within the marketing area and through various community groups.

1.05 Closing the Waiting List

The LA may discontinue receiving applications if there are enough applicants to fill anticipated openings for the next **24** months. A local waiting list may **not** be closed if to do so would have a discriminatory effect inconsistent with applicable civil rights laws.

The LA will announce the closing of the waiting list by public notice.

1.06 Purging the Waiting List

The LA will update and purge its waiting list annually to ensure that the pool of applicants reasonably represents families still actively interested in Section 8 HCV assistance. Purging should also enable the LA to update information regarding address, family composition, income category and preferences.

Prior to purging the waiting list:

- The LA must save an electronic and hard copy of the pre-purged waiting list.
- All applicants who are affected by the purge must be notified by mail.

Before removing an applicant from the waiting list due to the applicant's failure to respond to the initial contact letter, a second letter must be mailed to the applicant. If the applicant does not respond to the second notice within ten (10) business days, the name of the applicant will be removed from the waiting list.

Purging is only required for applicants that have been on the waiting list for 12 months or more. The name and address of each applicant must be typed or written on the original contact letter. Letters must include the name and address of the applicant notified.

The LA should advise applicants to provide updated contact information in writing. Applicants will be advised that they will be removed from the waiting list if they cannot be reached at the address provided on the initial application.

When the purge is initiated, a letter will be sent to the applicants in the order in which they appear on the waiting list. The number of applicants on the waiting list should be equal to 50% of the LA's current program size. The letter will indicate that the purpose of the contact is:

- to determine applicant interest in remaining on the waiting list; and

- to offer the family an opportunity to update any information previously provided to the LA.

The contact letter will require the applicant to provide return correspondence in the following circumstances:

1. The applicant wishes to be removed from the waiting list, or
2. The applicant wishes to update information currently on file provided by the LA to expedite return of requested information.

Contact letters returned by the Post Office as undeliverable will be grounds for removing an applicant from the waiting list. However, if a letter is returned by the Post Office with a forwarding address, the LA should update the information on the computer and re-mail the letter to the new address. In such cases, an applicant's name should not be removed from the active waiting list and determined ineligible unless the applicant fails to respond to this notice.

In addition, and if applicable, the LA should also notify the contact person or organization provided by the applicant on **Form HUD-92006**, "Supplement to Application for Federally Assisted Housing (see section of form entitled "Reason for Contact")", before removing the applicant's name from the active waiting list.

The LA will compare results of the purge to regular annual program participant attrition rates. If the initial purge results in an inadequate number of applicants to offset regular program attrition rates, the LA will conduct additional outreach until it is determined that there are sufficient numbers of active applicants.

1.07 Removal of Applicants from the Waiting List

The LA will remove an applicant's name from the waiting list under the following conditions:

- The applicant requests, in writing, that his/her name be removed;
- The applicant fails to respond to a written request for information;
- Correspondence is returned to the LA by the Post Office as undeliverable;
- The applicant misses two or more scheduled appointments/briefings; or
- The applicant does not meet either program eligibility or screening criteria.

When an extenuating circumstance prevents an applicant from responding to an LA's correspondence which resulted in the applicant being removed from the active waiting list and determined ineligible, reinstatement of the applicant shall be granted by the LA subject to acceptable documentation verifying the extenuating circumstance. If reinstatement is granted, the applicant will retain his/her original position on the waiting list.

Extenuating circumstances include, but are not limited to the following:

- When a death has occurred in the family;
- Hospitalization;
- Illness;
- Incarceration; and
- Other circumstances determined by the LA

Upon receipt of acceptable verification the applicant's position will remain the same on the active waiting list for a period of 90 days from the date on which the LA initially contacted the applicant. The applicant is responsible for rescheduling the appointment or briefing with the LA during the 90 day period.

At the end of the 90 days the applicant's name must be removed from the active waiting list and determined ineligible.

In no event will an applicant's name be held in abeyance on the active waiting list based on his/her representation that he/she is not ready to be processed when reached on the list.

Applicants' files must be retained for at least three years after the date an application is closed, withdrawn from the waiting list, or determined ineligible.

Reinstatement requests based on extenuating circumstances will only be considered within 90 days of the date of the local administrator's correspondence.

Applicants' files must be retained for at least three years after the date an application is closed, withdrawn from the waiting list, or determined ineligible.

1.08 Screening of Applicants

As part of LA processes for determining eligibility for participation, the LA will conduct criminal background checks on all adult household members, including live-in aides. These checks will be used to identify circumstances under which assistance must be denied in accordance with the requirements of Section 982.553 of the program regulations.

All adult applicant family members will be required to sign a release of information which will authorize the LA to access criminal records.

This check may be made through state or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three years. If the individual has lived outside the local area, the LA may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). The LA will also check with the State sex offender registration program to determine if an individual is subject to a lifetime registration requirement as a State sex offender.

Additional screening is the responsibility of the owner. Upon the written request of a prospective owner, the LA will provide any factual information or third party written information they have relevant to a voucher holder's history of, or ability to, comply with material standard lease terms or any history of drug trafficking.

The LA will not screen family behavior or suitability for tenancy. The LA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before LA approval of the tenancy, the LA will inform the owner that screening and selection for tenancy is the responsibility of the owner. The owner is responsible for screening families based on their tenancy histories, including such factors as:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- Compliance with other essential conditions of tenancy.

All screening procedures will be administered uniformly, fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

To the maximum extent possible, the LA will involve other community and governmental entities in the promotion and enforcement of this policy. This policy will be posted on the LA's bulletin board and copies made readily available to applicants and participants upon request.

1.09 Grounds for Denial of Assistance

The LA **will** permanently deny assistance to a family if any member of the family has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally-assisted housing.

The LA **will** permanently deny assistance to anyone subject to a lifetime registration requirement as a State sex offender.

The LA will also deny assistance to applicants who:

1. do not meet any one or more of the eligibility criteria;

2. do not supply information or documentation required by the application process;
3. fail to complete any aspect of the application or lease-up process;
4. have a history of criminal activity by any household member involving crimes of physical violence against persons or property, or any other criminal activity, including drug-related criminal activity that **would adversely affect the health, safety or well being of other participants or staff, or cause damage to the property.** However, such history will not serve as the basis to deny assistance if it has been at least five years since the conviction or service of sentence whichever is later, where there has been no other such intervening criminal activity during that period that would serve as the basis to deny assistance.
5. have engaged in criminal activity or alcohol abuse (as specified below) within 1 year of initial lease-up of an applicant:
 - A member of the household has demonstrated a pattern of drug or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and/or persons in the immediate vicinity of the premises.
 - A current household member was convicted or incarcerated for any alcohol-related or drug-related criminal activity that took place on or near the premises.

The LA may waive the decision to deny assistance if:

- the person responsible for the prohibited action demonstrates successful completion of a credible rehabilitation program approved by the LA, or
- the circumstances leading to the violation no longer exist because the person who engaged in prohibited drug-related or alcohol-related activity is no longer in the household due to death or incarceration.
- The LA may approve assistance to an eligible family, provided that the household member(s) determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the LA may consider individual circumstances with the advice of Juvenile Court officials.

If assistance is to be denied as outlined above, the denial will be based upon either of the following:

- Preponderance of evidence – defined as *“evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.”*

- Credible Evidence – defined as “*evidence provided by police and court systems such as drug raids, drugs found in the dwelling unit, evidence which is tied to the activity, warrants issued, arrests made, etc.*”
6. currently owe rent or other obligations to any housing authority in connection with the public housing or Section 8 programs;
 7. have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
 8. have a family member who was evicted from federally-assisted housing within the last five years;
 9. have a family member who was evicted from assisted housing within five years of the projected date of admission because of drug-related criminal activity involving the illegal manufacture, sale, distribution or possession with the intent to manufacture, sell or distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802;
 10. have a family member who 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 residents. The LA may waive this requirement if:
 - the person demonstrates to the LA’s satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
 - the person has successfully completed a supervised drug or alcohol rehabilitation program;
 - the person has otherwise been rehabilitated successfully; or
 - the person is participating in a supervised drug or alcohol rehabilitation program.
 11. have engaged in or threatened abusive or violent behavior towards any LA staff member;
 12. have a family household member who has been terminated under the Pre-Merger Certificate or Voucher Programs or Housing Choice Voucher Program during the last three years. This three-year prohibition does not apply to a family member who voluntarily withdrew from the program, and was in good standing at that time;
 13. have a family member who has been convicted of manufacturing or producing methamphetamine;

14. have a family member with a lifetime registration under a State sex offender registration program; or
15. is a welfare-to-work (WTW) family that failed to fulfill its obligations under the welfare-to-work voucher program within the last three years.

These circumstances governing denial of assistance to applicants shall also be applicable to any and all instances wherein a participant family wishes to admit an additional family member who meets any of the above conditions.

1.10 Confidentiality of Criminal Records

The LA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and must be destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed, will be housed in a locked file with access limited to LA staff individuals responsible for screening and determining eligibility for initial and continued assistance. Misuse of the above information by any employee of the LA will be grounds for termination of employment.

If the family is determined eligible for initial or continued assistance, the criminal report must be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information must be shredded immediately upon completion of the review or hearing procedures and the final decision.

The LA will document in the family's file the circumstances of the criminal report and the date the report was destroyed.

1.11 Notification of Negative Actions

Any applicant whose name is being removed from the waiting list will be notified in writing by the LA that he/she has ten (10) business days from the date of the written correspondence to request an informal review. The letter will also indicate that the applicant's name will be removed from the waiting list if he/she fails to respond within the time limit specified.

The LA's system of removing applicants' names from the waiting list will not violate the rights of persons with disabilities. If an applicant's failure to respond to a request for information or updates was caused by the applicant's disability, the LA will provide a reasonable accommodation. If the applicant indicates that he/she did not respond due to a disability, the LA will verify that the applicant is disabled.

An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

1.12 Application Procedures

Each LA will utilize a standardized application form approved by HCR. The applicant will be responsible for completing all sections of the application. If an applicant with a disability requests assistance as a reasonable accommodation, the LA will arrange for it.

The primary purpose of the application intake function is to gather pertinent eligibility information on applicants. This process will also be utilized by LAs to provide such information to applicants as may be necessary to ensure accurate and timely decisions concerning eligibility and to expedite provision of assistance to eligible families.

Prospective applicants may either complete the application at the LA's office or request that one be sent to them for completion and return.

Each application must be accompanied by proof of the applicant's current address. The only exceptions to this requirement are:

- a. Project-based applicants; however, if an applicant applies to both waiting lists (project - based and Housing Choice Voucher), proof of residency is required for the HCV waiting list.
- b. Applicants who are not residing in the LA's jurisdiction at the time of application.

The application will be considered incomplete without the above information.

At a minimum, the application will contain the following information:

1. Head-of-household name, address, and phone number;
2. Dates of birth for all family members;
3. Social Security numbers for all family members in accordance with HUD regulations and guidance, and HCR policy notices.
4. Racial and ethnic designation of the head of household;
5. Annual gross income for each family member;
6. Date application was submitted; and
7. Form HUD-92006, Supplement to Application for Federally Assisted Housing.

Note: While HUD requires that this form be included as a Supplement to the PHA's Application for Federally Assisted Housing, the applicant has the option of providing additional contact information, or declining to do so. Regardless of the option chosen, the signed and dated form must be maintained in the applicant's file.

Upon receipt in the LA's office, the date and time of each application will be recorded on the application form. Persons submitting applications will not be required to attend an interview; information on the application will be accepted on a "self-certified" basis until the applicant is contacted for a pre-selection final eligibility determination. Incomplete applications will be returned to a family, together with a statement of what information is necessary to complete the application.

Each person submitting an application will receive written acknowledgment of receipt of the application from the LA. As further described below, the acknowledgment will indicate the applicant's tentative eligibility status.

Applicants who have submitted a complete application and have been determined to be preliminarily eligible for Section 8 HCV assistance will be placed on the waiting list until assistance is available. In the acknowledgment letter, the LA will briefly indicate the steps that will follow after the applicant's name has been placed on the waiting list.

While documents verifying date of birth may be requested at the time of submission of the application, an applicant **should not** be denied placement on the waiting list if this documentation is not provided. Such verification is only required at the time of the final eligibility determination.

Disclosure of Social Security numbers by applicants must conform to HUD regulations and guidance, and to HCR policy notices. Accordingly, applicant(s) have up to 180 days to meet HUD's Social Security documentation requirements before being removed from the waiting list.

If an applicant is determined ineligible based on the information provided in the application, the LA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform the family of its right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as a reasonable accommodation.

1.13 Applicant Status While on Waiting List

All applicants who are placed on the waiting list will be informed of their responsibility to report changes in address in writing within 30 days of occurrence. Applicants will also be required to report changes in income, family composition and/or other items potentially affecting applicant eligibility.

Applicants will be notified that, if the LA is unable to contact the family due to its failure to promptly submit a change of address notification, it may result in its name being dropped from the waiting list. Applicants will also be dropped from the waiting list if they fail to respond to written requests for information or action within LA-specified time frames.

Exceptions will be granted for applicants with disabilities, as defined in 24 CFR §5.403 who were not able to respond within the time frame due to their disability. Exceptions may also be granted for applicants hospitalized for sufficient duration if the failure to respond is/was due to the hospitalization.

1.14 Time of Selection

When funding is available, families will be selected from the waiting list in sequence, regardless of family size, subject to income targeting requirements.

1.15 Income Targeting Requirement

The same income targeting rule that applies to participant-based vouchers also applies to project-based vouchers (PBV). The 75% targeting requirement is a combined factor for any LA with both participant-based and project-based vouchers.

LAs are responsible for ensuring that, in any given year, of the **combined total** of participant-based and project-based admissions, not less than 75% of admissions must be families with incomes at or below 30% of area median.

HCR's "targeting year" is the same as its program fiscal year of April 1 through March 31. LAs should look at the previous year's admission activity to determine the overall percentage of families admitted who were at or below 30% of median. No adjustments to administrative practices will be necessary if it is considerably above 75%.

HCR does not grant waivers of the income targeting policy for which an owner or landlord can apply.

In order to ensure that the targeting requirements are met on an overall basis, it is necessary that LAs meet these requirements on an individual basis. However, HCR may exercise its discretion to modify this requirement on an "as needed" or individual basis, in view of the initial impact on targeting that may result from PBV move-ins.

For PBV vacancies, LAs must continue doing everything possible to admit families with incomes at or below 30% of median. However, upon written request to HCR, the LA is permitted to raise the targeting income ceiling to 50% of area median income if the LA can demonstrate that sufficient families at the 30% of area median income level are not available. In this situation, LAs should primarily, **if not solely**, admit families having incomes at or below 30% of area median income to participant-based HCV openings, until the overall percentage of the LAs annual admissions equals or exceeds 75% of families at this income level.

1.16 Selection of Families from the Waiting List

Unless otherwise approved by HCR (and HUD if such approval is necessary), the selection of participants in all LA Program jurisdictions will be according to the following local selection order:

- For participant households with more than one family member, selection will be based on date and time of application.
- For single person households, persons who are elderly, disabled, handicapped or displaced will be selected before other single person households.

The qualification for the above listed preference and/or any subsequent preferences that may be added is based solely on an applicant's status **at the time of selection from the waiting list**.

LAs must not ask an applicant claiming disability to specify the exact nature of (or state or explain) his/her disability, nor does the applicant have to submit proof of said disability; documentation can only state that the applicant is disabled.

Notwithstanding the above, if necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year be extremely low-income families (unless a different target is agreed to by HUD), the LA retains the right to skip higher income families on the waiting list to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, HCR and each LA will monitor incomes of newly admitted families and the incomes of the families on the waiting list.

If there are an insufficient number of extremely low-income families on the waiting list, the LA will conduct outreach on a non-discriminatory basis to attract sufficient numbers of extremely low-income families in order to reach the statutory requirement.

1.17 First-Year Limitation on Where Family Can Lease a Unit at Initial Participation in the Program

A "non-resident" applicant is required to utilize the voucher for the first 12 months in the initial Local Administrator's jurisdiction.

For the purposes of this provision, a "non-resident" applicant is one where neither the head of household or spouse had a "domicile" (legal residence) in the jurisdiction of the Local Administrator at the time the family submitted an application for participation in that LA's program.

The term "Legal Domicile" is defined as follows: *"The legal residence of the household head or spouse as determined in accordance with State and local law."* New York State case law defines "domicile" as *"one's [the household head or spouse] principal and permanent place of residence where he/she always intends to return to from wherever he/she may be temporarily located and from which he/she has no present intention of moving. In other words, the 'domicile' is the location where a person intends to make his or her home indefinitely."*

Families will be advised that, if contacted for admission to the local program wherein they were a “non-resident” at the time of application, they must utilize the assistance for 12 consecutive months in the jurisdiction of the program where they are being admitted. All “non-resident” applicants must be advised of this policy upon acceptance of their application by the LA and at the time the family is contacted to establish an eligibility certification interview.

Conversely, if the family was a resident in the LA’s jurisdiction at the time of application, they will be eligible for portability at the time of initial issuance of the voucher.

The legal residence reported by the applicant at the time of application is the determining factor in the implementation of these provisions.

1.18 Eligibility of Students for Assisted Housing under Section 8

On December 30, 2005 HUD published a final rule implementing a new law pertaining to eligibility of students for Section 8 housing.

HUD Guidance was published in a notice in the April, 10, 2006 Federal Register and is available at <http://www.gpo.gov/fdsys/pkg/FR-2006-04-10/pdf/06-3365.pdf>.

Under the new law and HUD’s rule, a person will not be eligible to separately receive Section 8 assistance who:

- Is enrolled as a student at an **institution of higher education** (a detailed definition of this term is provided in the April 10, 2006 Federal Register notice, pages 18149-18150);
- Is under the age of 24;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child;
- Is individually ineligible for Section 8 assistance; or
- Has parents who are, individually or jointly, ineligible for assistance.

To summarize, the Federal Register states: *“If a student is enrolled at an institution of higher education, is under the age of 24, is not a veteran, unmarried and does not have a dependent child, is individually ineligible for Section 8 assistance, or the student’s parents are, individually or jointly, ineligible for assistance, no Section 8 can be provided to the student. Unless the student is determined independent from his or her parents, as discussed in this guidance, the eligibility of a student seeking Section 8 assistance will be based on both the student and the parents being determined income eligible for Section 8 assistance.”*

Note: HUD’s April 10, 2006 Guidance does not apply to a student residing in a Section 8 assisted unit with his or her parent(s), or who resides with his/her parent(s) who are applying to receive Section 8 assistance.

The rule also provides that in determination of student income, financial assistance in excess of tuition assistance received by the student will be included in annual income for determination of eligibility for Section 8 assistance, *unless* the student is over the age of 23 with dependent children. Financial assistance does not include loan proceeds for the purpose of determining income.

1.19 Initial Eligibility Certification

At the point of selection from the waiting list, all adult household applicants will be required to participate in an initial eligibility certification interview. Single persons who claim that they are elderly, disabled, handicapped or displaced must have that status verified prior to the LA's scheduling of the initial eligibility certification interview.

Information used to verify an applicant's eligibility at initial certification for the HCV program must be current, that is within 60 days of the issue date of a voucher. Upon verification of the applicants' information, the LA must update the electronic "Applicant Data Sheet" for each applicant. A copy of the "Applicant Data Sheet" must be maintained in each applicant's file.

After the above preference is verified, applicants will be required to participate in a full eligibility certification interview with an LA representative. The certification and briefing interview afford the LA an opportunity to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that all required information is accurate and complete. The briefing phase of the interview is used as a vehicle to provide information about the certification and verification process, as well as to advise the family of other PHA services or programs which may be available.

At the certification interview, the applicant will be required to furnish complete and accurate information requested by the interviewer. The LA representative will initially complete the certification based on written and/or verbal information provided by the applicant.

At the conclusion of the certification interview, the applicant will sign and certify that all information is complete and accurate.

1.20 Requirement to Attend Interview

All adult family members are required to attend the interview and sign the eligibility certification. Exceptions may be made for students attending school out of state or for members for whom attendance would be a hardship.

The head of household or the head and spouse are required to attend the interview. If the head of household cannot attend the interview, the spouse may attend to complete the certification and certify for the family. However, the head of household will be required to attend an

interview within three days to review the information and to certify by signature that all of the information is complete and accurate.

If an applicant misses a scheduled appointment, does not contact the LA to reschedule, cannot be contacted by the LA to reschedule or misses two scheduled meetings, the LA will reject the application and the applicant will be removed from the waiting list.

If an applicant is denied assistance due to failure to attend the full certification interview, the applicant will be notified in writing and offered an opportunity to request an informal review.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

The head of household and spouse will be required to sign the certification form and/or a supplemental form/worksheet containing the family composition, income, asset and allowance information for the family. As required by the LA, other adult members may also be asked to sign these forms.

All adult members must sign:

- HUD Form 9886 (Release of Information);
- any supplemental forms and/or documents required by the LA;
- declarations and consents related to citizenship/immigration status; and
- a consent form to release criminal conviction records and to allow the LA to receive records and use them in accordance with HUD regulations.

Applicants may also be required to sign specific verification forms for information which is not covered by HUD form 9886. Failure to do so when required will be cause for denial of the application for Section 8 assistance.

If the LA determines during or after the interview that additional information is needed directly from the applicant, the LA will specify in writing what information is required and what kind of documentation must be provided by the applicant to verify it. The family will be given ten business days to supply requested information. If the information is not supplied in this time period, the LA may deny assistance.

1.21 Portability Moves from Other PHAs

Local Administrators are required to adhere to HUD's portability requirements for initial and receiving PHAs, as set forth in HUD regulations and PIH Notices.

Policies related to absorption or billing of portability moves are established by HCR as PHA. HCR reserves the right to revise its portability billing guidelines based on budget authority granted by HUD and unit baseline allocations established by HCR for each local program.

1.22 Income Verification

All income and asset information provided by the applicant will be verified via third-party contact unless repeated attempts to provide such verification fail. If the LA is unable to obtain third-party verification, the LA will specify what other form of verification may be acceptable within the guidelines specified by HUD. When third party verification is unavailable, the file must be documented to leave a clear audit trail. Any documentation requested directly from the applicant must be provided within the time specified by the LA.

1.22.01 Child Support

Periodic and determinable allowances received as child support payments must be included as annual income. However, child support payments pursuant to court order or private agreement that is nonrecurring or sporadic shall be excluded as income upon proper written verification.

The LA must also obtain third party verification of income derived from child support and/or cash contribution. Request for verification of such incomes must be made directly from the contributor or the enforcement agency (family court or Department of Social services, etc.).

1.22.02 Pay Stubs as Verification of Income

Original or authentic pay stubs generated by a third party source dated either within the 60-day period preceding the reexamination or LA's requested date can be accepted as verification of income subject to the following:

The LA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. However, when available, the LA must obtain more than two consecutive pay stubs. Although consecutive pay stubs are required to determine annual income, if one or more pay stubs is/are significantly less than the other(s) the LA must ascertain the reason(s) for the difference and a determination should be made whether to exclude or include such pay stub(s). When this occurs, the LA must document the file to leave a clear audit trail.

1.22.03 Asset Verification

LAs are required to include in the calculation of annual income any interest or dividends earned on assets held by the family. Original or authentic documentation (i.e.; bank statements, stocks/bonds, real estate, etc.) generated by a third party source within the most recent three (3) months. At its discretion, the LA may obtain statements that are older than 3 months if there is/are suspicion of any irregularities.

When a family has net family assets in excess of \$5000, annual income shall include the greater of the actual income derived from the net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

For each new admission, the LA must comply with HUD's EIV income verification requirements, including:

- review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- print and maintain a copy of the Income Report in the tenant file; and
- resolve any income discrepancy with the family within 60 days of the EIV Income Report.

1.23 Final Determination and Notification of Eligibility

After verification is completed, the LA will make a final determination of eligibility. This decision is based upon information provided by the family, verification activities undertaken by the LA and current eligibility criteria in effect. If the family is determined to be eligible, the LA will confirm eligibility via written notification to the family. If a briefing has not already been conducted by the LA, one will be scheduled to coincide with issuance of the Housing Choice Voucher.

1.23.01 Submitted Documents

When an applicant, participant, owner or representative of an owner submits documents to the LA's office, the LA **must** acknowledge receipt of the documents by completing a "Document Receipt Form." The form must be signed and dated by the LA's staff that receives the documents and a copy of the form must be issued to the person who submitted the documents.

1.24 Document Retention for Applicants and Participants

1.24.01 Applicants

Applicant files and documents must be retained for at least three years after:

- the date an application is closed;
- the applicant has withdrawn from the waiting list; or
- the applicant is determined ineligible.

When an applicant is admitted to the program, the application and associated verification of eligibility documents must be transferred to the participant's file and must be retained in that file according to the rules for program participant files (see below).

Special rules apply to retention of U.S. Citizenship and Immigration Services (USCIS) documents. These documents must be retained for at least five years.

1.24.02 Participants

Documents for participants must be retained during the term of the assisted tenancy and for at least three years thereafter. However, **except** for the documents listed below, ***all other documents may be destroyed after the three-year period.***

- Birth certificates or other verification of DOB
- Social security cards
- Initial pre-application
- Initial income eligibility verification
- Initial voucher
- Initial 50058
- Initial HAP contract
- Initial lease and tenancy addendum

Note: USCIS documents must be retained for at least five years.

When a new or additional folder is created for an existing participant, the documents specified above must be transferred to the new folder.

1.24.03 Criminal Records

Special retention rules pertain to criminal records for both applicants and participants. Criminal records are **required** to be destroyed once the purpose for which they are obtained has been accomplished.

Section 2.0 ISSUING VOUCHERS

After all family information has been verified, eligibility has been determined and the family has been briefed regarding general program rights and obligations, the LA will issue the Housing Choice Voucher (HCV). At this point the family begins its search for a unit.

2.01 Voucher Term

While HUD regulations specify a minimum voucher term of 60 days, HCR as the PHA has the discretion to modify this term and to grant a family one or more extensions of the initial voucher term in accordance with the policies set forth in the PHA's administrative plan. HCR reserves the right to revise its voucher term guidelines based on budget authority granted by HUD and utilization of unit baseline allocations. Changes in voucher term policies will be disseminated, as needed, in Statewide Section 8 notices.

The initial term of the voucher will be 60 days and must be stated on the voucher. The LA may grant one or more extensions of the term, but the initial term plus any extensions will not exceed 120 days from the initial date of issuance. If additional extensions are required for *reasonable accommodation and/or extenuating circumstances*, the LA must follow the guidelines outlined in Section 2.04 below.

The family must make a reasonable effort to locate a unit throughout the initial voucher term and/or any subsequent extensions. If necessary, the family may seek the assistance of the LA. The LA is responsible for informing the family of the requirement to maintain a search record after the first 30 days of the search. If the LA fails to do so, they may not deny the extension of the voucher on the basis that the family did not make a reasonable effort to locate a unit.

2.02 Voucher Expirations

Upon expiration of a Housing Choice Voucher, the LA must inform the applicant or participant in writing that the voucher has expired. The voucher expiration notice must include the following text: **"If you or a member of your household is a person with a disability, you may be eligible for an additional extension of the voucher upon request."**

If a voucher has expired, has not been extended by the LA or expires after an extension, the family will be denied assistance. As allowed by program regulations, a decision by the LA **not** to extend a voucher is not subject to an informal hearing. An applicant whose voucher has expired and who is not eligible for any additional extension of the voucher may reapply to the waiting list if the LA's waiting list is open or, if the waiting list is closed, may reapply at such time as the waiting list reopens.

2.03 Suspensions

Suspension or tolling of the time that an applicant spends locating a unit is **not** permitted.

2.04 Extensions

2.04.01 Reasonable Accommodation Extensions:

If a family needs and requests an extension (beyond the term noted in Section 2.01 above) as a reasonable accommodation to make the program accessible to and usable by a family member with a disability, it is the LA's responsibility to evaluate and grant the extension and to notify their Program Representative of same.

2.04.02 Extensions Due to Extenuating Circumstances:

Prior to granting any of the following voucher extensions, the LA must obtain documentation to substantiate the basis for his/her approval of the extension and must submit same to their Program Representative for approval.

- (1) The LA must grant a 30-day extension of the voucher, beyond the term noted in Section 2.01 above, if extenuating circumstances such as hospitalization or a family emergency for an extended period of time affected the family's ability to find a unit. A written request for such extension must be submitted within 30 days of the expiration of the voucher.
- (2) A 30day extension of the voucher must also be granted under the following circumstances:
 - (a) A family member submits a "Request for Tenancy Approval" prior to the expiration of the voucher. After the submission of the Request for Tenancy Approval, the landlord/owner rescinds the agreement and the voucher term, as noted in Section 2.01 above, has expired; or
 - (b) After the submission of the Request for Tenancy Approval and the completion of the HQS inspection, the landlord/owner refuses to correct the HQS deficiencies and the voucher term, as noted in Section 2.01 above, has expired.

2.05 LA Assistance to Voucher Holders

Families who require additional assistance during their search may call the LA office to request assistance. Voucher holders will be notified at their briefing session if the LA maintains and updates a listing of available units and how the updated list may be obtained.

The LA will assist families in negotiations with owners and provide other assistance related to the families' search for housing.

After the first 30 days of the search, the family is required to maintain a search record and report to the LA every 30 days. The search record will be in a form prescribed by HCR and the LA.

2.06 LA to LA Moves

In the case of a move between Local Administrators, if the LA has available funding, the LA will absorb. If the LA does not have sufficient funding to absorb, the LA **must** call HCR for guidance.

Section 3.0 SPECIAL ADMISSIONS

3.01 Special Purpose Programs

The HCR Statewide Section 8 Voucher Program currently operates the following special purpose programs in some, but not all, LA jurisdictions:

- Family Unification Program (FUP)
- Mainstream with Disabilities Program
- Veterans Affairs Supportive Housing Program (VASH)

Pursuant to HUD requirements that special purpose programs be targeted to families with specific characteristics, HCR and LAs will use targeted funds solely for their intended purpose(s).

Where applicable, families with targeted characteristics may be selected from the waiting list before non-targeted families who applied before them. In the selection of families with targeted characteristics within the overall group of other families with similar targeted characteristics, families will be selected in the same order of preference as are those families on the regular waiting list.

3.02 Disaster Recovery

When a Federal or State disaster declaration is made in any area of New York State wherein HCR locally administers a Section 8 HCV Program, HCR may, according to the specific needs resulting from each disaster, make vouchers available to respond to disaster needs.

When HCR invokes the disaster recovery policy, LAs may utilize any available new or turnover assistance to assist families.

From existing HCR Section 8 Annual Contributions Contract (ACC) authority, vouchers may be allocated to local programs per the following terms, conditions and necessary steps:

1. On the basis of demonstrated need in each local program area, LAs may request additional Section 8 vouchers from HCR for families/persons that have been either **permanently or indefinitely** displaced as a result of a Federal or State declared disaster **and** that meet all normal program eligibility guidelines.
2. If/when disasters occur, HCR will notify HUD that this provision of HCR's Public Housing Agency (PHA) Plan and Administrative Plan is to be invoked.
3. During the term of the Federal or State disaster declaration, income-eligible families already on local program waiting lists will be given first preference in the selection process. Other families affected by the disaster, but who are not on waiting lists, will be added to the list and given the same preference.

4. To be considered for Section 8 assistance, verification of a participant's displacement status **must** be provided by an agency or individual capable of rendering an official decision (for example, codes officer, building/permits officer, etc.). This process must establish that a participant/person has been displaced and that such displacement is of such permanent, indefinite or extended duration that Section 8 is a necessary and appropriate resource.
5. A complete determination of participant eligibility must be made as soon as possible by the LA in conjunction with the damage/displacement assessment.
6. HCR will advise LAs when:
 - the overall supply of vouchers has been depleted; or
 - HCR determines that the situation has stabilized to the point where interim vouchers will no longer be made available.
7. Vouchers will be returned to HCR when families utilizing them:
 - lose eligibility per normal operating procedures (i.e, 30% of participant income equals the unit's gross rent); or
 - are terminated from the program for non-compliance or any other reason. LAs will be notified if there are any changes to these provisions for returning vouchers to HCR.
8. Use of this special form of voucher disaster assistance is predicated on the understanding that once a participant receives a voucher, that assistance may **not** be considered for any fixed term (e.g., six months, one year, etc.); eligibility for continued assistance is handled like that of any other participant in the Section 8 program.

Section 4.0 OCCUPANCY POLICIES

4.01 Definition of Groups of Persons That May Qualify as a Family

1. A **participant with or without children**. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that lives together in a stable family relationship. A family may be a “non-traditional family” as defined in New York State law. Typically, a non-traditional family has a “long-term relationship and characterized by emotional and financial commitment and interdependence.”
 - Children temporarily absent from the home due to placement in foster care are considered participant members.
 - A first unborn child and children in the process of being adopted are considered participant members for purposes of determining bedroom size, but are not considered participant members for determining income limit.
 - In cases where a parent has joint custody where the child/children reside with the parent at least 51% of the time, the LA must consider such child/children in determining the voucher (unit) size for the participant. The 51% custody arrangement must be verified and documented. If both parents are participants in the Housing Choice Voucher Program (HCR Local program or another PHA), only one of the parents is allowed to claim the child/children as a dependent.

2. An **elderly family** is:
 - a family whose head, spouse, or sole member is a person who is at least 62 years of age;
 - two or more persons who are at least 62 years of age living together; or
 - one or more persons who are at least 62 years of age living with one or more live-in aides.

3. A **disabled family** is:
 - a participant whose head, spouse, or sole member is a person with disabilities;
 - two or more persons with disabilities living together; or
 - one or more persons with disabilities living with one or more live-in aides.

4. A **displaced family** is a family in which each member or sole member has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
5. A **remaining member of a tenant family** may qualify as a family.
6. A **single person**, who is not an elderly or displaced person, a person with disabilities or the remaining member of a tenant family, may qualify as a family.

4.02 Family Guests

Participants in the Housing Choice Voucher program are permitted to have a guest or guests in the household.

If the guest resides in the unit for more than a total of 60 days **or** 15 consecutive days in a calendar year, the guest(s) will be considered unauthorized household member(s). When this occurs, the LA must enforce HCR and HUD policies addressing this matter.

4.03 “Room-mates”

An individual, with or without dependent children, who is not a family member may reside in the unit, if approved by the Local Administrator and by the landlord, provided that the voucher holder or the voucher holder’s spouse occupies the unit as his/her primary residence. The income of a room-mate is included in the calculation of income for purposes of program qualification and determination of amount of Housing Assistance Payment and Family Share. Such occupancy by a qualifying non-family member is subject to the Subsidy Standards set forth in Section 10.0 of this Plan.

4.04 Definition of When an Applicant Is Considered to Be Continuously Assisted

An applicant is considered to be continuously assisted under the United States Housing Act of 1937 if the family is already receiving assistance under any 1937 Act program when the family is admitted to the Section 8 Housing Choice Voucher Program.

Section 5.0 ENCOURAGING PARTICIPATION IN AREAS OF NON-CONCENTRATION

In all local areas of HCR's Statewide Section 8 Voucher Program where there are significant concentrations of low income and/or minority families, additional efforts will be taken to recruit and retain owners in non-impacted areas.

In each affected local area, HCR and its LAs will clearly delineate areas of concentration and neighboring areas outside these areas of concentration. These efforts by HCR and/or its LAs will include establishing maps that show various areas and information about facilities and services in neighboring areas such as schools, transportation and supportive and social services.

Utilizing experience gained in HCR's special-purpose mobility counseling program in Westchester County, the Enhanced Section 8 Outreach Program (ESOP), LAs in similarly impacted areas will utilize the following measures as appropriate to increase owner participation in areas outside of minority or poverty concentration:

1. Making direct contact with landlords;
2. Providing written information promoting the benefits of owner participation in the Section 8 Housing Choice Voucher Program;
3. Providing historical evidence of overall community benefits derived via deconcentration efforts;
4. Holding formal and/or informal discussions and meetings with landlord groups;
5. Meeting with rental referral companies or agencies; and
6. Meeting with fair housing groups or agencies.

Section 6.0 AFFIRMATIVELY FURTHERING FAIR HOUSING

In the provision of housing services and programs, the New York State Homes & Community Renewal (HCR) promotes Fair Housing and Equal Opportunity and carries out its responsibilities pursuant to: Presidential Executive Order #11063 requiring equal opportunity in housing; The Fair Housing Act of 1968 - Title VIII; and The Americans with Disabilities Act (ADA).

It is the policy of HCR's Statewide Section 8 Housing Choice Voucher (HCV) Program to ensure that participating landlords and each of its local program offices fully comply with all Federal, State, and local nondiscrimination laws and the U.S. Department of Housing and Urban Development (HUD) regulations governing Fair Housing and Equal Opportunity. No person shall, on the grounds of race, religion, color, national origin, sex, marital status, age, disability, military status or sexual orientation be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any of its housing programs.

HCR's Fair and Equitable Housing Office (FEHO) was organized to respond to the Agency's expanding role in monitoring the progress of access to Fair Housing initiatives. In this effort, HCR's website makes available the following publications:

- Fair Housing and Equal Opportunity form;
- Anti-Discrimination form;
- Affordable Housing Directories;
- Statewide Listing of HCR Section 8 Providers;
- FAQs;
- Section 8 Information Sheets;
- Agency contact phone numbers; and
- A complaint line.

HCR actively participates with local landlords in an effort to educate them regarding Fair Housing laws and conducts outreach programs to recruit additional landlords for the purpose of expanding housing choice to program participants by encouraging landlords to list their properties in areas of low minority and poverty concentration.

6.01 Assistance to Families Claiming Discrimination

LAs will provide Federal/State/local information to applicants for and participants in the Section 8 HCV Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application. The HUD Fair Housing Information and Discrimination Complaint Forms (Form 903) will be made available at the HCR Statewide Section 8 Voucher Program Office, the offices of each HCR Local Administrator, and on the HCR website. In addition, all appropriate written information and advertisements will contain the appropriate Equal Housing Opportunity language and logo.

The LA will assist any participant who believes he/she has suffered illegal discrimination by providing him/her with copies of the housing discrimination form. The LA will also assist the participant in completing the form, if requested, and will provide him/her with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

The LA will advise families regarding how to file a complaint if they believe they have been discriminated against by an owner. The LA will advise the participant to make a Fair Housing complaint. The LA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing organization.

6.02 Section 8 Housing Choice Voucher Programs

In addition to the Housing Choice Voucher Program, HCR administers the following programs in selected communities throughout the State of New York:

- Family Self-Sufficiency (FSS) Program;
- Family Unification Program (FUP);
- Veterans Affairs Supportive Housing (VASH) Program, in partnership with the Department of Veterans Affairs Medical Centers.

The purpose of FSS is to create an opportunity for families receiving Section 8 rental assistance to improve and develop their ability to increase employment opportunities and enhance life skills needed to become self-reliant. All families who are currently receiving assistance from HCR's Section 8 HCV program are eligible for voluntary participation in FSS.

The purpose of FUP is to create an opportunity for families for whom lack of adequate housing is the primary reason for a child or children being placed in out-of-home care. It is HCR's policy to service all FUP-eligible referrals up to allowable budget authority, and not to limit the number of FUP referrals to the total allocation of FUP vouchers awarded by HUD.

The HUD-Veterans Affairs Supportive Housing Voucher (HUD-VASH) Program combines HUD Housing Choice Voucher (HCV) rental assistance for eligible homeless veterans with case management and clinical services provided by the Department of Veterans Affairs in its medical centers in the communities. Referrals are made to HCR Local Administrators (LAs) by their partnering VA Medical Centers (VAMCs), and the LAs administer the program following regular HCV program requirements, as modified by HUD for the VASH program.

6.03 Fair Housing Policies

The agency provides both in-house and HUD-approved housing counseling services conducted by Neighborhood and Rural Preservation Companies and Neighbor Works organizations. As FSS and FUP families complete their requirements and graduate from the Housing Choice Voucher program, additional openings are made available for other low income families to qualify. The agency implements numerous initiatives to further the purposes of the Fair Housing Act. Strategies to promote fair housing rights and choice include mobility counseling; tenant, staff

and owner education; and special initiatives to encourage housing search in areas where there are low concentrations of poverty and minority households.

All Housing Choice Voucher programs, including the Homeownership option, are marketed to all eligible families including persons with disabilities and those with limited English proficiency. HCR administers the Assets for Independence Program that allows families to accumulate funds for down payments & closing costs when preparing to become homeowners.

HCR complies with all fair housing requirements of 24 CFR Section 903.7(o) and takes the following steps in addressing fair housing issues for persons with disabilities:

- a) The agency does not deny participants who qualify for a voucher under either its Mainstream or Non-Elderly Families with Disabilities (NED) Programs the opportunity to apply for other subsidized housing programs;
- b) The agency does not restrict access to other housing programs to eligible disabled applicants who decline to participate in the Mainstream or NED programs.

HCR assures that people with disabilities have access to other housing assistance programs that are not limited to disabled families. The program is promoted by conducting outreach to independent living centers, veterans' services offices, and other agencies that service disabled families.

HCR will extend housing search time for people with disabilities when necessary and provide for exceptions to HCV payment standards and utility allowances as needed, including advising disabled families of the availability of these exceptions and the criteria used to evaluate and implement them. The agency advises owners and participants that higher rents will be approved for making structural modifications that result in making units more accessible for persons with disabilities. HCR will approve larger bedroom size payment standards to accommodate disabled families who need additional space for medical equipment or live-in aides.

HCR makes accommodations for disabled and non-English speaking individuals, such as providing home visits and having translators present. Accessibility for the hearing impaired is provided upon request. Specific steps taken to promote fair housing include advertising in local media outlets with waiting list openings, including employing HCR's website with links to all local housing programs throughout the state.

Where requested, the agency will:

- Assist program applicants and participants in gaining access to local supportive services;
- Provide housing search assistance in accordance with Rent Reasonableness requirements; and
- Approve higher rents to owners that provide accessible units with structural modifications for persons with disabilities.

HCR accepts mailed applications from individuals who are unable to come to the management office because of a disability and provides applicants with disabilities a listing of accessible apartments and reasonable accommodations that remove barriers to HCV participation.

HCR's policies on Housing Choice Vouchers terms, as outlined in Section 2.01 of the Administrative Plan, allows each applicant adequate time for successful housing searches, and provides for extensions in response to requests for reasonable accommodation. Requests for approval of exception rent areas are granted in a timely fashion, as appropriate. Geographic choice is fostered through the Housing Choice Voucher portability provisions.

HCR's central Section 8 Housing Choice Voucher System (SHCVS) tracks participant information such as race, ethnicity, familial status, and disability status in order to insure compliance with Fair Housing regulations. HCR employs HUD-certified Housing Counseling Agencies that provide counseling services to participants in financial education, debt and credit repair, pre and post purchase counseling, default counseling and predatory lending. HCR sponsors numerous regional workshops that include information on fair housing and predatory lending.

HCR's applicant briefing package includes information on the fair housing rights of HCV participants and where a discrimination complaint may be filed, including the office address, telephone number, and TTY number of the local fair housing agency, or HUD's Office of Fair Housing and Equal Opportunity. The briefing material also includes the toll free number for the HUD Housing Discrimination Hotline, (800) 669-9777. This information can also be accessed for the hearing impaired via TTY at (800) 927-9275 and/or by calling the Federal Relay Service (FedRelay) at (800) 877-8339.

HCR conducts outreach to organizations which assist people with disabilities, the elderly, students, immigrants, homeless people and victims of domestic violence. Equal Housing Opportunity advertisements and applicable Fair Housing Information and Discrimination Complaint Forms are available at each local office.

6.04 Violence Against Women Act (VAWA)

The Violence Against Women and Justice Department Reauthorization Act of 2005, (VAWA) protects tenants and family members of tenants who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from HUD Section 8 assistance based on acts of such violence against them.

PHAs are required to notify their program participants and landlords of their rights and obligations under VAWA. Accordingly, LAs have been instructed to utilize HUD's revised Housing Assistance Payments Contract (HUD-52641) and Tenancy Addendum (HUD 52641-A) which contain the VAWA provisions; provide all program participants with Form HUD 50066, *Certification of Domestic Violence, Dating Violence, or Stalking* (at the time of admission, termination, or the start of an eviction proceeding); and provide all landlords with HCR's

Information Sheet entitled *The Violence Against Women Act - Landlords Rights and Responsibilities*.

In responding to an incident involving domestic violence, dating violence, or stalking that may affect a tenant's participation in the Housing Choice Voucher program, the LA must request that the individual certifies in writing that he/she is a victim of such violence or stalking.

Certification may be done by completing Form *HUD 50066*. The form requires specific information concerning the name of the perpetrator and the date and location of the incident. The form, if utilized to meet the certification requirement, must be completed, dated, signed and submitted by the individual within 14 business days of the LA request, unless extended by the LA. The form is available on the HUD website or on HCR's forms website page.

Evidence other than (or in addition to) the HUD certification form may also be accepted by the LA to meet the certification requirement. HUD Notice PIH 2006-42 contains details regarding other acceptable forms of verification. The LA is not required to demand official documentation or physical proof of the violence. The signed certification or other corroborating evidence is sufficient to trigger the protections available under the Act.

If the individual does not provide the Form HUD 50066 or the information that may be provided in lieu of the certification by the 14th business day, or any extension of that date authorized by the LA, none of the protections afforded under this Act will apply.

LAs should be aware of the confidential nature of all VAWA-related documentation and must observe confidentiality requirements set forth in the Notice.

**Section 7.0 PROVIDING PARTICIPANT INFORMATION TO
PROSPECTIVE OWNERS**

Upon request, the LA will provide the owner with:

- the participant's current and prior address as shown in the LA's records; and
- the name and address of the participant's current and prior landlord (if known by the LA).

This information is available to any prospective owner upon request.

Section 8.0 DISAPPROVAL OF OWNER

The LA will deny participation by an owner at the direction of HUD. The LA may also deny an owner's participation for any of the following reasons:

1. The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract;
2. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
3. The owner has engaged in drug-related criminal activity or any violent criminal activity;
4. The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;
5. The owner has a history of overcharging tenants or charging additional rent in excess of the amount stipulated in the lease agreement.
6. The owner has a history or practice of renting units that fail State or local codes;
7. The owner has not paid state or local real estate taxes, fines, or assessments;
8. 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 premises by tenants, LA employees or owner employees, or neighboring residents;
9. The owner is the parent, child, grandparent, grandchild, sister, or, brother of any member of the family; unless the PHA/LA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against PHA/LA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to PHA/LA approval of a new tenancy with continued tenant-based assistance in the same unit.

An example of this exception is: A current participant who is residing in a unit that is subsequently purchased by a relative may continue to receive assistance so long as they remain in the same unit within the property purchased by the relative.

Note: A family who resides in a unit owned by a relative, and who is subsequently selected from the waiting list and issued a voucher, cannot remain in that unit unless a household member is a person with disabilities who requires this unit as a reasonable accommodation.

10. There exist other conflicts of interest under federal, state, or local law.

Section 9.0 GROUNDS FOR TERMINATING ASSISTANCE

9.01 Terminating for Alcohol Abuse or Criminal Drug Activity

The members of the household may **not** engage in:

- drug-related criminal activity, or
- violent criminal activity, or
- other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Pursuant to the procedures outlined in Section 14.0, “Informal Hearing Procedures for Participants,” the LA may terminate assistance if either of the following occurs:

- The LA finds that a member of the household has demonstrated a pattern of drug or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and/or persons in the immediate vicinity of the premises.
- The LA finds that a current household member was convicted or incarcerated for any alcohol-related or drug-related criminal activity that took place on or near the premises.

The LA will permit the participant family to continue receiving assistance, provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the LA will consider individual circumstances with the advice of Juvenile Court officials.

The LA will waive the decision to terminate assistance if:

- the person responsible for the prohibited action demonstrates successful completion of a credible rehabilitation program approved by the LA; or
- the circumstances leading to the violation no longer exist because the person who engaged in prohibited drug-related or alcohol-related activity is no longer in the household due to death or incarceration.

9.02 Termination of Assistance to Sex Offenders

Pursuant to the procedures outlined in Section 14.0, “*Informal Hearing Procedures for Participants*”, assistance for participants or members of a participant family in the Statewide Section 8 Voucher Program admitted to the Program after June 25, 2001 and who are subject to a lifetime registration as a sex offender will be terminated in accordance with HUD Notice PIH 2012-28 issued on June 11, 2012.

Assistance will be terminated if the sex offender is subject to a lifetime registration requirement, and it is determined that:

1. the participant was admitted to the program after June 25, 2001, and at the time of admission was subject to such lifetime registration requirement but was erroneously admitted to the program, or;
2. recertification screening reveals a failure to disclose on their application and/or recertification forms that they were subject to a lifetime registration requirement, or;
3. recertification screening reveals they falsified information on the application and/or recertification forms regarding their criminal history.

9.03 Other Reasons for Terminating Assistance

The LA will also terminate assistance to participants who:

1. have a family member who has been convicted of manufacturing or producing methamphetamine on the premises of a federally assisted housing;
2. have a history of criminal activity by any household member involving crimes of physical violence against persons or property, or any other criminal activity, including drug-related criminal activity, that would adversely affect the health, safety or well being of other participants or staff, or cause damage to the property;
3. have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
4. have a family member who is involved in drug-related criminal activity including but not limited to the illegal manufacture, sale, distribution or possession with the intent to manufacture, sell or distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802;
5. have a family member who 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 residents. The LA will waive this requirement if:
 - the person demonstrates to the LA's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
 - the person has successfully completed a supervised drug or alcohol rehabilitation program;
 - the person has otherwise been rehabilitated successfully; or

- the person is participating in a supervised drug or alcohol rehabilitation program.
6. have engaged in or threatened abusive or violent behavior towards any LA staff member;

If assistance is to be terminated as outlined in this Section, the termination will be based upon either of the following:

- Preponderance of Evidence - defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.
- Credible Evidence - defined as evidence provided by police and court systems such as drug raids, drugs found in the dwelling unit, evidence which is tied to the activity, warrants issued, arrests made, etc.

The LA may also terminate assistance to participants who do not supply information or documentation that is required for continued program assistance or who fail to comply with any other program obligations.

Section 10.0 SUBSIDY STANDARDS

10.01 Determination of Family Unit (Voucher) Size

The LA will issue a voucher for a specific bedroom size, taking into consideration the family size and family composition, in determining the family's level of assistance. The subsidy standard provides for the smallest number of bedrooms needed without overcrowding and must be applied consistently for all families of like size and composition. The following guidelines will be used to determine each family's unit size:

Zero Bedroom:

- 1 adult

One Bedroom:

- 1 adult
- 2 adults (spouse or cohabitants)

Two Bedrooms:

- 1 adult, 1 child
- 1 adult, 2 children (same sex)
- 1 adult, 2 children (opposite sex, **both** 5 years or younger)
- 2 adults (spouses or cohabitants), 1 additional adult
- 2 adults (spouses or cohabitants), 1 child
- 2 adults (spouses or cohabitants), 2 children (same sex)
- 2 adults, 2 children (opposite sex, **both** 5 years or younger)
- 2 adults (spouses or cohabitants), 2 adults (spouses or cohabitants)

Three Bedrooms:

- 1 adult, 2 children (opposite sex)
- 3 adults (not spouses or cohabitants)
- 1 adult, 2 children (same sex), 1 child (either sex)
- 2 adults (not spouses or cohabitants), 2 children (same sex)
- 2 adults (not spouses or cohabitants), 2 children (opposite sex, **both** 5 years or younger)
- 2 adults (spouses or cohabitants), 2 adults (not spouses or cohabitants)
- 2 adults (spouses or cohabitants), 2 children (same sex), 1 child (either sex)
- 2 adults (spouses or cohabitants), 2 children (same sex) 2 children (same sex)
- 2 adults (spouses or cohabitants), 4 children (all same sex)
- 2 adults (spouses or cohabitants), 4 children (opposite sex, **all** 5 years or younger)

Four Bedrooms:

- 4 adults (not spouses or cohabitants)
- 2 adults (not spouses or cohabitants), 2 children (opposite sex)
- 1 adult, 2 children (same sex), 2 children (opposite sex)
- 3 adults (not spouses or cohabitants), 2 children (same sex)
- 1 adult, 2 children (same sex), 2 children (same sex), 1 child (either sex)
- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (opposite sex, 5 years or younger)
- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (same sex), 1 child (either sex)
- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (same sex), 1 adult
- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (same sex), 2 children (same sex)
- 2 adults (spouses or cohabitants), 2 children (opposite sex, 5 years or younger), 2 children (opposite sex, 5 years or younger), 2 children (opposite sex, 5 years or younger)
- 2 adults (spouses or cohabitants), 6 children (opposite sex, **all** 5 years or younger)

The LA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The LA'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 18 years old 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.

Generally, the LA assigns one bedroom to two people. Exceptions to this standard are noted below:

- Persons of different generations, persons of the opposite sex (other than spouses and cohabitants), and unrelated adults should be allocated a separate bedroom.

For subsidy standard purposes different generations are defined as “*family members from different eras (i.e., grandparents/parents; parents/children, etc.)*”

- Separate bedrooms should be allocated for adult siblings of the same sex.
- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship and children under five years old).

- Foster children will be included in determining unit size only if they will be in the unit for more than one month.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

Space may be provided for a child who is away at school but who lives with the family during school recesses.

Space will not be provided for a family member, other than a spouse, 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.

A single pregnant woman with no other family members must be treated as a two-person family.

These standards are based on the assumption that each bedroom will accommodate no more than two persons. In determining bedroom size, the LA will include the presence of the first child to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, and children who are temporarily away at school or temporarily in foster-care.

The LA may grant exceptions to normal occupancy standards in accordance with the provisions in Section 10.02.

The family unit size will be determined by the LA in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be larger or smaller than the family unit size. If the family selects a smaller unit, the payment standard for the smaller size will be used to calculate the subsidy. If the family selects a larger size, the payment standard for the family unit size will determine the maximum subsidy.

10.02 Exceptions to Subsidy Standards

The LA may grant exceptions from the subsidy standards if the family requests and the LA determines that the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

The LA will grant an exception upon request as an accommodation for persons with disabilities.

Circumstances may dictate a larger size than subsidy standards permit when persons cannot share a bedroom because of a need such as a verified medical or health reason or elderly persons or persons with disabilities who may require a live-in attendant.

10.03 Requests for Exceptions to Subsidy Standards

The family may request a larger voucher than indicated by the LA's subsidy standards. Such request must be made in writing within 30 days of the LA's determination of voucher size. The request must explain the need or justification for a larger voucher. Documentation verifying the need or justification will be required as appropriate.

The LA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage or court-awarded custody. A larger voucher will not be issued due to additions of adult offspring, other adult family members (except by marriage), or room-mates. Requests based on health-related reasons must be verified by a licensed medical doctor.

At its discretion, as the PHA, HCR may authorize the LA to issue a larger voucher to the family due to extenuating circumstances. However, the LA must obtain documentation to substantiate the basis for the larger voucher and must submit same to their Program Representative for approval.

10.04 Errors in Subsidy Standards

If the LA commits an error in the bedroom size designation, the family will be issued a voucher of the appropriate size.

10.05 Changes for Applicants

The voucher size is determined prior to the family's briefing by comparing the family composition to the established LA subsidy standards. If an applicant requires a change in voucher size, based upon established LA subsidy standards, the guidelines in Section 10.01 will apply.

10.06 Changes for Participants

Upon initial lease-up for any unit, the LA must certify the family and give its approval of the persons who are permitted to reside in the unit as family members. Family members eligible for addition to the household subsequent to the initial lease-up fall into two categories as follows.

Category 1:

Persons added to the participant family by birth or adoption (including minor children previously born to or adopted by the program participant, but not residing in the household at the time of initial lease-up) or by court-awarded custody may be added

to the household as a matter of right. The family is required to notify the LA within 30 days of the addition of such person(s) to the household.

Category 2:

Persons other than those in category 1, including adult children of the participant, may not be added to the participant household without prior written notification to the owner and the LA. The guidelines in Sections 10.01 and 10.03 will apply to additions to the household in both categories 1 and 2.

10.07 Under-Housed and Over-Housed Families

If a unit does not meet Housing Quality Standards (HQS) space standards due to an increase in family size (unit too small), the LA will issue a new voucher of the appropriate size.

The LA 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 LA; or
- the LA and family have been unable to locate a unit within 180 days.

10.08 Ineligible Housing

The following types of housing are not assisted under the DHCR Statewide Section 8 Housing Choice Voucher Program:

- a public housing or Indian housing unit;
- a unit receiving project-based assistance under a Section 8 program;
- nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services;
- college or other school dormitories;
- units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;

- a unit occupied by its owner (this restriction does not apply to cooperatives or to assistance on behalf of a manufactured home owner leasing a manufactured home space); or
- a unit receiving any duplicative Federal, State, or local housing subsidy (this does not prohibit renting a unit that has a reduced rent because of a tax credit).

The LA will not approve a lease for any of the following special housing types, except as a reasonable accommodation for a family with disabilities:

- Congregate housing;
- Group homes;
- Shared housing;
- Assisted living facilities; or
- Single room occupancy housing.

Section 11.0 FAMILY ABSENCE FROM THE DWELLING UNIT

The family must supply any information or certification requested by the LA to verify that the family is living in the unit or, if the family is absent from the unit, it must provide any LA requested information or certification on the purposes of family absences.

The family must cooperate with the LA for this purpose. The family must promptly notify the LA of its absence from the unit.

Absence means that no adult member of the family has resided in the unit for 30 or more days. The family must request permission in writing from the LA for absences that will exceed 30 days. The LA will make a determination in writing within five business days of the request. An authorized absence may not exceed 180 days. Any family absent for more than 30 days without authorization will be terminated from the program.

Authorized absences may include, but are not limited to:

- prolonged hospitalization;
- absences beyond the control of the family (e.g., death in the family, other family member illness); or
- other absences that are deemed necessary by the LA.

11.01 Confinement to Nursing Home or Hospital

If a family member is permanently confined to a hospital or nursing home and there are additional family members (s) remaining in the household, the LA will eliminate the income and medical deduction of the person permanently confined to the nursing home or hospital upon proper notification by the family.

If a reduction in bedroom size and corresponding payment standard is necessary as a result of the family member permanent confinement, the new payment standard will be effective at the next annual reexamination or move to another unit by the family, whichever comes first.

Section 12.0: DETERMINING ASSISTANCE IF A FAMILY BREAKS UP

In those instances where a family assisted under the Section 8 Housing Choice Voucher Program becomes divided into two otherwise eligible families due to divorce, legal separation or the division of the family; 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 LA will 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;
- which family member was the head of household when the voucher was initially issued (listed on the initial application);
- the composition of the new family units and which unit includes elderly or disabled members;
- whether domestic violence was involved in the breakup;
- which family members remain in the unit; and
- recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the LA will terminate assistance on the basis of failure to provide information necessary for a recertification.

12.01 Remaining Member of Tenant Family

To be considered the remaining member of the tenant family, the person must have been previously approved by the LA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family. A “room-mate,” as defined in Section 4.03 is also 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 LA must have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child (or children) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

Section 13.0 INFORMAL REVIEW PROCEDURES FOR APPLICANTS

13.01 Preference Denials

If the LA denies a preference to an applicant, the applicant will be notified in writing of the specific reason for the denial and will be offered the opportunity for an informal **meeting** (not an informal review) with LA staff to discuss the reasons for the denial.

The person who conducts the meeting will be an employee of the LA who is at or above the level of the employee but not the employee who made the decision.

13.02 Informal Review Procedures for Applicants

The LA will give an applicant for participation in the Section 8 Housing Choice Voucher Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the decision and will state that the applicant may request an informal review within ten business days of the denial and will describe how to obtain the informal review. An applicant should be given an opportunity to submit a written request to reschedule an informal review. The applicant will be granted only one opportunity to reschedule an informal review. The informal review must be conducted within 30 days from the date of the notice.

13.03 When an Informal Review is Not Required

The LA will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. a determination of family unit size under the LA subsidy standards;
2. LA determination not to approve an extension or suspension of a voucher term;
3. LA determination not to grant approval to lease a unit under the program or to approve a proposed lease;
4. LA determination that a unit selected by the applicant is not in compliance with Housing Quality Standards (HQS), including reasons related to family size or composition;
5. general policy issues or class grievances; or
6. discretionary administrative determinations by the LA.

13.04 Informal Review Process

The LA will give an applicant an opportunity for an informal review of the LA's decision denying assistance to the applicant.

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 citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the LA 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 have been determined ineligible;
- the procedure for requesting a review if the applicant contests the decision; and
- the deadline or time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the LA will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The LA will provide applicants with the opportunity for an informal review of decisions denying:

- listing on the LA's waiting list;
- issuance of a Voucher;
- participation in the program; and
- assistance under portability procedures.

13.05 Procedure for Review

A request for an informal review must be received in writing by the close of the business day, no later than ten business days from the date of the LA's notification of denial of assistance. The informal review will be scheduled within five business days from the date the request is received. The informal review must be conducted within 30 days from the date of the notice of denial.

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 review may be conducted by any of the following:

- a staff person who is at the Casework Supervisor level or above;
- the Program Director or Executive Director (if not the same person who made the initial decision to deny assistance); or
- an individual from outside the LA.

The applicant will be given the option of presenting oral or written objections to the decision. Both the LA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist the family at its own expense. The review may be conducted by mail and/or telephone if acceptable to both parties.

A notice of the review findings will be provided in writing to the applicant within fourteen days after the review. It will 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 applicant's file.

13.06 Mitigating Circumstances for Applicants with Disabilities

When applicants are denied placement on the waiting list or the LA 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.

Examples of mitigating circumstances are:

- A person with a cognitive disorder may not have understood the requirement to report increases in income.
- A person may not understand the need to make regular repayments on a promissory note.
- Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

13.07 USCIS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual searches do not verify the claim, the LA will notify the applicant within ten days of his/her right to appeal to the USCIS within thirty days or to request an informal hearing with the LA, either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, it must give the LA a copy of the appeal and proof of mailing or the LA may proceed to deny assistance. The time period to request an appeal may be extended by the LA for good cause.

13.08 Restrictions on Assistance to Non-Citizens

Assistance to an applicant will not be delayed or denied if:

- on the basis of immigration status if the applicant, within all requirements and/or dates specified by Section 5.508 of program regulations, takes all necessary steps to provide required documentation;
- the LA has not completed primary and secondary verification of immigration documents submitted by the applicant in a timely manner;
- if the USCIS appeals process under Section 5.514 has not been completed;
- if the ineligible family member has left the household; or
- assistance to the applicant will be prorated;

Assistance to an applicant will be denied if:

- if a declaration of citizenship and eligible immigration status is not submitted by the date specified;
- USCIS primary and secondary verification does not support eligible immigration status of a family member;
- the applicant family does not pursue USCIS appeal or informal hearing rights; or
- USCIS appeal or informal hearing decisions are decided against the applicant or an individual family member.

13.09 Informal Review Regarding Citizenship Status with LA

The request for an LA review must be made within 14 days of receipt of the notice offering the review; if an appeal was made to the USCIS, within fourteen days of receipt of that notice. The applicant will be notified that assistance will not be denied until the USCIS appeal process concludes but that assistance may be denied pending the LA informal hearing.

After receipt of a request for an informal review, the hearing is conducted as previously described in this section. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the LA will deny assistance to the applicant.

Families denied for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as reviews for terminations for any other type of fraud.

Section 14.0 INFORMAL HEARING PROCEDURES FOR PARTICIPANTS

14.01 Consideration of Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the LA must consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

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

If the LA seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the LA determines and notifies the participant of the decision to deny or terminate assistance. In determining whether to terminate assistance for these reasons the LA will consider evidence of whether the household member:

- has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
- has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
- is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

14.02 When a Hearing is Required

LA hearing procedures will be provided to families in the briefing packet. The LA will give a participant family an opportunity for an informal hearing to consider whether the following LA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and LA policies:

1. determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;
2. determination of the appropriate utility allowance (if any) for tenant-paid utilities from the LA utility allowance schedule;

3. determination of the family unit size under the LA subsidy standards;
4. determination to terminate assistance for a participant family because of the family's action or failure to act; or
5. determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the LA policy and HUD rules.

In cases described in items 4 and 5 above, the LA will provide the opportunity for an informal hearing before the LA terminates housing assistance payments for the family under an outstanding HAP contract.

14.03 When a Hearing is Not Required

The LA will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. discretionary administrative determinations by the LA;
2. general policy issues or class grievances;
3. establishment of the LA schedule of utility allowances;
4. LA determination not to approve an extension or suspension of a certificate or voucher term;
5. LA determination not to approve a unit or lease;
6. LA determination that an assisted unit is not in compliance with HQS. However, the LA will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family;
7. LA determination that the unit is not in accordance with HQS because of the family size; or
8. a determination by the LA to exercise or not exercise any right or remedy against the owner under a HAP contract.

14.04 Notice to the Family

In the cases described in items 4 and 5 of Section 14.03 entitled "When a Hearing is Not Required," the LA will notify the family that the family may ask for an explanation of the basis of the LA's determination, and that, if the family does not agree with the determination, the family may request an informal hearing on the decision.

In the following cases described in items 4 and 5 of Section 14.02 entitled “When a Hearing is Required,” the LA will give the participant prompt written notice that the family may request a hearing within ten business days of the notification. The LA hearing procedures will be provided to families in the briefing packet. The participant should be given the opportunity to submit a written request to reschedule an informal hearing. The participant will be granted only one opportunity to reschedule an informal hearing.

The notice will contain a brief statement of the reasons for the decision and state that, if the family does not agree with the decision, the family may request an informal hearing on the decision within ten business days of the notification. The informal hearing must be conducted within 60 days from the date of the notice.

14.05 Hearing Procedures

The LA and participants will adhere to the following policies and procedures:

1. Discovery

- a. The family will be given the opportunity to examine before the hearing any LA documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family’s expense. If the LA does not make the document(s) available for examination on request of the family, the LA may not rely on the document at the hearing.
- b. The LA will be given the opportunity to examine, at the LA’s offices before the hearing, any family documents that are directly relevant to the hearing. The LA will be allowed to copy any such document at the LA’s expense. If the family does not make the document(s) available for examination on request of the LA, the family may not rely on the document(s) at the hearing.

2. Representation of the Family

At the family’s own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

The hearing will be conducted by any qualified person or persons designated by the LA, other than a person who made or approved the decision under review or a subordinate of this person;

The person who conducts the hearing will regulate the conduct of the hearing in accordance with LA hearing procedures.

4. Evidence

The LA and the family must have the opportunity to present evidence and to question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 14 calendar days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

14.06 Effect of the Decision

The LA is not bound by a hearing decision:

- concerning a matter for which the LA is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under LA hearing procedures; or
- contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local law.

If the LA determines that it is not bound by a hearing decision, the LA will notify the family within 14 calendar days of the determination and of the reasons for the determination.

14.07 Mitigating Circumstances for Participants with Disabilities

When the LA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal hearing process.

Examples of mitigating circumstances are:

- a person with a cognitive disorder may not have understood the requirement to report increases in income;
- a person may not understand the need to make regular repayments on a promissory note; or
- minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

14.08 Hearing Provisions for Restrictions on Assistance to Non-Citizens

Assistance to a participant will not be terminated:

1. on the basis of immigration status if the participant, within all requirements and/or dates specified by Section 5.508 of program regulations, takes all necessary steps to provide required documentation;
2. if the LA has not completed primary and secondary verification of immigration documents submitted by the participant in a timely manner;
3. if the USCIS appeals process under Section 5.514 has not been completed;
4. if the ineligible family member has left the household;
5. if assistance to the participant will be prorated;
6. if assistance for a mixed family is continued in accordance with Sections 5.514 and 5.518 of program regulations;
7. if the LA has deferred termination of assistance in accordance with Sections 5.516 and 5.518 of program regulations.

Assistance to a participant will be terminated if:

1. a declaration of citizenship and eligible immigration status is not submitted by the date specified;
2. USCIS primary and secondary verification does not support eligible immigration status of a family member;
3. the participant family does not pursue USCIS appeal or informal hearing rights; or
4. USCIS appeal or informal hearing decisions are decided against the participant or an individual family member.

14.09 USCIS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual search do not verify the claim, the LA will notify the participant within ten days of his/her right to appeal to the USCIS within 30 days or to request an informal hearing with the LA, either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, it must give the LA a copy of the appeal and proof of mailing or the LA may proceed to deny assistance. The time period to request an appeal may be extended by the LA for good cause.

14.10 Informal LA Hearing

The request for an LA hearing must be made within 14 days of receipt of the notice offering opportunity for the hearing or, if an appeal was made to the USCIS, within 14 days of receipt of that notice. The participant will be notified that assistance will not be terminated until the USCIS appeal process concludes.

After receipt of a request for an informal hearing, the hearing is conducted as previously described in this section. If the hearing officer decides that the individual is not eligible and there are no other eligible family members, the LA will:

- defer termination if the participant family qualifies for deferral; or
- terminate the participant if the family does not qualify for deferral.

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, the family will be 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 pro-rated (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 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.

Section 15.0 COMPLAINTS

The LA will investigate and respond to complaints by participant families, owners, employees, and the general public. All complaints will be documented. The LA may require that complaints other than HQS violations be put in writing.

Anonymous complaints are investigated when the person making the complaint indicates **in writing** the details of the specific allegations.

Categories of Complaints

- **Complaints from families:** If a participant family disagrees with an action or inaction by a representative of the LA or owner, complaints will be referred to the supervisor of the LA representative (unless that is the same person to whom the complaint was lodged against). If a complaint is not resolved, the LA may refer the family to the HCR Statewide Section 8 Program Representative for resolution. The LA will inform HCR (preferably via e-mail transmission) prior to referring applicants or participants to HCR.
- **Complaints from owners:** If an owner disagrees with an action or inaction of the LA or a family, complaints from owners will be referred to the LA office.
- **Complaints from staff:** If an LA staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to the LA for resolution.
- **Complaints from the General Public:** Complaints or referrals from persons in the community in regard to the LA, a family or an owner will first be referred to the LA. If a complaint is not resolved, it may be referred to the LA's HCR Statewide Section 8 Program Representative for investigation and ultimate resolution.

Section 16.0 PAYMENT STANDARDS

16.01 Setting the Payment Standard

For each local program in HCR's Statewide Voucher Program, payment standards are established within the allowed "basic range" - 90 percent to 110 percent of the applicable HUD published Fair Market Rent (FMR). Specific payment standards for all bedroom sizes in each LA jurisdiction are established per the unique market forces at play in each local program area.

HCR may, within the HUD-allowed basic range, approve a higher payment standard for a designated part of an LA's FMR area if it is needed to expand housing opportunities outside areas of minority or poverty concentration.

HCR may also, upon LA request, approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

16.02 Revising the Payment Standard

HCR and LAs will review payment standard levels annually, concurrent with publication of Fair Market Rents. The LA may also request payment standard adjustments at times other than the annual review when circumstances warrant.

Adequacy/appropriateness of existing payment standard levels will consider:

1. The percentage of annual income families pay for rent under the voucher program (rent burdens);
2. Program utilization rates;
3. Rents for units currently leased;
4. Size and quality of units leased under the program;
5. Rental vacancy rates and rents in the market area; and
6. Success rates of voucher holders in finding units.

If it is determined that existing payment standard levels present an obstacle to achieving favorable success and/or utilization rates, reasonable rent burdens or that families are generally renting low quality units, HCR may, within the basic range, raise the payment standard to a higher level. LAs will be responsible for initiating this process by providing HCR with analyses that document the nature of the problem and recommend specific payment standard levels that will alleviate these hardships.

HCR, either acting alone or on the advice of an LA, may also reduce a payment standard for a specific bedroom size or all bedroom sizes if analysis shows that a significant percentage of leased units of moderate to high quality have rents that are substantially below the payment standard level.

Before increasing any payment standard, HCR will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

16.03 Reasonable Accommodation

HCR Section 8 Local Administrators are authorized to grant exception payment standards between 90% and 110% of the Fair Market Rent (FMR) in instances where a higher standard is necessary to provide reasonable accommodation for a family member with disabilities. This policy applies to cases where the HCR Local Administrator approves higher payment standards only in cases involving disabilities in conformity with the Americans with Disabilities Act (ADA) and other applicable Federal and State human rights laws.

When a Local Administrator plans to increase the payment standard on behalf of a tenant in this category, the following procedures must be implemented:

1. The tenant must submit documentation to the LA verifying that the household member is in fact disabled. While a "diagnosis" is not required, there should be documentation in the file that provides substantiation of the person's disability. The LA must place a memo into the file documenting the amount of the increase and the justification of the use of a higher rent/payment standard.
2. Once the LA has obtained documentation that verifies the tenant's disability, the LA should submit a letter to his/her Statewide Section 8 Program Representative with a carbon copy to the Statewide Section 8 Program Fiscal Manager. The letter should indicate that the LA has increased the payment standard to the specified percentage, and state the month/date in which the increase will take effect. The Program Representative will maintain a copy on file.

Payment standards of 111% to 120% for disabled participants require HUD's approval. When submitting exception payment standard requests in this range, the following procedures **must** be implemented:

1. Submit a written request to your SS8 Program Representative outlining your justification for this request. The submission should include:
 - i. A specific statement that you have reviewed and enclosed all pertinent information and that you support this request.
 - ii. Documentation verifying that the approved gross rent is reasonable, in relation to unassisted units within and outside of, the building or development in question.

After reviewing your request, the Program Representative will forward the request to the local HUD Field Office for final approval. The Program Representative will notify the LA of HUD's response.

Section 17.0 OWNER RENTS AND RENT REASONABLENESS

17.01 Rent to Owner in the Housing Choice Voucher Program

The allowable rent to owner is limited primarily by rent reasonableness. However, if the proposed gross rent for a unit is above the payment standard, the impact this will have on a family's maximum allowed rent burden also becomes a factor. At the time a family initially receives Housing Choice Voucher (HCV) assistance, whether a new admission or a move to a different unit, the family share may not exceed 40 percent of the family's monthly adjusted income when the gross rent for the unit exceeds the applicable payment standard for the family.

All owners will be advised that by accepting each monthly housing assistance payment they are certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the same premises. If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere.

17.02 Rent Proration

When initiating voucher assistance, the general standard is to begin assistance on either the 1st or the 15th of the month. However, Local Administrators are authorized to initiate assistance on any day of the month in circumstances when a landlord is unwilling to hold a unit until the 1st or the 15th and the voucher holder would thereby lose access to the unit.

In such cases, assistance for the initial month is to be prorated based on the number of days under HAP contract for that specific month (example, a unit rented on July 13th would be prorated based on 19 days). Prorated assistance is calculated by dividing the 19 days by the number of days in the month (31); in this case, multiplied by the full rent for the month.

To ensure that all leases are for a minimum of 12 months, the lease for the unit would be 12 months plus the additional days in the month being prorated.

17.03 Rent Reasonableness Determinations

The LA will not approve an initial rent or a rent increase in the HCV program without determining that the rent amount is reasonable with respect to rents for comparable unassisted units in the market area.

Reasonableness is determined prior to the initial lease and in the following circumstances:

- Before an increase in rent to owner is approved;
- If 60 days before the contract anniversary date, there is a 5 percent decrease in the published Fair Market Rent (FMR) as compared to the previous FMR; and
- If the LA, HCR or HUD directs that reasonableness be redetermined.

As part of the overall Section 8 Housing Choice Voucher System (SHCVS), HCR has developed an automated database for analyzing and determining rent reasonableness on an individual unit basis. Data for unassisted units has been gathered from contacts via newspaper classified listings, realtors, professional associations, direct inquiries of owners, market surveys, local tax assessors, waiting list queries and other available sources. In order to ensure uniformity and consistency, the rent reasonableness system establishes standard criteria for all units entered in the database. Unit rents within any/all defined housing market areas are individually identified and segregated and are compared to similar units within the same market area.

The following criteria are included in the system database:

- size (number of bedrooms);
- location;
- general quality;
- amenities (bathrooms, dishwasher, air conditioning, etc.);
- services;
- age of unit;
- unit type;
- maintenance; and
- utilities.

17.04 Rent Reasonableness Methodology

The HCR/LA rent reasonableness system is based on unit comparison per the criteria listed above. The system uses a non-weighted total point count determined by summing the responses to questions about each criterion.

Based on the number of points derived for each unit, the automated rent reasonableness system then displays low, average and high rents for units of similar size and type within the same market area.

While LAs are always encouraged to obtain multiple (three or more) comparables for each proposed unit, HCR currently requires a minimum of two comparable units in order for the unit to pass the rent reasonableness test.

Information on unassisted units is maintained in the automated database and is updated or purged when that data is more than 12 months old.

Section 18.0 SPECIAL HOUSING TYPES

The Statewide Section 8 Voucher Program will only approve one of the following special housing types when it is necessary to provide a reasonable accommodation for a family with disabilities:

- Congregate housing;
- Group homes;
- Shared housing;
- Assisted living facilities; and
- Single room occupancy housing.

The Statewide Section 8 Voucher Program will approve other HUD-permitted housing types including:

- Single family dwellings;
- Apartments;
- Manufactured housing; and
- Manufactured home space rentals.

Section 19.0 PARTICIPANT PAYMENTS FOR AMOUNTS OWED THE PHA

LAs assume all day-to-day responsibility for enforcing the requirements of this section and for ensuring that monies are paid directly to the bank lockbox and any monies collected by the LA are promptly returned to HCR.

A participant is responsible for reporting all changes in income and household composition to the LA within two weeks of the date of such change. If a participant fails to report these changes an overpayment of Housing Assistance Payments (HAP) may occur. The participant is responsible for repaying any amount overpaid on his/her behalf to the Statewide Section 8 Voucher Program.

In such cases the LA is responsible for making every effort to recoup any overpayment of HAP, and may only proceed to termination of assistance after considering the seriousness of the case, such as:

- whether or not there was a prior similar violation;
- the participant used false names or social security numbers, or
- falsified, forged or altered documents.

The LA may also consider the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or inaction (*see Section 14.01 of this Administrative Plan*). The analysis of all these factors must be documented in writing before proceeding to termination for any first time offender.

Participant obligations of this nature may be satisfied by either paying the full amount due immediately upon request of the LA, or through a repayment agreement approved by the LA.

The length of a repayment agreement, as determined by the LA, cannot exceed 36 months. The LA must carefully evaluate each case to determine the terms of the agreement and to assure repayment of the debt within the prescribed time. Each family should be evaluated on a case-by-case basis. The term of the agreement may range from one (1) to thirty-six (36) months depending on the family's income and the amount owed. If the participant is not current on a repayment agreement, the family will not be issued a voucher to move to a new unit. If the family has a repayment agreement in place and incurs an additional debt to the LA, the additional debt must be paid in full within 30 days.

An applicant owing money may apply to the program and remain on the waiting list until his/her time of selection. If it is determined, based on information in HUD's Enterprise Income Verification (EIV) System that an applicant still owes money to a PHA or a Section 8 landlord when he/she is contacted for selection, assistance may be denied subject to resolution of the reported outstanding debt. Refer to HUD's January 28, 2010 EIV Training Webcast: *Refinement of Income and Rent Rule*, and Form HUD-52675 (Debts Owed to Public Housing

Agencies and Terminations) for detailed guidance. The applicant's name will remain on the waiting list in accordance with the aforementioned guidelines.

19.01 Repayment Agreements – General

A participant's obligation of this nature may be satisfied by either paying the full amount due immediately upon the LA's request or through a repayment agreement approved by the LA. A repayment agreement between the LA and a participant is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the LA upon default of the agreement.

The repayment agreement must contain the following provisions:

1. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income, or;
2. A change in income cycle (i.e.; weekly to bi-weekly or bi-monthly, and vice versa).
3. The monthly repayment amount is in addition to the family's regular rent contribution.

LAs will **not** enter into additional repayment agreements if:

- the participant already has an agreement in force;
- the LA determines that the family has committed additional program fraud during the term of the repayment agreement.

There is no maximum dollar amount for considering whether or not the LA will enter into a repayment agreement.

Although the LA is authorized to enter into a repayment agreement of up to 36 months, the maximum term should not be automatically granted. Each family should be evaluated on a case-by-case basis. The term of the agreement may range from one (1) to thirty-six (36) months depending on the family's income and the amount owed. Repayment options include lump sum payments, monthly installments, or a combination of both.

If a participant refuses to enter into a repayment agreement or defaults on an existing agreement, the participant must be terminated from the program and collection/enforcement actions should be pursued. Any remaining debts owed must be promptly entered into the EIV Debts Owed to PHA Module. The LA should contact their Program Representative for further guidance.

19.02 Repayment Agreements - Fraud Recovery

PHAs are required by HUD to report fraud recovery in HUD's Voucher Management System reports. A PHA is allowed to keep 50% of the recovered funds resulting from fraud repayments.

It is the LA's responsibility to distinguish between what is an error of omission and what is fraud. HUD guidance has indicated that fraud can best be categorized as intentional deception for the purpose of receiving funds that the recipient is not entitled to. This could include, but is not limited to:

- intentional misrepresentation of income, assets and allowances;
- intentional misrepresentation of family composition;
- initiation or participation in bribery;
- falsification, forging or alteration of documents;
- falsification of names or Social Security numbers;
- repeated misreporting of material information;

In order to establish fraud, LAs are responsible for ensuring that the tenant file contains documentation indicating that they were made aware of program requirements and prohibitions, and that they intentionally misstated or withheld material information.

LAs are responsible for determining, on a case-by-case basis, what is intentional misreporting. LAs are entitled to 50% of the full recovery amount only for case of documented fraud. If a family disputes that fraud was committed, the LA must conduct an informal hearing with an independent arbiter.

Once an act of fraud has been determined, the LA will initiate a Repayment Agreement with the family and set up a monthly repayment schedule following **the guidelines in Section 19.0 and 19.01 of this Plan.**

The LA will submit to the Statewide Section 8 Voucher Program, in a form or manner prescribed by HCR, a list of the names and addresses of all participants/landlords who have entered into a repayment agreement.

The full amount of funds recovered from fraud investigations and determinations must be in the form of a certified check or money order and must be made payable to the ***Housing Trust Fund Corporation***. LAs will subsequently be advised on how and when to request payment of the 50% of recovered funds allowed by HUD regulations.

LAs are responsible for recouping all overpayment of HAP following the guidelines contained in Section 19.0 of HCR's Section 8 Administrative Plan.

19.03 Late Payments

A payment under a participant repayment agreement will be considered in arrears if payment has not been received by the LA within 5 business days of the due date.

Payment is due by the close of business on the due date. If the due date is on a weekend or holiday, the due date will be at the close of the next business day. If a participant's repayment agreement is in arrears and the participant has not contacted or made arrangements with the LA, the LA will require the participant to pay the balance in full within 30 days. If the participant subsequently fails to pay the full amount due within the 30 days, the participant will be terminated from the program.

If a family requests a move to another unit, and has an existing repayment agreement in place for the payment of an owner claim, the family will not be permitted to move with continued HCV assistance until the family pays the balance in full.

If a family who has an outstanding balance on an existing repayment agreement requests to port to another jurisdiction (another LA or PHA), the outstanding balance must be paid in full before the family will be permitted to port.

19.04 Minimum Rents

HCR has a minimum rent policy of \$50 for all participants in the Statewide Section 8 Voucher Program. Adjustments to rent shares for affected families are to be implemented immediately at the next annual review or interim recertification, whichever comes first.

Refer to Section 21.06 for guidance on the Minimum Rent Hardship Exemption.

Section 20.0 UTILIZING THE ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

Use of the HUD EIV System is mandatory for PHAs. The LA will use the EIV system to identify potential discrepancies in income reporting by participants during the annual and interim reexamination processes. In order to identify any discrepancies, the LA will use EIV wage/benefit data in conjunction with third party income verification documents received during the annual and interim recertification processes. If there are discrepancies in the amount of income, or if the income is outdated, the LA will use the most accurate and reliable source of income verification.

The data contained and provided by the EIV system will be protected by the LA and should only be used for official program purposes. Data will not be disclosed to anyone in any manner that would violate the privacy of the individuals represented.

The LA must adhere to EIV security awareness measures to ensure that only authorized system users may access the EIV system in order to maintain overall privacy and security compliance.

The LA must use the EIV system to verify household income on such sources as Social Security, Social Security Disability, SSI, wages and unemployment compensation for each family member. The LA must use the EIV system to compare the income source and amount recorded in the participant-supplied income data and form, HUD 50058 which is maintained in the HUD Public and Indian Housing Information Center (PIC) System database.

20.01 Demonstrating Compliance with Mandatory Use of EIV

In accordance with 24 CFR §5.233(a)(2)(i), LAs must demonstrate compliance with mandated use of EIV by doing the following:

- A. For each new admission:
 - a) review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date;
 - b) print and maintain a copy of the EIV Income Report in the tenant file;
and
 - c) resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

- B. For each historical adjustment (action type 14):
 - a) review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date;

- b) print and maintain a copy of the EIV Income Report in the tenant file; and
 - c) resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
- C. For each interim reexamination (action type 3):
- a) maintain in the tenant file, a copy of the ICN Page when there is no household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. (LAs have the discretion to print the EIV Income report; however, only the ICN page is required.)
 - b) maintain in the tenant file, a copy of the EIV Income Report when there is an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.
- D. For each annual reexamination where the *tenant does not dispute EIV information, the LA must:*
- a) maintain the EIV Income Report, current acceptable tenant- provided documentation and, *if necessary* (as determined by the LA), traditional third party verification form(s).
- E. For each annual reexamination where the *tenant disputes EIV information, the LA must:*
- a) maintain the EIV Income report, current acceptable tenant- provided documentation, and/or traditional third party verification form(s)
- F. Where the *Tenant-reported income is not verifiable through EIV system, the LA must:*
- a) maintain current tenant-provided documents and, *if necessary*, traditional third party verification form(s).

20.01.01 Debts Owed to PHAs & Termination Module

HUD has established a national data base to serve as a repository for debt and termination information on former program participants. It is now mandatory that each local program designate at least one staff person whose responsibility it is to enter information into this Debt Termination Data Base (DTDB).

The designated staff must obtain prior approval from HUD, before the system will allow them to enter information into the DTDB. Prior approval from HUD can

only be obtained by submitting an EIV Access Authorization form to HCR's EIV Coordinator, requesting user access role ***Program Administrator – Voucher Section 8***).

20.01.02 Policy Governing DTDB Entries

The following practices must be adhered to when entering debt/termination information into DTDB:

- 1) Debt/Termination information must not be entered into DTDB until an End Of Participation (EOP) action has been entered in PIC for the former participant.
- 2) Debt/termination information must be entered within 60 days from the EOP date.
- 3) Debt/termination information will be maintained in DTDB only up to a period of 10 years.
- 4) Families who have never, or no longer, warrant being in the data base must be removed following HUD guidelines under *Debts Owed to PHAs and Termination information*.
- 5) Local programs may modify a tenant record only 3 times.
- 6) Debts should not be modified as payments are being made. The debt is to be removed only after being paid in full.

20.01.03 Screening Families Through EIVs' "Former Tenant Search" Module

Procedures governing use of the EIV "Former Tenant Search" module must include the following:

- 1) Prior to admission, local programs should query each adult household member's SSN to determine if a PHA has reported a debt or adverse termination;
- 2) Former participants who owe debts to a PHA may not be admitted to the program until the debt is paid in full to the PHA that is owed the outstanding amount;
- 3) Adverse Terminations should be denied assistance in accordance with PHA or HUD policy; and

- 4) Families denied assistance due to information in DTDB must be provided with a copy of the Debts Owed & Termination report, and as with other denials, offered an informal review.

20.01.4 Mandatory Monitoring of EIV Reports

LAs are required to monitor the following EIV reports on a *monthly* basis:

1. Deceased Tenants Report
2. Identity Verification Report
3. Immigration Report

LAs are required to monitor the following EIV reports on a *quarterly* basis:

1. Income Discrepancy Report
2. Multiple Subsidy Report
3. New Hires Report

20.02 Income Discrepancy Resolutions

When the EIV income data differs from the participant-provided income data by at least \$200.00 per month, this constitutes a “substantial difference.”

In cases where the EIV income data is **NOT** substantially different than tenant-reported income, the LA will:

- use participant documents or third party income verification to calculate anticipated annual income if the EIV income is less than current participant-provided documentation; or
- use EIV income data unless the participant provides documentation of a change in circumstances when the EIV data is more than the current participant-provided documentation. If acceptable participant documentation is provided to justify a change in circumstances, the participant documents will be used to calculate income.

In cases where EIV income is substantially different than the participant-reported income, the LA must:

- Request written third-party verification from the income source in accordance with 24 CFR 5.236(3) (i).
- Review historical income data for patterns of employment, paid benefits, and/or receipt of other income when the LA cannot readily anticipate income such as in the cases of seasonal employment, unstable working hours and suspected fraud.

- Analyze all data and attempt to resolve the income discrepancy.
- Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

Section 20.03 EIV Security Measures

20.03.01 Handling of Discrepancy Reports

The LA must handle EIV discrepancy reports in the following manner:

- If a participant disagrees with the discrepancy report issued by the EIV system, a meeting will be scheduled by the LA with the participant to resolve the dispute. All details of the discrepancy report must be documented and the participant will have 15 business days from the date of the meeting to obtain third-party verification of the discrepancy and submit supporting documentation to the LA. All participant-provided information and submitted documentation should be dated not more than 60 days prior to the initial resolution meeting. Once the information is received from the participant, the LA will review and make a final decision within ten business days from the date that the information was received from the participant.
- If a situation arises where facts indicate that a participant has not reported or has under-reported income, a repayment agreement will be executed between the participant and the LA. A revision to the current and future participant's share must also be made. If a participant refuses to enter into a repayment agreement and/or refuses to pay the newly calculated rent, termination of assistance will occur using the established policies and procedures in accordance with HCR's Section 8 Administrative Plan.

20.03.02 Records Retention

During the term of the assisted tenancy and for three years thereafter, the LA must retain the documents in the participant's file. EIV information must be destroyed three years from the End of Participation (EOP) unless there is pending litigation.

20.03.03 Disposal of Applicant and Participant Records

All EIV documents must be destroyed at the end of the three-year retention period. They should be destroyed in a manner that would not compromise the confidentiality of the applicants and/or participants. The preferred method for destroying documents is by shredding.

20.03.04 EIV Security Monitor

Each local program must designate someone as the agency's "EIV Security Monitor." The agency's EIV Security Monitor will be responsible for ensuring that the minimal EIV security procedures outlined in this document are adhered to.

The local EIV security monitor or other designated personnel must give written notification to the HCR-designated EIV Security Officer when:

- a staff member associated with EIV information is no longer employed with the agency, or
- a staff member who previously had access rights to the EIV system no longer has such rights.

20.03.05 Storage of EIV Documents

As an added security measure, on an annual basis the HCR EIV security officer will mail to each local program a listing of local program staff members who have HCR approved access to EIV wage/benefit data. The local security monitor or other designated staff must review this list and immediately notify the HCR EIV security officer in writing of any names that should be deleted from the list.

Each LA must maintain a lockable container, file cabinet, or room to store EIV documents that are:

- outdated and are destined to be destroyed; or
- printed but not yet placed in the participants' files.

Caution should be taken to prevent the combining of each of the above types of documents. HCR recommends that the LA keep each type in separate folders within the lockable receptacle.

20.03.06 Key Control Form

Each local program must utilize the **Key Control Form** provided by HCR to document:

- the number of keys issued for the lockable container, file cabinet or room;
- the names of program staff who are in possession of these keys; and

- a change in the number of keys available or a change in the identity of the staff in possession of the key.

20.03.07 EIV Security Awareness Training

Applicants requesting EIV access must satisfy the required annual EIV Security Awareness Training before they can be approved for EIV access. In order to satisfy this requirement, an applicant must meet the following two conditions:

- a) Applicants must watch the most recent HUD, EIV Security Awareness Training Webcast.
- b) Applicants must confirm that they have watched the above mentioned webcast by signing the applicable HCR issued EIV Webcast Training Certification form, and submitting it to the HCR EIV Coordinator.

Note: A signed, HCR issued EIV Webcast Training Certification form is the only document needed for confirmation that applicants have completed their training. It is not necessary to obtain a HUD issued “Certificate of Completion.”

20.03.08 Breach of EIV Security Policy

Any breach of the EIV security policy should be immediately reported to the designated HCR Security Officer.

Section 21.0 RECERTIFICATIONS

21.01 Interim Recertifications

Families are required to report **all** changes in income and family composition to the LA within two weeks of the date of such change. Families that report a change in income or family composition will be advised by the LA to forward written documentation. During an interim reexamination only information affected by the changes being reported will be reviewed and verified.

Upon receiving any documentation requested from the family, the LA will process interim recertifications in the following circumstances **only**:

- Recertifications requested by a participant which result in a decrease in tenant rent;
- Recertifications due to an increase in yearly household income which would result in a monthly increase in participant rent share; or
- Recertifications that are a result of a change in family/household composition and that result in either an increase or decrease in the tenant rent as described above.

In order to add a household member (other than through birth or adoption), including a live-in aide or a room-mate, the family must request that the new member be added to the lease. The new household member must first be approved by the landlord. Before adding the new member to the lease, the individual and participant head of household must undergo a recertification and document the income, assets, and all other information normally required of applicants and participants.

The individual to be added to the household must also provide his/her Social Security number (if he/she has one) and must verify his/her citizenship/eligible immigrant status.

The family's revised annual income will be recalculated taking into account the income and circumstances of the new family member.

NOTE: Housing assistance will only be delayed if caused by family action or inaction.

21.02 Effective Date of Changes for Interim Recertifications

The LA will give 30 days notice of any rent increase to the family. If notice of an increase in rent is delayed due to a reason beyond the control of the family, the rent increase will be effective the first of the month after the month in which the family receives a 30-day notice of the amount. If a participant family has caused the delay, the increase will be effective on the date the LA would have been otherwise able to issue the notice if the family had not caused the delay.

Reductions in participant's rent share will be processed as follows:

- a) If a participant submits required documentation of the decrease in income within 10 business days of the date the change occurred, the change in participant rent share will be effective the first of the month following the date the income change occurred.

In cases where required documentation is submitted within 10 business days of the decrease in income but the LA has already submitted their payment schedule for that month, the LA will retroactively reduce the participant rent share effective the first of the month following the date the income change occurred.

- b) If a participant does not submit required documentation of the decrease in income within 10 business days of the date the change occurred, the change in participant rent share will be effective the first of the month following the date the decrease in income is received by the LA.

21.03 Annual Recertifications

An annual recertification must be completed for each Section 8 family. The recertification must be completed on or prior to the date of the previous year's recertification.

The information used for reexamination must be current (within 120 days) of the effective date of the recertification. The family should be given a minimum of 90 days, but not more than 120 days, written notice prior to the anniversary date of the recertification.

The LA must require the participant(s) to visit the Section 8 office for the purpose of conducting the recertification. However, as a reasonable accommodation, the LA **may** conduct a home visit for the purpose of completing the annual recertification, if the participant is homebound and/or disabled.

The initial recertification notice must inform the family of the required documents and the deadline (or the date to appear in the Section 8 office for the reexamination) for submitting all required documents and requested information.

If the family fails to respond to the initial/first notice, a second notice must be sent to the family informing them that they have failed to submit the required information for recertification. A second request and a copy of the previously sent notice must be sent to the family.

If the family fails to respond to the second notice a termination notice must be mailed to the family.

21.04 Verification Guidance and Public Assistance Income Calculations

HUD regulations stipulate in 24 CFR Part 5.609 (b) (6) that welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) be included in annual income only to the extent that such payments :

- qualify as assistance under the TANF program as defined in 45 CFR 260.31; and
- are not otherwise excluded from income under 24 CFR 5.609 (c).

If the welfare assistance payments include an amount specifically designated for shelter and utilities, the amount of welfare assistance income to be included as income should consist of:

- the amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities;
- the maximum amount of welfare assistance the agency could in fact allow the family for shelter and utilities; or
- the prorated amount as determined by the Department of Social Services (DSS) for families receiving SSI income.

21.05 Zero Income Families

“Zero-Income circumstances are very unusual and require extra steps to validate. This can be better accomplished in a face-to-face meeting.

Therefore, when a family reports zero income to the LA, the LA must conduct an in-office interim recertification at least every 90 days or at such earlier intervals as may be determined necessary by the LA. The purpose of the interim recertification is to verify the family’s expenses, and to have the family provide an explanation of how their expenses are being paid. Any regular contributions received by the family from outside sources must be considered as household income. In addition, the family must complete the HUD “*Zero Income Checklist and Worksheet*” Form on a monthly basis, which can be found in the HUD Public Housing Occupancy Guidebook. For further guidance on this topic, see the HUD Public Housing Occupancy Guidebook (published June 2003).

21.06 Minimum Rent Hardship Exemption

The LA must advise a family who is paying the minimum rent of their right to request an exemption of the minimum rent payment. If the family requests the exemption the LA must suspend the minimum rent and adjust the HAP payment effective on the first of the month following the change in the family’s circumstances. The LA must request documentation to substantiate the hardship, and must promptly determine if the hardship is temporary or long term.

If the LA determines the financial hardship to be temporary (90 days or less), the minimum rent must be suspended for a period of 90 days from the date of the family's request. At the end of the 90 day period, the minimum rent must be reinstated retroactive to the date of suspension. If the amount the family owes as a result of the suspension of the minimum rent exceeds the family's ability to pay in one lump sum, the LA must offer the family a repayment plan.

Financial hardship includes the following circumstances:

- a family has lost eligibility for or is awaiting an eligibility determination for a government assistance program;
- a family would be evicted because it is unable to pay the minimum rent
- the income of the family has decreased because of changed circumstances including loss of employment;
- a death has occurred in the family; or
- other circumstances determined by the PHA or HUD.

The LA must conduct an in office interim recertification every 30 days for a family that is receiving a minimum rent hardship exemption. The purpose of the interim recertification is to verify the family's expenses, and to have the family provide an explanation of how their monthly expenses are being paid. Any regular contributions received by the family from outside sources must be considered as household income.

In addition, the family must complete the HUD "*Zero Income Checklist and Worksheet*" Form on a monthly basis, which can be found in the HUD Public Housing Occupancy Guidebook. For further guidance on this topic, see the HUD Public Housing Occupancy Guidebook (published June 2003).

Section 22.0 RESTRICTIONS ON MOVES BY A PARTICIPANT FAMILY

During the initial 12 months of assisted occupancy, families who resided in the LA's jurisdiction prior to admission and wish to move within the same LA jurisdiction will be allowed to move only under the following conditions:

- The LA has terminated the Housing Assistance Payment (HAP) contract due to an owner's breach of responsibility (i.e. failure to correct Housing Quality Standards (HQS) violations); or
- The owner and family have agreed to mutual rescission of the lease;

NOTE: This provision may only be utilized once within any 12-month period by a participant and owner.

If a family lives in one LA jurisdiction and applies to the waiting list of another LA, the family will be required to utilize the assistance for 12 months in the jurisdiction of the LA where they are being admitted. (See also Section 1.0 "Selection and Admission Policies.")

Families will **not** be permitted to move more than once in a 12-month period unless the LA approves the move based on a documented reason over which the participant has no control (i.e. owner's failure to correct HQS violations).

As allowed by program regulations, families will **not** be permitted to move outside the LA's jurisdiction under portability provisions during the initial 12 months of assisted occupancy.

The LA may deny permission to move if:

- the family has violated a family obligation;
- the family owes the LA money; or
- the family has moved or was issued a voucher within the last 12 months.

Families are required to give proper written 30-day notice of intent to terminate the lease. During the initial term families may not end the lease unless the family and the owner mutually agree to end the lease and submit in writing to the LA a statement signed by the owner and tenant that the lease is being mutually terminated and the effective date of the termination. If the family moves from the unit before the initial term of the lease ends without the owner's and the LA's approval, it will be considered a serious lease violation and may subject the family to termination from the program.

The family is required to give the LA a copy of the notice to terminate the lease at the same time it gives the notice to the landlord. A family's failure to provide a copy of the lease termination notice to the LA will be considered a violation of family obligations and will cause the family to be terminated from the program. The family will be ineligible for assistance until three years have elapsed from the date of termination.

Section 23.0 HOUSING QUALITY STANDARDS (HQS) INSPECTION POLICIES

Housing Quality Standards (HQS) are minimum standards for tenant-based programs and are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as to the unit. Newly leased units must pass the HQS inspection **before** the beginning date of the assisted lease and Housing Assistance Payments (HAP) contract.

The LA will inspect each unit under contract at least annually. Units undergoing an annual inspection that have passed the last two full inspections may be placed on a biennial schedule and inspected every other year.

The LA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by the Section 8 Management Assessment Program (SEMAP) annually to maintain the LA's required standards and to assure consistency in the LA's program. In addition, the LA must engage a third party HQS inspector for LA owned and LA managed units in order to avoid the appearance of a conflict of interest.

This section describes LA procedures for performing HQS and other types of inspections and LA 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 for both families and owners.

23.01 Requirements and Guidelines for Inspections

When a Request for Tenancy Approval (RTA) is submitted, the unit being offered must be available for inspection no later than 60 days from the date of RTA submission.

The LA will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Program unless HQS is met. Units will be inspected at least annually (or at least biennially, if the unit has been placed on a biennial inspection schedule as provided above) , and at other times as needed, to determine if units meet HQS.

The LA must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by mail or by phone. If the owner and/or family can not be at home for the scheduled inspection appointment, the owner or family must make arrangements to enable the LA to enter the unit and complete the inspection.

If the owner or family misses the scheduled inspection and fails to reschedule the inspection, the LA will only schedule one more inspection. If the family misses two inspections, the LA may consider the family to have violated a Family Obligation and may terminate their assistance.

HQS will be the minimum requirement for approving units proposed for Section 8 Housing Choice Voucher (HCV) assistance. Although the LA is **not** required to enforce standards set forth in the New York State Building/Housing Codes and/or the other building/housing codes in any areas within the local LA's jurisdiction, LAs will cooperate, to the greatest extent possible, with local code enforcement officials to obtain uniformity of inspections.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The LA will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the HQS inspection. If the utilities are not in service at the time of inspection, the inspector will notify the tenant or owner (whomever is responsible for the utilities according to the Request for Tenancy Approval) to have the utilities turned on. Either the inspector will schedule a reinspection or the owner and tenant will both certify that the utilities are on.

If the tenant is responsible for supplying the stove and/or the refrigerator, the LA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working. Although not required, the LA may conduct a reinspection if deemed necessary by the LA.

Following are the types of inspections the LA will perform:

1. **Initial:** An inspection that must take place to ensure that the unit passes HQS before assistance can begin; this inspection is conducted upon receipt of Request for Tenancy Approval;
2. **Annual:** An inspection to determine that the unit continues to meet HQS; this inspection must be conducted within 12 months of the last annual inspection;
3. **Complaint:** An inspection caused by the authority receiving a complaint from any source regarding the unit by anyone;
4. **Special:** An inspection requested by a third party (i.e.,— HUD request);
5. **Emergency:** an inspection that takes place in the event of a perceived emergency; these will take precedence over all other inspections; and
6. **Supervisory:** Quality control inspections on units under lease during any specific LA fiscal year.

23.02 Initial HQS Inspections

If the LA has up to 1250 units:

The LA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days after the family and the owner have submitted a request for approval of tenancy.

If the LA has more than 1250 units:

The LA will inspect the unit, determine whether the unit satisfies HQS and notify the family and owner of the determination within 30 days after the family and the owner have submitted a request for approval of tenancy. .

The LA will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

The LA will periodically review the average time required for a family and owner to have a unit inspected from the time the RTA is submitted by the family and owner to the LA.

The initial inspection will be 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 whether the condition of the unit exceeds normal wear and tear; and
- document the information to be used for determination of rent reasonableness.

If the unit fails the initial HQS inspection, the family and owner will be advised to notify the LA once repairs are completed.

23.03 Annual HQS Inspections

The LA will conduct HQS inspections within 12 months of the last annual inspection. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a deficiency for which the tenant is responsible.

The owner and/or family must allow the LA to inspect the unit at reasonable times with reasonable notice.

Inspections will be conducted on business days only during normal business hours of the LA. Weekend inspections may be conducted under extenuating circumstances at the LA's discretion. The LA will provide the family with as much notice possible when scheduling the inspection.

If the owner or family is unable to be present at the inspection, he/she must reschedule the appointment within five business days.

If the family or their designee misses an inspection appointment and does not contact the LA to reschedule the inspection, or if the family misses two scheduled inspection appointments, the LA will consider the family to have violated a family obligation and the family's assistance will be terminated in accordance with the termination procedures in this Plan.

23.04 Verification of HQS Deficiencies

The LA may elect to do a reinspection to comply with 23 CFR 982.404 (a) (3) to verify that all HQS deficiencies have been corrected. A reinspection is not necessary if the LA can obtain verification by other means.

Other than in the case of life threatening deficiencies an LA may accept an owner's and/or family's written certification that the deficiencies have been corrected.

When the deficiencies are the responsibility of the family, the owner or a representative of the owner must also certify that the deficiencies have been corrected.

When the deficiencies are the responsibility of the owner, the family must also certify that the deficiencies have been corrected.

Verification that repairs were completed may be made at the next on-site inspection.

The LA should base the verification process on the severity of corrections to be made and/or the LA's experience with the owner and property.

23.05 Reinspections

If an on-site reinspection is required and the family and/or owner is not at home for the reinspection appointment, the LA will leave a notice at the unit verifying the inspector's attempt to conduct the inspection.

The LA will schedule a reinspection of the unit. A notice of the reinspection will be provided to the owner and the family. The notice may contain a warning that payments will be abated (in the case of owner's responsibility), or a warning of intent to terminate (in the case of family's responsibility).

23.06 Notification of HQS Failures

When a unit fails HQS inspection, the LA must notify the owner in writing of the amount of time that will be allowed to correct any items noted as fail. The amount of time allowed will be determined by the LA based on the time standards described in Section 23.07.

If the time period allowed to correct the repairs has elapsed and the LA has not granted an extension of time, the family must select another unit for assistance.

23.07 Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See "Emergency Repair Items," Section 23.13.)

For **non-emergency items**, repairs must be made within 30 days.

For **major repairs**, the LA may approve an extension beyond 30 days.

23.08 Rent Increases

Rent increases to an owner must not be approved if the unit fails inspection and deficiencies have not been corrected.

23.09 Move Out/Vacate Inspections

The LA may, at his/her discretion, conduct a move-out inspection at the request of the tenant and/or landlord. If possible, both the tenant and the landlord should be present for this inspection.

23.10 Special/Complaint Inspections

If at any time the family or owner notifies the LA that the unit does not meet HQS, the LA will conduct an inspection.

The LA 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.

If the annual inspection date is within 120 days of a special inspection and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

23.11 Quality Control Inspections

Quality control inspections will be performed by the LA on the number of files required by SEMAP. The purpose of quality control inspections is to ascertain that each inspector is conducting accurate and complete inspections and to ensure that there is consistency among inspectors in application of HQS.

The sampling of files will include recently completed inspections (within the prior three months), a cross-section of neighborhoods, and a cross-section of inspectors.

23.12 Accessibility Modifications to HQS

Modifications or adaptations to a unit due to a disability must meet all applicable HQS.

23.13 Emergency Repair Items

HQS deficiencies of an emergency nature must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector. Deficiencies 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 when outside temperature is below the Fahrenheit degree level consistent with LA's local building codes and temperature inside is below the Fahrenheit degree level consistent with LA's local building codes;
- inoperable smoke detector;
- inoperable carbon monoxide detector;
- utilities not in service;
- no running hot water;
- broken glass where someone could be injured;

- obstacle which prevents tenant's entrance or exit; and
- lack of functioning toilet.

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 make the repair, proper authorities will be notified by the LA.

If the emergency repair item(s) are not corrected in the time period required by the LA and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair items are not corrected in the time period required by the LA and it is an HQS breach which is a family obligation, the LA may terminate the assistance to the family.

23.14 Lead Based Paint

LAs are responsible for complying with HUD's Lead Based Paint requirements as outlined in 24 CFR Section 35.

23.14.01 Initial Inspection

HUD regulations require that all stabilization of lead-based paint surfaces be completed before the commencement of assisted occupancy. While 24 CFR Section 35.115 (12) permits a reasonable delay in the performance of an evaluation, lead-based paint hazard reduction, or lead-based paint abatement on an exterior painted surface during a period when the weather conditions are unsuitable for conventional construction activities, such delays are **not** permitted for initial HQS inspections. A unit must pass its initial HQS inspection before assistance commences under the HAP contract. Under no circumstances should a waiver be granted for a unit that fails initial inspection.

23.14.02 Annual/Periodic Inspection

If a unit fails its annual reinspection due to lead based paint hazards, the LA must advise the owner of his/her responsibility to ensure that the following conditions are adhered to:

- ***Pursuant to 24 CFR Section 35.1345:***
 - (a) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite), until after hazard reduction work has been completed and clearance, if required, has been achieved; and

(b) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, unless the exceptions noted in 24 CFR 35.1345 exist.

- ***Pursuant to 24 CFR Section 35.1215:***

(a) If assisted occupancy has commenced prior to a periodic inspection, such paint stabilization must be completed within 30 days of notification of the owner of the results of the visual assessment. Paint stabilization is considered complete when clearance is achieved in accordance with §35.1340. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of Housing Quality Standards (HQS) until the hazard reduction is completed or the unit is no longer covered by this subpart because the unit is no longer under a housing assistance payment (HAP) contract with the housing agency; and

(b) The LA may grant the owner an extension of time to complete paint stabilization and clearance for reasonable cause, but such an extension shall not extend beyond 90 days after the date of notification to the owner of the results of the visual assessment

23.15 Smoke and Carbon Monoxide Detectors

Pursuant to Amanda's Law, which modified New York State's Uniform Fire Prevention Building Code effective February 22, 2010, Carbon Monoxide (CO) alarms must be installed in all new and existing one- and two family dwellings, multifamily dwellings, and rentals with a fuel-burning appliance, system or attached garage.

The Statewide Section 8 Voucher Program requires that this Code be adhered to for all units receiving Section 8 assistance.

Inoperable smoke **and carbon monoxide** detectors are a serious health threat and will be treated by the LA as emergency (24-hour) fail items. If the smoke **and/or carbon monoxide** detectors **are** not operating properly, the LA will contact the owner by phone and request the owner to repair **or replace** the smoke **and/or carbon monoxide** detector within **24** hours. The LA will reinspect the unit the following day.

If the LA determines that the family has disconnected the smoke **and/or carbon monoxide** detector (by removing batteries or other means), the family will be required to repair or replace the smoke **and/or carbon monoxide detector** within **24** hours and the LA will reinspect the unit the following day.

The LA will issue a written warning to any family determined to have purposely disconnected **one or both detectors**. The warning will state that deliberate disconnection of the unit's

smoke or carbon monoxide detector is a health and fire hazard and is considered a violation of HQS.

23.16 Determination of Responsibility

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service;
- Failure to provide or maintain family-supplied appliances; and
- Damage 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 not be charged against the tenant's security deposit under state law or court practice.

The owner is responsible for all other HQS violations, including vermin infestation even if alleged to have been 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 LA may terminate the family's assistance on that basis. The owner or participant may appeal the determination to the LA within five business days of the inspection. If the family is responsible for damages but the owner carries out the repairs, the owner may bill the family for the cost of the repairs.

23.17 Consequences When Owner is Responsible (Non-Emergency Items)

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

A Notice of Abatement will be sent to the owner stating that the abatement will be effective from the day after the date of the failed inspection. The LA will determine the deadline for completing deficiencies, depending on the nature of the repair(s) needed.

The LA will determine the time period for which abated units should be inspected, depending on the owner's notification that the work has been completed.

Upon notification that the required work is completed, the LA will advise both owners and tenants of the reinspection date. 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 the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the LA's portion of rent that is abated.

23.18 Reduction of Payments

The LA may 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; or
- The repairs must be delayed due to climate conditions.

The extension will be made for a period of time to be determined by the LA. At the end of that time, if the work is not completed or substantially completed, the LA may terminate assistance.

23.19 Termination of Contract

If the owner is responsible for repairs and fails to correct all the deficiencies cited, HAP payments may be abated for a period of up to 180 days. The owner will be sent a HAP Contract Proposed Termination Notice prior to the end of the abatement period. During this period the tenant should pay his/her share of the rent unless directed otherwise by legal counsel. If the tenant chooses to remain in the unit after the HAP contract is terminated, he/she should be advised by the LA to seek legal guidance.

If the unit is uninhabitable, the tenant should be notified. The LA should work with the tenant to determine, based on the specific circumstances, when to issue a new voucher.

If repairs are completed before the effective termination date, the termination may be rescinded by the LA if the tenant chooses to remain in the unit.

23.20 Consequences When Family Is Responsible

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the LA will require the family to make any repairs or corrections within a time period consistent with the owner requirement for completing deficiencies. If the repairs or corrections are not made in this time period, the LA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the LA. 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.

23.21 Local Administrator – Owned Units

For purposes of program integrity and to avoid the appearance of conflict of interest, LAs are required to outsource inspections of LA-owned and managed units. The LA must provide a list of these units to the Statewide Section 8 Voucher Program.

Section 24.0 SECTION 8 HOME OWNERSHIP

24.01 Introduction

Under the Section 8 Home Ownership Voucher Program, HCR and its Statewide Program Local Administrators (LAs) provide tenant-based assistance to an eligible family that purchases a dwelling unit to be occupied by the family. All HUD and HCR rules for rental vouchers apply to home ownership vouchers except where superseded in the following sections.

HCR, on an ongoing basis, reviews LA readiness, capacity and local program procedures and has authorized all LAs under its jurisdiction (together with any identified partner) who meet HCR established requirements, to implement this program. As part of the continued development of the home ownership program, HCR and the LAs will continue to conduct assessments of technical assistance that may be necessary to successfully manage, improve, and enhance local home ownership activities.

HCR has established standardized Home Ownership Guidelines, set forth in SS8 Notice 2010-12, and dated May 10, 2010, which provide guidance to the LAs and their clients in the home ownership process. This process was developed to ensure consistency in the pursuit and realization of home ownership.

HCR also works with Public Housing Participants and VASH (Veterans Affairs Supportive Housing) Voucher holders who become eligible for the HCV program after either residing in Public Housing for a year and a voucher becomes available, or holding a VASH voucher for a year.

Experience with low-income home ownership programs has demonstrated that quality counseling is essential for successful home ownership and prevention of mortgage defaults. Each of our LAs is required to continue to demonstrate experience and capacity in this area, either within its agency's programs and services, or through partnership with another entity.

Many LAs have in-house home buyer education/housing counseling (HBE/HC) staff, while others administer their home ownership program in partnership with another agency experienced in home ownership and who offer HBE/HC. In both cases, whichever agency will deliver the home buyer education/housing counseling to the prospective buyers are required to demonstrate that they have housing counseling experience generally consistent with that provided under HUD's housing counseling program.

Pursuant to the New Freedom Initiative (Executive Order 13217, dated February 2001), HCR and the LAs will make every effort to ensure its home ownership policies afford disabled individuals (or families) opportunity to participate fully in community life, and to remove any barriers that may impede a disabled person's opportunity for community placement.

24.02 Permitted Ownership Arrangements

The Home Ownership Program may be utilized in the following types of housing:

- (1) Single-family home
 - (a) New construction with environmental review completed
 - (b) Under construction
 - (c) Existing;
- (2) Manufactured home on a permanent foundation;
- (3) Single dwelling unit in a condominium owned by the family in which one or more family members hold title to the home;
- (4) Homes occupied under a lease-purchase agreement; and
- (5) A cooperative unit in which one or more family members hold membership shares in the cooperative

24.03 Determination of Family Eligibility

Unless otherwise approved by HCR, any family to be considered for home ownership assistance must already be an eligible participant in the Housing Choice Voucher (HCV) rental assistance program in the LA's local program area for at least 12 months. The 12-month minimum may be waived or reduced for a port-in, or to address reasonable accommodation requests. Applicants may not be taken from the wait list. The individual or family must also be in compliance with all stated family obligations, and in good standing with the local program. If applicable, the family must have fully satisfied any repayment agreements.

If the family has been through bankruptcy, HCR sets a three year minimum waiting period from the bankruptcy filing date to participate in the home ownership program.

Although, Family Self Sufficiency (FSS) enrollment and/or completion is no longer required, it is highly recommended that Section 8 participants who are candidates for home ownership, but not participants in the FSS program, be referred to comparable family development services to ensure viable and successful home ownership-ready families. This policy supersedes the FSS requirement included in the original application for participation in the Housing Choice Voucher Home Ownership Program.

LAs are responsible for all normal Section 8 eligibility determinations and for ensuring that families meet employment and minimum annual income requirements established by Federal program regulations. The minimum family income requirements are as follows:

1. For non-disabled individuals and families, HCR has adopted the federal minimum annual family income from full-time employment (not less than an average of 30 hours per week) at the federal minimum hourly wage X 2000 hours.
2. For elderly or disabled individuals or families, the employment requirement is waived.
 - a. However, the minimum family income for elderly must be from a stable source and equal the same dollar amount as 2000 hours multiplied by the current Federal Minimum Wage. For disabled households, the minimum income must be from a stable source (such as Social Security or pension benefits), with the minimum monthly SSI benefit standard for an individual living alone that conforms to the Social Security Administration guidelines published in January of each year.
 - b. Definition of Disabled Family: A disabled family for purpose of eligibility means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.
3. At the commencement of home ownership assistance, the minimum annual family income must be continuous for at least one year prior to application for a home ownership voucher.

The LA will use current minimum wage and current minimum disability incomes for all eligibility decisions. The local program manager may establish minimum income requirements which are higher than the HUD standard, subject to HCR approval, for either one or both types of families (disabled and non-disabled), based on factors such as local housing costs and/or the practices of local lenders.

However, families that do not meet the LA's higher minimum income requirement shall still be considered to meet the income requirement if:

- (1) the family meets all other applicable HUD eligibility requirements; and
- (2) the family can demonstrate that they have been pre-approved or pre-qualified for financing an amount sufficient to purchase decent, safe and sanitary housing of modest design in the LA's jurisdiction.

The LA will also be responsible for determining that families satisfy first-time homeowner requirements established by program regulations, and that they are "credit ready" and have not defaulted on any mortgage used to purchase a home under the home ownership program. A family is not eligible if any family member at the time of default has previously received home ownership assistance and defaulted on a mortgage.

24.04 Home Ownership Counseling

Section 536:8 (y) of the Quality Housing and Work Responsibility Act of 1998 provides that a family must participate in and complete a home ownership and housing counseling program before commencement of Section 8 home ownership assistance. HCR's policy requires a minimum of 8 hours of home ownership education and housing counseling prior to home ownership, and a Certificate of Completion for same.

LAs will be responsible for providing pre-assistance and post-purchase counseling including:

- (1) Home maintenance;
- (2) Budgeting and money management;
- (3) Credit counseling;
- (4) How to negotiate the purchase price of a home;
- (5) How to obtain home ownership financing and loan preapprovals (including a description of types of financing that may be available);
- (6) How to find a home (including information about home ownership opportunities, schools, and transportation in the LA's jurisdiction);
- (7) Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- (8) Information on fair housing (including fair housing lending and local fair housing enforcement agencies) and information about the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C.2601 *et seq.*); and
- (9) Information on State and Federal truth-in-lending laws and how to identify and avoid loans with oppressive terms and conditions.

Counseling may be provided by the LA or another entity such as a HUD-approved housing counseling agency or by both the LA and another entity. If the LA is providing counseling but is not a HUD-approved housing counseling agency, or if the LA employs the services of another entity that is not a HUD-approved counseling agency, the LA must demonstrate that its counseling program is generally consistent with home ownership counseling provided under HUD's Housing Counseling program.

Within two years prior to purchasing a home, the individual or family must complete no less than 8 hours of home buyer education classes and housing counseling, and receive a certificate of completion. A copy of the certificate of completion must be submitted to the LA before proceeding to the next step in the home ownership process. A refresher session with a housing

counselor will be required for any participant who has a certificate that is more than two years old.

Under no circumstance will HAP assistance be obligated or released for Section 8 home ownership prior to a client's completion of and receipt of an acceptable certificate of completion of housing counseling/home buyer education classes.

24.05 Home Inspections

Two kinds of physical inspections are required in the home ownership program, in addition to and separate from any lender required inspections, both of which must be completed prior to release of HAP, and preferably before closing. They are:

- (1) an HQS inspection by the Local Administrator; and
- (2) an independent professional home inspection by an inspector used in the private market by home buyers.

The HQS inspection should be completed prior to the independent inspection to avoid unnecessary costs to the family. All major systems must be turned on and functional for the inspection; otherwise the inspection for those systems must be marked "inconclusive" and therefore, the inspection fails. These systems include heat, water, and electric services to be tested. A re-inspection must be scheduled once the systems are functional.

The independent professional inspector must be selected, hired and paid for by the family. A family's Family Self-Sufficiency (FSS) escrow account may be accessed for this purpose, if applicable. Home inspectors must have certification from the American Society of Home Inspectors or a similar national organization.

In instances where a family applies for and is eligible for a U. S. Department of Agriculture Rural Development (USDA-RD) single-family mortgage, the independent professional inspection required by USDA may also be used to satisfy the Section 8 independent professional inspection requirement. However, the person performing the inspection must be qualified to report on property conditions including major building systems and components. The LA may disapprove the home or unit on the basis of either the HQS or the independent inspection report.

The HQS inspection performed by the LA will indicate the current physical condition of the unit and any repairs necessary to ensure that the unit is safe and habitable. The purpose of the independent home inspection is to identify any home defects and to assess the adequacy and life span of the major building components. The home must pass an initial HQS inspection before home ownership voucher assistance can be authorized. Any additional HQS inspections for subsequent years are at the option of the local program administrator.

24.06 Determination of Home Ownership Assistance Levels

HAP will begin only after the unit passes inspection. There are no partial month payments for home ownership. HAP begins the first of the month after the unit passes inspection. If a payment was due the first of the month, but the inspection passed too late in the month to be submitted for payment, a double month payment will be requested for the following month.

The LA will be responsible for determining the amount and distribution of the home ownership assistance to be provided on a family's behalf. If the family has satisfactorily met all Section 8 requirements of the home ownership process and has applied for the mortgage(s), the LA will provide the following information to the lender(s):

- the total gross rent;
- total tenant payment (TTP);
- the Payment Standard in effect at that time; and
- the estimated housing assistance payment (HAP).

Lenders will be notified that these numbers are subject to change once the LA has the true mortgage, interest, taxes, and insurance payment values.

In determining the monthly home ownership expenses for purposes of calculating the monthly home ownership assistance payment, the LA must consider:

- the (PITI) principal, interest, taxes, insurance; condo/co-op fees;
- principal and interest on debt incurred to finance major repairs;
- replacements or improvements for the home; utilities; and
- an allowance for routine maintenance and major repairs of not less than \$50 (\$25 each) and not more than \$100 (\$50 each).

The allowance for routine maintenance and major repairs will be used as a guideline by the family to establish savings/reserves for maintenance and/or repairs and replacement of major systems or appliances. While maintenance and tracking of this account is not statutory, it is highly recommended. When calculating utilities, use the lesser of the allowance for the bedroom size the family is purchasing or the allowance for the bedroom size the family is eligible for.

Pursuant to program regulations, once home ownership assistance commences for the home or unit, the payment standard will never be less than the payment standard at the time home ownership payments begin.

The housing assistance payment may be made directly to the lender or the family. However, if any HAP payments are being made directly to the family and the family becomes delinquent in payments, the LA may make future HAP payments directly to the lender. The LA may also make payments directly to the lender at the lender's request. If this change is to be made, the lender must have capacity to accept payment from both the individual and Section 8 for the one mortgage payment.

Pursuant to program regulations, the LA will also be responsible for determining if a family is eligible for continued tenant-based assistance if the family wishes to move.

24.07 Mortgage Financing and Down Payments

HCR and the LA may not require the use of a specific lender. However, both HCR and the LA may require certain qualifications of potential lenders, and may establish prohibitions on certain forms of financing and terms. The home the family intends to purchase must be affordable, and HCR or the LA may disapprove any proposed financing or re-financing if HCR, the LA, or the housing counseling partner determines that the debt is unaffordable or the loan terms are oppressive.

Signatures will be obtained on all pertinent documents for all parties on the deed and the mortgage. The voucher holder must be on both.

Mortgage financing affordability will be defined by the following debt-to-income ratios:

- (1) the front-end ratio (housing debt-to-income) should be no higher than 40%; and
- (2) the back-end ratio (all debt-to-income) should not exceed 45%.

This may be waived or modified upon application to HCR.

HCR and the LA require a minimum down payment that equals three percent of the sale price. The family contribution toward the down payment should be at least one percent of the sale price and come from the family's personal resources. An FSS escrow account may be used for this purpose, if applicable. If a family is utilizing a USDA-RD single family mortgage loan product, or similar government mortgage product, the down payment requirements may be changed or waived by the LA.

The mortgage loan financing used for the purchase of the home must meet one of the following criteria:

- provided, insured, or guaranteed by state or federal government;
- complies with secondary mortgage market underwriting requirements;
- complies with generally accepted private sector underwriting standards.

Lease-purchase agreements will be permitted, but only upon written application to HCR and written approval from HCR. If approved, participant will obtain a mortgage through a qualified financial institution. Examples of types of mortgage financing that will not be permitted are owner financing, interest-only loans, balloon payments, and adjustable rate mortgages.

Refinancing will be considered for positive outcomes (i.e.: lower interest rate, lower payment, capital improvement); however, the LA has the right to deny any request. **Cash outs of equity are not allowed.** Before refinancing, the home owner must receive authorization from the LA.

24.08 Home Search

The family is responsible for finding an eligible home or unit to purchase. The LA may establish time limits for a family to locate a home to purchase and to close on a home. The LA may not steer or restrict the family to certain sellers or neighborhoods.

A family may choose to purchase an eligible dwelling that is owned or substantially controlled by HCR or the LA, provided the family signs a written assurance acknowledging that the family is freely selecting the dwelling without pressure or steering. Also, under these circumstances, an independent agency must perform certain administrative functions such as the HQS inspection, review of the independent professional inspection report, review of contracts for sale, review of sales price and any HCR or LA-provided financing.

Under regulations, the LA must disapprove the seller if the seller has been debarred or suspended by either HCR or HUD from participation in any housing program.

24.09 Post-Purchase Activities

LAs will be responsible for establishing such post-purchase monitoring and counseling procedures as may be necessary to ensure that families do not risk mortgage delinquency or default. Ongoing monitoring and counseling should include basic home maintenance guidance and post-purchase budgeting.

The topics to be covered in post-purchase counseling may include but are not limited to:

- home maintenance;
- managing debt after home ownership occurs;
- protecting your assets;
- investing in your future;
- building wealth;
- record keeping;
- energy efficiency;
- home safety and security;
- preventive maintenance;
- basic home repair;
- improvements to increase the home's value;
- working with a contractor;
- landscaping;
- taxes; and
- insurance.

24.10 Portability

Section 8 Housing Choice Voucher (HCV) regulations provide a portability feature after an initial lease up of one year. Families who are determined eligible for the home ownership program and are in good standing with the initial PHA, may port out of the LA's jurisdiction to anywhere in the US for home ownership, as long as the receiving PHA administers a Section 8 home ownership program and is accepting new families into its program. If the receiving PHA does not administer a home ownership program, HCR, through an MOU with the receiving PHA, can continue to administer this home ownership voucher in the new jurisdiction. HCR's rule that participants must be a Section 8 participant in their local program area for one year may be waived for port-ins at the LA's discretion.

Operating within HUD guidelines and available budget authority, HCR's intention is to expand home ownership opportunities throughout New York State, with a special emphasis on reaching out to communities and PHAs outside our local Administrator network that do not operate a home ownership program. The location of the unit determines the payment standard to be used for HAP calculations. SS8 Notice 2010-13, dated May 10, 2010, contains guidance on port-ins from PHAs outside our local administrator network that do not operate a home ownership program.

24.11 Length and Continuation of Assistance

Section 8 assistance will only be provided for the period in which the family resides- in the home. The maximum length of time a non-elderly, non-disabled family may receive home ownership assistance is 15 years if the mortgage has a term of at least 20 years. There is a 10 year time limit for home ownership voucher assistance for mortgages less than 20 years. There are no time limits for elderly and disabled families.

A home ownership family may purchase another home with Section 8 assistance provided there is no mortgage loan default and the family is in compliance with the Statement of Homeowner Obligations (HUD Form 52649). However, the maximum 15 year term of assistance for non-elderly, non-disabled families is cumulative between the two purchases.

In some cases, the gross home ownership expenses are less than gross rental expenses, or the family has an increase in income causing a zero HAP calculation. The family will remain at zero HAP, but will stay in active status for up to six months. At the end of the six months the family will be terminated from the program. In cases where the family encounters catastrophic circumstances after voluntary or involuntary termination, requests for reinstatement to avoid foreclosure or default will be considered on a case-by-case basis. These requests must be submitted for prior HCR approval.

A family may revert to rental from home ownership if they are in good standing with the PHA; however, the family must first sell the home. Rental HAP cannot be dispensed as long as the family owns the home and is eligible for and receiving HAP toward their mortgage.

24.12 Home Ownership Option 10 year Asset Exclusion: (Reference 24CFR 5.603(b) Net Family Assets

For the purpose of determining a family's income, the home purchased under the HCV program is exempt from being counted as an asset for the first ten (10) years after the closing date.

Once the family has reached the 10 year anniversary of their closing, the annual income must include either the actual income derived from the net family assets, or a percentage of the value of such assets based on the current passbook savings rate established by HUD.

This income is based on the equity of the home each year. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the assets. The market value is the price a buyer would pay to a seller for a property in its present condition. The market value can be determined by a sales comparison method or the tax assessor's market value method.

However, **Local Administrators are required to use the tax assessor's value to determine the market value of the home.** In addition, the reasonable costs for converting to cash must also be deducted from the equity. Accordingly, the Net Cash Value must be determined as follows:

1. Market Value – Loan (Mortgage)=Equity
 - The market value will be obtained by reviewing the local assessment roll or the owner's most recent property tax bill.
 - The monthly mortgage statement of the participant will usually contain information pertaining to the loan balance or payoff amount for the loan. LAs should first try to use the payoff amount for the loan. If the only information available is the loan balance, the LA may deduct that amount from the market value

2. Equity – Expenses to convert to cash= Net Cash Value
 - To calculate the cost to convert the asset to cash, Local Administrators will use HUD's Safe Harbor percentage of 10% of the market value of the home. However, if the home is sold, the actual costs (expense) must be used in the calculation.
 - If Net Cash Value is zero or a negative number, no adjustment to net family assets should be made.

24.13 Recapture Provisions and Re-Sales

There are no recapture provisions for the monthly housing choice voucher assistance in the Home Ownership Voucher Program. Upon sale of the home and if still eligible, a family may move and utilize its voucher for either rental assistance or home ownership assistance. If home ownership assistance is chosen, then the term limits remain in effect and the family will be entitled to utilize the remaining term. With regard to the payment standard and sale of the home, voucher rules covering relocation become effective. During this time the payment standard and voucher size will be adjusted to accommodate the family size or composition.

A family may sell its home, move to another jurisdiction, and continue with home ownership assistance if:

- (1) the new jurisdiction is operating a home ownership program and accepting new families; or
- (2) HCR, through an MOU, continues to administer the voucher in the new jurisdiction.

24.14 Defaults

If a family in the Home Ownership Program defaults on **any** mortgage loan, the family must be terminated from home ownership assistance, and the family will not be permitted to use the home ownership voucher to purchase another house. If the LA can justify allowing the family to revert back to rental assistance from this default situation, a letter requesting approval must be submitted to HCR. Rental assistance may not be released until approval is granted by HCR.

24.15 Family Obligations

Before commencement of home ownership assistance, the family must sign HUD Form 52649, Statement of Homeowner Obligations.

Note: Prior to closing, the participant will be required to provide proof that the rental unit they are vacating is in good condition (i.e., letter from the landlord).

To continue to receive home ownership assistance, a family must comply with the following family obligations:

- (1) The family must leave their current rental unit in good condition before moving into the home ownership program.
- (2) The family must comply with the terms of any mortgage which secures the debt used to purchase the home, and any refinancing of such debt; under refinancing, no cash-outs are allowed.

- (3) During the time the family is receiving home ownership assistance; the family may not sell, convey or transfer any interest in the home to any entity or person. Further, the family must maintain the home as their principal residence for the period of time the family is receiving the assistance. Subletting or leasing the home is not permitted.
- (4) The family must supply required information regarding income and family composition on an annual basis in order to calculate the appropriate TTP and HAP during the term of home ownership assistance.
- (5) The family must immediately notify the LA if household income decreases and must provide all information necessary to complete an interim recertification.
- (6) The family must provide information on the following: any mortgage or other debt used to purchase the home and any refinancing of such debt; any satisfaction or payment of mortgage debt; any sale or other transfer of any interest in the home; and the family's home ownership expenses. The family will sign an authorization allowing the LA and all lenders holding mortgages to the family's home to disclose to each other, information as it pertains to the mortgage application and other records which each party may require.
- (7) The family must immediately notify the LA if the family becomes delinquent and/or defaults on a mortgage, securing any debt incurred to purchase the home, and must agree to work with the LA's housing counselors to work out terms for becoming current, or other acceptable loss mitigation work-out plans.
- (8) At annual recertification, the family must document to the satisfaction of the LA that the family is current on mortgage, insurance, taxes, utility payments, co-operative fees, condominium fees, and/or land-lease payments, if applicable. Monitoring of replacement/reserve accounts is not statutory, but is highly recommended.
- (9) As required by the LA, the family must participate in ongoing post purchase counseling and/or attend other courses related to home ownership.
- (10) The family must promptly notify the LA in writing of the birth, adoption or court-awarded custody of a child, or the presence of a live-in-aide.
- (11) The family must allow the LA to inspect the house at reasonable times and after reasonable notice.
- (12) Loss of employment: If a family loses a full-time job, the minimum family share will be set at \$50.00 per month. The family must attend post-purchase counseling, and may be required to join an FSS program, if available. The LA will also perform interim recertifications on a monthly basis in order to confirm the family is seeking full time employment.

24.16 Termination

As per CFR 24 982.638, Section 8 Home Ownership Assistance may be denied or terminated based on CFR24 Sections 982.551, 982,552, and 982.633 and for Mortgage Default. Please see aforementioned documents for complete listing.

1. The family must use the home for their sole residence, have no residents in the home other than reported family members, and must not sublet the whole or any portion of the home.
2. Participants must abide by the HAP contract, the Mortgage Contract, the Statement of Family Obligations.
3. The family must submit any documentation and /or information requested by the PHA in a timely manner. All information must be true and accurate.
4. The family must not default on the mortgage.
5. The family will repay monies owed to the PHA as per a repayment agreement.
6. The family must not commit fraud.
7. The family must not be absent from the unit for more than 30 days. See Section 11.0 of the Administrative plan for more info on absence. Total authorized absence will not exceed 180 days.
8. No family member may be involved in any drug related or other criminal activity.

24.17 Family Self-Sufficiency (FSS) and Home Ownership

A Section 8 head of household that is currently participating in an FSS program may, during the term of its FSS contract, pursue home ownership and utilize his/her voucher assistance for home ownership purposes (in conjunction with this or any other local, state or federal home ownership program). If home ownership occurs, the family may use up to 90% of their escrow account funds toward expenses incurred in the purchase, and may also continue after the purchase, to fulfill the remaining term of its FSS contract and continue to accrue escrow, if applicable.

Under these circumstances, the Individual Training and Services Plan (ITSP) must be amended to include attendance at post-purchase counseling. **See Section 24.09 for topics that may be covered under post-purchase counseling.**

24.18 File Documents for Audit Trail

The following is a list of file documents that should be in each HCV Home Ownership file to maintain a clear audit trail for each Section 8 home owner.

1. Any required authorizations signed by the head of household; include prequalification application, releases of information, signed statement never defaulted on a mortgage under Section 8 Assistance, and any proofs of eligibility (full time employment for a year, minimum required income, disability letter (if disabled))
2. Copy of waivers granted, if applicable (i.e., reasonable accommodation for disabled head of household or family member)
3. Voucher & signed Statement of Family Obligations (signed)(HUD Form 52649)
4. Certificate of Completion of Home Ownership Counseling courses
5. Credit Report(s) or confirmation of Credit Score
6. Worksheet estimating HAP for Home Ownership or notes to file either on separate sheet of paper or on a copy of the 50058 (Note: you may use the short calculation for home ownership function in the Power Builder computer system as a resource)
7. Copy of Mortgage Commitment Letter
8. Copy of executed Contract of Sale (must include Contract Contingency Statement).
9. Signed Statement from seller that he/she is not debarred from participating in any HUD program – if you cannot obtain this, you must have documentation in your client files to explain why you don't have it.
10. Prior to closing: Statement from the landlord confirming that the participant is in good standing, and the apartment being vacated is in good condition (at least as good condition as when it was rented barring normal wear and tear, and that the rent is current).
11. HQS Inspection report & Professional inspection report (include work scope and bids on work for rehab/repair if applicable). Note: if using USDA as the mortgage lender, you may use the independent Professional Inspection to satisfy both USDA and HUD requirements for Professional Inspection.
12. HUD 50058 - Family Report - one before home ownership and one after home ownership occurs

13. Copy of Deed (or Cooperative Shares, if applicable)
14. Mortgage document (as proof of competitive interest rate & terms)
15. Copy of HUD-1 Settlement Statement
16. Proof of family contribution toward 3% down payment (1% when applicable) was from their personal resources (if the mortgage product used required down payment)
17. Copy of the completed after purchase Home Ownership Survey
18. Any and all correspondence (letters, emails, faxes) regarding issues with the closing from start to finish.
19. **Optional:** Photo of Home purchased (digital format preferred) plus (signed) release/permission form to use photo and/or other closing information.

Section 24.18.01 Annual Recertification Documents Required in Home Ownership Files

Proof of:

1. Income and family composition
2. *Home Owners Insurance Policy or declaration page
3. Mortgage is current
4. *Taxes are current (i.e.: school, property, etc.)
5. Utilities are current
6. (If co-op or condo) payment of operating charges, maintenance fees or special assessments are current

NOTE: *If taxes and insurance are escrowed by the lender, the bank's escrow summary report will satisfy these requirements.

24.19 Re-enrollment in the Home Ownership Program

Housing Choice Voucher participants going through the home ownership process have the right at any time during the process to withdraw from the home ownership program without purchasing a home. This decision does not affect the status of the participant's housing choice voucher. If the family has already signed a contract for sale, they may cancel the contract for purchase (subject to the terms of the contract).

Although there is no limit to the number of times a family may attempt to purchase a home, the participant's Housing Counseling/Homebuyer Education Certificate expires after two years. If the family is not under signed contract for sale at the expiration of the certificate, they will be exited from the home ownership program and there will be a two-year waiting period before the family is eligible to re-enroll.

The Home Ownership Coordinator should conduct a follow-up review to determine the reason(s) for the participant's withdrawal from their program and document the reason(s) in the participant's folder. If a family expresses interest in purchasing again during the two-year waiting period, they should be instructed to re-review their housing counseling/homebuyer education resources in order to reevaluate possible issues that may affect their home ownership readiness at the end of the two-year waiting period.

The two-year waiting period may be waived by the local Home Ownership Coordinator under the following circumstances:

- the LA determines that the participant's decision(s) not to purchase at the time was justified, and
- the LA determines that the participant is currently prepared to purchase and that the waiver will benefit the participant in achieving his/her homeownership goals.

However, the returning participant would be required to enroll as a "new" participant, which would include the repetition and successful completion of all homeownership program requirements and the Housing Counseling/Homebuyer Education certification prior to purchase.

Section 25.0 PROJECT-BASED VOUCHER PROGRAM

The Section 8 Project-Based Voucher (PBV) program is a component of the Statewide Section 8 Housing Choice Voucher (HCV) program and provides long-term project-based rental assistance contracts for very low and extremely low income households. The PBV program allows HCR to contract up to 20 percent of its total HCV budget authority for the use of project-based voucher assistance by means of Housing Assistance Payments (HAP) contracts. Unlike the Tenant-Based Voucher (TBV) Program, PBV subsidies are attached to specific units in specific projects for the term of the Housing Assistance Payments (HAP) contract. They can be used for newly constructed properties or rehabilitated units or for units in existing buildings.

This section pertains to LAs with current project-based developments or LAs that have been approved for project-basing of vouchers. All LAs should fully familiarize themselves with Project-Based Voucher Program, Final Rule (24 CFR Part 983) issued October 13, 2005 and the Housing and Economic Recovery Act of 2008 (HERA) as enacted July 30, 2008 and further established June 25, 2014.

25.01 PBV Contract Selection

The primary responsibility for determining PBV contract awards is maintained by HCR's Office of Finance and Development. The decisions are made in the context of a competitive selection process. In order to be considered for a PBV contract, HCR requires interested parties to apply for capital funding pursuant to an annual Unified Funding Application in response to: 1) the publication of a Notice Of Funding Availability/Notice Of Credit Availability (NOFA/NOCA) in the New York State Register, 2) the issuance of a Request for Proposals (RFP) set forth on HCRs' website and, 3) application workshops held in several locations throughout the State. HCR evaluates the Unified Funding applications submitted on a competitive basis as provided in pertinent program statute and regulations, and for consistency with the goals and objectives set forth in the RFP. HCR considers geographic distribution of funding across the State and local needs, partnering with other state agencies and evaluating the involvement and support of Regional Economic Development Councils. Selection is also based on housing needs and the incorporation of community development policies which emphasize the needs of the underserved communities while promoting expanding housing opportunities and the deconcentration of poverty.

Funding applications initially received in response to a previously issued competitive selection RFP may also be considered for project-based voucher awards as long as the proposed project's application was received within three years of the initial PBV proposal date, was selected in accordance with the competitive selection process and did not previously involve consideration to receive PBV assistance.

For questions received regarding the Unified Funding process, please refer any prospective applicants to the following link to review HCR's available resources and application process: <http://www.nyshcr.org/Funding/>.

25.02 Deconcentration of Poverty/Expanding Housing Opportunities Standards

As part of HCR's Unified Funding review process, all applications that include PBVs as a part of their request for funding are reviewed by the Office of Finance and Development for eligibility. The PBV eligibility reviews are conducted in accordance with Section 983.57(b)(1) of PBV regulations and this Administrative Plan to determine the extent to which a project supports the deconcentration of poverty and expanding housing and economic opportunities as part of their proposal.

The PBV eligibility review is conducted using data derived from local and census tract demographics and is performed on all PBV applications with consideration of the following: current poverty levels as well as changes in the level of poverty over the past five years in an application area; the availability of similarly assisted units in the project area, whether they are sufficient to support the current need and if their availability is likely to increase or decline in the future; the availability of professional, social and/or economic advancement opportunities within the census tract; and any additional public/private dollars currently invested (or to be invested) in the area for purposes of achieving the same goals.

HCR will not select a proposal for existing, newly constructed, or rehabilitated PBV housing or enter into an AHAP contract or HAP contract for PBV units unless HCR has determined that PBV assistance is consistent with these goals.

25.03 HAP Term

The term of the PBV HAP contract can be no less than one (1) year and no more than fifteen (15) years. While the term of all PBV HAP contracts will be reviewed on a case-by-case basis within HCR policy and HUD parameters, in most cases the initial term will be fifteen (15) years.

HCR will consider and may agree to enter into an extension of the HAP contract prior to expiration of the initial contract term if it is determined an extension is appropriate to continue providing eligible families needed affordable housing opportunities.

25.04 HAP Contract Amendments (Unit Substitution/Addition)

25.04.01 Unit Substitution

Since PBV assistance is assigned to specific units throughout the duration of a project's HAP contract term, HCR may consider unit substitutions by means of a contract amendment in situations only where a reasonable accommodation is needed. In order to be considered, the substituted unit must be located within the same project, have the same number of bedrooms, be HQS compliant and meet the same PBV requirements as the previously covered contract unit. Should HCR approve the requested substitution, the LA must inspect and pass the proposed unit prior to assistance being transferred.

Exception: Should a unit under contract at a project become vacant *and* the next available applicant on that project's site-specific waiting list is a current occupant in an unassisted unit within the same project, a unit substitution will be considered providing the replacement unit has the same number of bedrooms, is HQS compliant and meets the same PBV requirements as the covered unit.

25.04.02 Unit Addition

A request to amend the HAP contract by adding PBV units may only be considered during the three-year period following the execution date of a project's contract. HCR, at its sole discretion, will consider amending the HAP contract to accommodate additional PBV units under the following general circumstances: a sudden housing shortage caused by a disaster or other loss of housing units, an influx of displaced families, or if an inordinately high percentage of voucher-holders are unable to find housing prior to the expiration of their voucher (taking into consideration all approved extensions).

Although a new PBV request for proposal is not required, any amendment to a HAP contract is subject to all applicable PBV requirements. Units approved to be added to a HAP contract must use the anniversary and expiration date of the existing contract.

25.05 Selection of Families from the Waiting List for Project-Based Units

Local Administrators who have Project-Based Voucher (PBV) developments in their operating areas are required to maintain individual waiting lists for each PBV development. PBV waiting lists will be established by canvassing the LA's current tenant-based waiting list by accepting owner referrals and by conducting community outreach as needed, taking into consideration the type of development (i.e., family, elderly/disabled) and/or bedroom sizes.

Applicants will be permitted to apply for any/all PBV waiting list(s) within the LA's jurisdiction, and can maintain positions on both the tenant-based and PBV waiting lists at the same time. Placement on a PBV waiting list will be based on the date and time the application/referral is received by the LA for each specific waiting list. HCR's automated Section 8 Housing Choice Voucher System (SHCVS) has been modified to allow for the implementation of multiple waiting lists.

As vacancies occur in a project-based development, it is the LA's responsibility to refer families to vacant units from the specific PBV waiting list for that project. **Regulations require all persons selected for PBV assistance must be selected from HCR's site-specific waiting list.** Communication between the LA and project management should be maintained in order to facilitate the rental process.

HCR will open and close the site-based waiting lists pursuant to the procedures outlined in Section 1.0 of this Administrative Plan.

25.05.01 Preferences

Preference in selection and admission policies for HCR's Tenant-Based Voucher (TBV) Program as found in Section 1.0 of the Administrative Plan and at 24 CFR 983.251(d) applies to Project-Based Voucher (PBV) assistance.

Exception: Any current or future PBV contract executed in a Mitchell-Lama (interest reduction program)/236 rental subsidy project must provide any eligible veteran who applies to a project's site-specific waiting list (or their surviving spouse), who served on active duty in time of war, as defined in Section 85 of the Civil Service Law, and resides in New York State, absolute preference and be referred to the next available appropriately sized unit.

25.06 Tenant Screening

As provided for in Section 983.255 of PBV regulations, HCR as PHA is authorized to establish a policy to engage in applicant screening as further defined in Section 1.08 of this Administrative Plan. Applicant screening for purposes of determining suitability for occupancy is the responsibility of the project owner and must be conducted in conjunction with the project's approved affirmative fair housing marketing plan and should not be confused with HCR's responsibility as PHA to determine PBV eligibility.

25.07 HQS/Inspections

HCR will ensure PBV units are in accordance with the Housing Quality Standards (HQS) found at 24 CFR 983.101, 982.401 and this Administrative Plan. Unit inspections will be conducted in accordance with requirements found at 24 CFR 983.103.

25.07.01 New/Turnover, Annual and Special Inspections

- New: All units must fully comply with HQS standards prior to executing a PBV HAP contract.
- Turnover: At turnover, the LA must inspect and pass each vacated unit before providing assistance to a new family.
- Annual Inspections. The LA must inspect, by way of random sample, at least 20% of the contract units in each project on an annual basis to ensure the units are maintained in accordance with HQS regulations. Turnover inspections may not be counted towards meeting the required 20%. If more than 20% of the inspected units fail inspection, the PHA must re-inspect **all** units in the building.
- Special Inspections: The LA will inspect units per request by participant/tenant as needed to ensure contracted units comply with HQS.

LA owned units shall be inspected by an independent third party as approved by HCR. PHA-owned units shall be inspected by an independent third party approved by HUD.

25.08 Over-Housed, Under-Housed and Accessible Units

In accordance with Section 983.259 of PBV regulations, a family in the Project-Based Voucher Program must occupy an appropriately sized unit as defined in Section 10.0 of this Administrative Plan. If a family is occupying a wrong-sized unit the LA must notify the family and project owner within 30 days of its determination the requirement to move and offer of continued assistance under the program.

If one family is occupying a unit with accessibility features they do not require and another family on the wait list is need of a unit with these features, the LA must notify the family currently occupying the unit within 30 days of its determination the requirement to move and offer of continued assistance in a unit not designated as accessible under the program.

Continued assistance is defined as the following, in preferential order:

- 1) PBV assistance in an appropriate-sized and/or non-designated accessible unit under contract within the same project;
- 2) Next available tenant-based voucher assistance.

When the LA offers the family project assistance, the family will be given a reasonable timeframe to move, however, not to exceed 180 days from the date the family is notified. The LA may grant extensions if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a member of the household or as a reasonable accommodation. The extension (and justification) must be documented and placed in the file.

If a tenant-based voucher is issued, the family must follow the same guidance, policies and procedures for reasonable timeframes and extensions as required under tenant-based voucher assistance.

If the family does not accept the offer for continued assistance, does not move out of the PBV unit within a reasonable time as determined by the PHA or both, the PHA must terminate the HAP payments for the wrong-sized unit at the expiration of the voucher issued to the family (if applicable) or reasonable timeframe as determined by the PHA. **If 3 years has transpired since the execution of the PBV HAP contract, the unit must be permanently removed from the contract.**

25.09 Vacancy Payments

As provided for in Section 983.352 of PBV regulations, it is the sole election of the PHA whether or not vacancy payments will be provided. HCR's policy does NOT provide for vacancy payments. This decision applies to all current and future PBV contracts and will be indicated by striking the discretionary vacancy payment language within the HAP Contract.

25.10 25% Project Cap

While there is currently no limitation on the number of PBV units contracted per project, should assistance for the number of units designated as PBV exceed 25% of the total number of units for that property (50% for PBV contracts converted under the Rental Assistance Demonstration (RAD) Program), there must be an established agreement to provide supportive services to those families that exceed the 25% (50% for PBV contracts converted under RAD) threshold cap. (*See 25.11 for PBV's Supportive Service Requirements*)

It is the responsibility of the project sponsor/management to either: (1) directly provide Supportive Services requirements or, (2) contract with an entity acceptable to HCR who will be responsible for ensuring fulfillment of required supportive services.

PBV units will be excepted from the 25% per project cap if they are specifically earmarked for qualified families. Qualified families are elderly or disabled families, or families already receiving supportive services.

If a family residing in a unit excepted because of supportive services fails to comply with any of the supportive service requirements, the family's assistance will be terminated in accordance with HUD requirements and may also be subject to eviction.

25.11 Supportive Service Requirements

In fulfilling the requirement for those units exceeding the 25% threshold cap, the purpose of PBV supportive services is to create an opportunity for families receiving Section 8 rental assistance to improve and develop their ability to increase employment opportunities and enhance the life skills needed to become self-sufficient. This is accomplished by combining Section 8 rental assistance, case management, and the coordination of services to help participating households achieve economic self-sufficiency as well as financial fitness, and maintain a lifestyle independent of public assistance. Supportive services families are offered a variety of ways to learn new skills, enhance existing talents and meet people who share similar goals for themselves and their families.

The project sponsor/management is responsible for providing a Supportive Services Coordinator. The Coordinator may be HCR's Local Administrator or one of the project sponsors choosing providing the entity chosen outlines a plan that fulfills the supportive service obligations as set forth in this Administrative plan. Service provider plans must be submitted to, and approved by, HCR's Office of Finance and Development in conjunction with the project sponsor's Unified Funding application or, if a PBV contract is awarded through a non-competitive process (HUD awarded RAD conversion, etc.), the Local Administrator for review and approval.

The "excepted" families receiving Project-Based Voucher rental assistance must meet with the local Supportive Services Coordinator to review the program participation requirements and the Contract of Participation (COP). Individual Training and Services Plans (ITSPs) are developed to identify and establish participant goals. ITSP contracts must be entered into a minimum of three (3) years and may include participation of any member but must include participation of at least the head of household. Participating families are required to play a part in ongoing case management to assist them in identifying and addressing obstacles, identifying resources, and ultimately achieving their self-identified goals. The ITSP may be amended during the term of the COP.

25.11.01 Requirements

To be eligible for this service exception, a project must provide to the excepted units services in at least one of the categories listed in the ITSP:

- Child care
- Education
- Job training and employment counseling
- Transportation (for job training, skills training, counseling or education only)
- Substance/alcohol abuse treatment or counseling
- Household skill training
- Homeownership counseling

The household is obligated to participate in this service program as a condition of participation in the PBV program. As a requirement for graduation and service exception, each participant must complete a minimum of three (3) goals as highlighted in their ITSP (as chosen from any one or more approved category), and participate for a minimum of three (3) years. Failure by the household to meet its service obligation without good cause will require termination of PBV assistance.

The owner may not require the tenant to pay charges for any supportive services required for compliance with the 25% PBV cap.

25.11.02 Compliance Monitoring

The project management will be responsible for regularly monitoring the supportive services requirements for the excepted units and must submit to the NYS HCR Local

Administrator, at least annually, a report listing the families, the types of services provided and accessed, and the frequency of that access. In addition, periodic progress will be monitored by the project jurisdiction's NYS HCR Local Administrator and by means of Statewide Section 8 Program Representatives during execution of SEMAP audits.

25.12 Determination and Redetermination of Rent

HCR will not approve and the owner may not receive any increase in rent until and unless the owner has complied with all requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

(A) HCR will redetermine the rent to owner:

- (1) Upon the owner's request (only at the annual anniversary of the HAP contract);
- (2) When there is a five percent or greater decrease in the published FMR in accordance with §983.301; or
- (3) Should the current rent to owner, as a result of a drop in the FMR as determined and published annually by HUD, exceed 110% of the fair market rent for each applicable unit bedroom size.

25.12.01 Rent Increase Request Process

The owner must submit a rent increase request in writing, which must be received no less than 60 days prior to the annual anniversary of the HAP contract to be effective at the start of the HAP contract anniversary.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. Any adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

If a rent increase request is received between 14 and 60 days prior to the HAP contract anniversary date, the rent may be approved for the contract anniversary date but will not be implemented until the first day of the month following the 60 day timeframe after receipt of the owner's request. Any request received after this period will not be considered until the following annual anniversary.

The approved rent must be the lesser of:

- (1) 110 percent of the applicable fair market rent for the unit bedroom size;
- (2) The reasonable rent; OR
- (3) The rent requested by the owner.

In addition to the rent limits detailed above, additional restrictions apply as follows:

- 1) Rents for units assisted under the HOME program may not exceed those rents established for the HOME program;
- 2) Rents for units in a HUD Section 236 insured or non-insured project, a HUD Section 221(d)(3) project or a Rural Development Section 515 project may not exceed the Basic Rent as determined in accordance with those federal programs.

Any rent adjustment approved by HCR constitutes an amendment of the rent to owner specified in the HAP contract.

Section 26.0: ENHANCED VOUCHER ASSISTANCE

26.1 Zero Housing Assistance Payments at Initial Conversion

In cases where a family is eligible for Enhanced Voucher Assistance at initial conversion but there is no initial Housing Assistance Payment (HAP), and the family continues to reside in the project/development, the following guidelines must be complied with:

If it is determined that a family is income eligible for an Enhanced Voucher but there is no HAP payment because the family's total tenant payment (TTP) is equal to or greater than the gross rent, the LA **must** inform the family that if there is a decrease in income or an increase in rent **within five (5) years** of the initial eligibility determination, the family may inform the LA of the change. *It is the family's responsibility to notify the LA of the change.*

In addition, the LA must maintain a record of the family's initial income determination.

**Chapter 27.0 SECTION 8 MANAGEMENT ASSESSMENT
PROGRAM (SEMAP)**

HCR will conduct an annual or biennial SEMAP review of each of its local programs. The review will cover the program's fiscal year: *April 1st through March 31st*.

In addition to other documents, records and reports that are required to be maintained for the SEMAP review, each LA **must** maintain the following information for each of the SEMAP indicators identified below:

Indicator #5: HQS Quality Control Inspections

A **Supervisory Inspection Log**, including:

- dates of the first and second inspections;
- names of the first and second inspectors; and
- each tenant's name and address.

Indicator #6: HQS Enforcement

A **Failed Inspection Log**, including:

- each tenant's name and address;
- name of inspector(s);
- date(s) of each failed inspection, and
- date the unit passed inspection (if applicable).

GLOSSARY

I. Acronyms Used in the 4/1/2015 NYS HCR Section 8 Administrative Plan

ACC	Annual Contributions Contract
ADA	American Disabilities Act
AHAP	Agreement to Enter Into a Housing Assistance Payments [Contract] - HUD Form 52521
CFR	Code of Federal Regulations
COP	Contract of Participation
DHS	U.S. Department of Homeland Security
DOB	Date of Birth
DTDB	Debt Termination Data Base
EIV	Enterprise Income Verification System
EOP	End of Participation
ESOP	NYS HCR Enhanced Section 8 Outreach Program
FBI	Federal Bureau of Investigation
FHA	Federal Housing Administration
FEHO	NYS HCR Fair and Equitable Housing Office
FHEO	Fair Housing and Equal Opportunity
FMR	Fair Market Rent
FUP	Family Unification Program
FY	Fiscal Year
HAP	Housing Assistance Payments
HCR	New York State Homes and Community Renewal
HCV	Housing Choice Voucher

HQS	Housing Quality Standards
HTFC	NYS Housing Trust Fund Corporation
HUD	U.S. Department of Housing and Urban Development
ICN	Individual Control Number
ITSP	Individual Training and Service Plan
LA	NYS HCR Local Section 8 Program Administrator
MOU	Memorandum of Understanding
NCIC	FBI National Crime Information Center
NED	Non-Elderly Families with Disabilities
NHTD	Nursing Home Transition and Diversion Housing Subsidy Program
NOCA	Notice of Credit Availability
NOFA	Notice of Funding Availability
NPC	Neighborhood Preservation Company
NW	NeighborWorks America
NYS	New York State
OFD	NYS HCR Office of Finance and Development
OTDA	NYS Office of Temporary and Disability Assistance
PBV	Project-Based Voucher
PHA	Public Housing Agency
PIH	HUD Office of Public and Indian Housing
RAD	Rental Assistance Demonstration Program (HUD)
RESPA	Real Estate Settlement Procedures Act
RFP	Request for Proposal

RPC	Rural Preservation Company
RTA	Request for Tenancy Approval
SAVE	USCIS Systematic Alien Verification for Entitlements
SEMAP	Section 8 Management Assessment Program
SHCVS	NYS HCR Section 8 Housing Choice Voucher System
SSA	U.S. Social Security Administration
SSI	Supplemental Security Income (SSA)
TANF	Temporary Assistance for Needy Families
TTP	Total Tenant Payment
US	United States of America
USCIS	U.S. Citizenship and Immigration Services (DHS)
USDA – RD	U.S. Department of Agriculture – Rural Development
VASH	Veterans Affairs Supportive Housing
VAWA	Violence Against Women Act of 1994
WTW	Welfare to Work

II. DEFINITION OF TERMS USED IN THE 4/1/2015 NYS HCR SECTION 8 ADMINISTRATIVE PLAN:

1937 ACT: *United States Housing Act of 1937*

ADMINISTRATIVE FEE: *Fee paid by HUD to the PHA for administration of the program.*

ADMINISTRATIVE PLAN: *The document that describes PHA policies for administration of the tenant-based programs.*

AMERICANS WITH DISABILITIES ACT: *Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).*

ANNUAL INSPECTION: *See Section 23.01*

ANNUAL RECERTIFICATION: *Annual review of the participant's household income to determine continued eligibility for Section 8 housing choice voucher rental assistance.*

APPLICANT or APPLICANT FAMILY: *A family that has applied for admission to a program but is not yet a participant in the program.*

BRIFING PACKET: *The information packet that families selected to participate in the housing choice voucher program receive during the briefing appointment.*

COMPLAINT INSPECTION: *See Section 23.01*

CONTINUOUSLY ASSISTED: *An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the certificate or voucher program.*

CREDIBLE EVIDENCE: *See Section 9.02.*

CURRENT FEDERAL MINIMUM WAGE: *The federal minimum wage at the time of the inquiry (as indicated by the US Department of Labor).*

DEPENDENT: *A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.*

DIFFERENT GENERATIONS: *Different generations are defined as "family members from different eras (i.e., grandparents/parents; parents/children, etc.)"*

DISABLED FAMILY: *A family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides. (See Section 4.01)*

DISPLACED FAMILY: *See Section 4.01.*

DOMESTIC VIOLENCE: *Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.*

DOMICILE/UNIT: *The legal residence of the household head or spouse as determined in accordance with State and local law.*

DRUG-RELATED CRIMINAL ACTIVITY: *The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.*

ELDERLY FAMILY: *A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.*

EMERGENCY INSPECTION: *See Section 23.01*

EXCEPTION PAYMENT STANDARDS: *A PHA may request HUD approval of payment standard amounts higher or lower than the established 40th or 50th percentile FMR for designated parts of the FMR area (the “exception areas”). The exception payment standard amounts may be for all units in the exception areas, or for all units of a given bedroom size in these areas.*

EXTREMELY LOW-INCOME FAMILY: *A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.*

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

FAIR MARKET RENT: *The rent that would be required to be paid in the particular housing market area in order to obtain privately owned, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. This Fair Market Rent includes utilities (except telephone).*

FAMILY GUEST: *A guest who resides in the unit for less than 30 days in a calendar year (see Section 4.02, page 4-2)*

FAMILY SELF-SUFFICIENCY PROGRAM: *The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services.*

FEDERAL REGISTER: *The official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.*

FISCAL YEAR. *The HCR Section 8 Program fiscal year commences on April 1 and ends on March 31.*

FORM 50058: *The HUD Form 50058 is used by PHAs to collect information on families who participate in Public Housing or Section 8 rental subsidy programs and is used to determine the participant family's continued eligibility for assistance.*

HEAD OF HOUSEHOLD: *The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.*

HEARING OFFICER: *The hearing officer in the LA program is either of the following: a staff person who is at the Casework Supervisor level or above; the Program Director or Executive Director (if not the same person who made the initial decision to deny assistance); or an individual from outside the LA. (See Section 13.05).*

HOUSEHOLD: *All the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.*

HUD-APPROVED HOUSING COUNSELING AGENCY: *A public or private nonprofit agency that has met the qualifying criteria for administering the HUD Housing Counseling Program.*

INFORMAL HEARING: *The LA will give a participant family an opportunity for an informal hearing to consider whether the following LA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and LA policies. (See Section 14.02).*

INFORMAL MEETING: *If the LA denies a preference to an applicant, the applicant will be notified in writing of the specific reason for the denial and will be offered the opportunity for an informal meeting (not an informal review) with LA staff to discuss the reasons for the denial (see Section 13.01).*

INFORMAL REVIEW: *The LA will give an applicant an opportunity for an informal review of the LA's decision denying assistance to the applicant. Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract.*

INITIAL INSPECTION: *See Section 23.01*

INITIAL PHA: *The term refers to both a PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and a PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.*

INTERIM RECERTIFICATION: *Interim review of the participant's household income (based on extenuating circumstances) to determine continued eligibility for Section 8 housing choice voucher rental assistance.*

JURISDICTION: *The area in which the PHA has authority under State and local law to administer the program.*

LANDLORD: *See OWNER.*

LA NETWORK: *The HCR local programs that to assume day-to-day responsibility for administration of the HCV Program in its designated local area of operation. The divisions of responsibilities are detailed in a contract between HCR and each of its LAs.*

LEGAL DOMICILE: *See Section 1.17*

LIVE-IN AIDE: *A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who is determined to be essential to the care and wellbeing of the person(s); is not obligated for the support of the person(s); and would not be living in the unit except to provide the necessary supportive services.*

MOBILITY COUNSELING: *A counseling program to help housing choice voucher recipients to find housing outside of minority and/or poverty concentrated areas.*

NON-RESIDENT: *Refers to an applicant who does not reside in the jurisdiction in which he/she is applying for housing choice voucher rental assistance.*

OVER-HOUSED: *Applicable to families residing in units where the actual number of bedrooms exceeds the family unit size for which the family qualifies under the public housing agency (PHA) subsidy standards.*

OWNER: *Any private person or entity, including a cooperative, an agency of the federal government, or a public housing agency, having the legal right to lease or sublease dwelling units.*

PARTICIPANT WITH OR WITHOUT CHILDREN: *See Section 4.01.*

PAYMENT STANDARDS: *The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).*

PORTABILITY: *Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.*

PRE-MERGER CERTIFICATE OR VOUCHER PROGRAMS: *The Section 8 programs that were administered prior to enactment of the Quality Housing and Work Responsibility Act of 1998 (QHWRA).*

PREMISES: *The unit subsidized or, in the case of a multiple dwelling, any area within the property that the housing unit is in.*

PREPONDERANCE OF EVIDENCE: *See Sections 1.09 and 9.02*

PROGRAM REPRESENTATIVE: *The HCR Statewide Section 8 Voucher Program designated liaison to the LA program.*

PUBLIC HOUSING AGENCY: *Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.*

REASONABLE ACCOMMODATION: *A change in rules, policies, practices, or services so that a person with a disability will have an equal opportunity to use and enjoy a dwelling unit or common space.*

REASONABLE RENT: *The PHA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the PHA must consider the location, quality, size, unit type, and age of the contract unit; and any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.*

RECEIVING PHA. *A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.*

RENT TO OWNER: *The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.*

ROOMMATE: *An individual, with or without dependent children, who is not a family member and is approved by the Local Administrator and by the landlord, provided that the voucher holder or the voucher holder's spouse occupies the unit as his/her primary residence (see Section 4.02)*

SECTION 8 HOMEOWNERSHIP PROGRAM. *Allows low-income families who qualify for Section 8 rental assistance to use their certificates or vouchers to pay for homeownership costs under a mortgage.*

SINGLE PERSON: *See Section 4.01*

SPECIAL INSPECTION: *See Section 23.01*

STATEWIDE SECTION 8 NOTICES: *Policy and/or informational guidance notices issued by the NYS HCR Statewide Section 8 Voucher Program to the LA network.*

STATEWIDE SECTION 8 VOUCHER PROGRAM OFFICE: *The HCR Offices in Albany, New York; New York City, NY; and Syracuse New York where the day-to-day operations of the HCR Statewide Voucher Program are administered.*

SUBSIDY STANDARDS: *Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.*

SUPERVISORY INSPECTION: *See Section 23.01.*

SUSPENSION/TOLLING: *Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval of the tenancy, until the time when the PHA approves or denies the request.*

TOTAL TENANT PAYMENT: *The total tenant payment (TTP) represents the minimum amount a family must contribute toward rent and utilities regardless of the unit selected.*

UNDER-HOUSED: *Applicable to families residing in units where the actual number of bedrooms is fewer than the family unit size for which the family qualifies under the public housing agency (PHA) subsidy standards.*

UTILITY ALLOWANCE: *The utility allowance for a family shall be the lower of:*

- (1) The utility allowance amount for the family unit size; or*
- (2) The utility allowance amount for the unit size of the unit rented by the family.*

If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant 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 the monthly cost 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 healthful living environment.

VIOLENT CRIMINAL ACTIVITY: *Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.*

VOUCHER: *The voucher document is administered locally by a public housing agency (PHA) that receives federal funds from the U.S. Department of Housing and Urban Development (HUD) to administer the voucher program. A family that is issued a housing voucher (HUD Form 52646) is responsible for finding a suitable housing unit of the family's choice where the owner agrees to rent under the program. This unit may include the family's present residence. Rental units must meet minimum standards of health and safety, as defined by HUD and determined by the PHA.*

VOUCHER HOLDER: *The person or family to whom the voucher has been issued.*

WAITING LIST: *The LA program's list of eligible applicants awaiting availability of section 8 rental assistance.*

WEEKEND INSPECTIONS: *Unit/HQS inspections that have been scheduled between the LA program and tenant/participant that occur on a Saturday or Sunday in order to accommodate the participant's or landlord's' schedule or that are determined necessary by the LA program to observe conditions for quality control purposes.*