

**New Jersey Department of Community Affairs
Division of Housing and Community Resources**

**Proposed Changes to the Housing Choice Voucher Program
Administrative Plan for State Fiscal Year 2012 (July 1, 2011 to June 30, 2012)**

Chapter 1 Administrative Authority

Two new items will be added to the list of defined words and terms beginning on page 1-2: “Agreement to enter into HAP contract” and “Co-head.”

An “Agreement to enter into HAP contract” (Agreement) is a written contract between the program and the property owner in the form prescribed by the U.S. Department of Housing and Urban Development. The Agreement defines the requirements for the development of housing to be assisted under the Project-Based Voucher Program.

“Co-head” means an individual in the household who is equally responsible for the lease with the head of household.

In addition, the definition of the term “Head of household” will be revised to read as follows: The adult member of the family who is the head of household for purposes of determining income eligibility and rent (see 24 CFR §5.504, Definitions). The definition of this term no longer directs the reader to the *Family Report* (form HUD-50058) for the definition of this term.

Chapter 4 Processing Applications and Determining Eligibility

A footnote will be added to page 4-2 to make the distinction between the screening of applicants to the Housing Choice Voucher Program and applicants that are referred to the program by the Department of Veterans Affairs for participation in the Veterans Affairs Supportive Housing (VASH) Program. The program is only able to screen for and deny admission to the VASH Program to a household member that is subject to a lifetime registration requirement under a state sex offender registration program.

Chapter 7 Briefing Households

The program has discretion to establish guidelines to determine the appropriate number of bedrooms and amount of subsidy for households of different sizes and compositions. These guidelines are referred to as subsidy standards. The subsidy standards “must provide for the smallest number of bedrooms needed to house a family without overcrowding.” In determining the appropriate number of bedrooms for a particular household, the program may grant an exception to our established subsidy standards if it is determined that “the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances.”

The program will add a footnote to the section on “Exceptions to the Subsidy Standards” on page 7-6 directing the reader to the definition of “Person with disabilities” on page 1-9.

Another change to this chapter is in response to a U.S. Department of Housing and Urban Development notice (Notice 2011-3) concerning family moves with continued assistance. New text will be added to page 7-13 to state that any families who are denied a request to move to a higher cost unit within the State of New Jersey or out-of-state under the portability option because of a lack of program funding will receive written notice of the decision and will be considered for such a move if funding is available within six months of the program’s initial decision to deny the families’ request.

Chapter 9 Approving Leases and Executing Contracts

Additional items will be added to the *Request for HUD Approval of Exception Payment Standard Amount* (Exhibit 9-4) to comply with the requirements of a U.S. Department of Housing and Urban Development notice (Notice 2010-11, Requests for Exception Payment Standards for Persons with Disabilities as a Reasonable Accommodation). The new items will include the number of household members, the household’s monthly adjusted income, and identify the household as either an applicant or a participant.

Chapter 14 Reinspecting Units Under Contract

A new form letter will be added to this chapter. The purpose of the “Inspection Final Warning Letter” (Exhibit 14-8) is to inform a property owner who has not responded to the program’s initial notice that violations of the federal housing quality standards exist at the assisted unit and that the deadline to complete the required repairs is imminent. A copy of the inspection report is attached to the letter and copies of both are also mailed to the tenant.

Chapter 16 Informal Review Procedures for Applicants and Informal Hearing Procedures for Participants

Whenever the program takes action to terminate an assisted household because of the actions or inaction of the household, the household may request an informal hearing to challenge the program’s decision. The program intends to revise its discretionary policies to state that a request for an informal hearing must be from the head of household or co-head. If the program receives a request from any other member of the assisted household, it will be denied.

Chapter 18 Homeownership Option

A housing unit must be a one-unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium to be eligible for homeownership assistance (see Eligible Units on page 18-1). The program intends to add text to the section on Eligible Units which states

that any housing unit located in a Coastal Barrier Resource System (CBRS) is ineligible for homeownership assistance. The CBRS maps are available at:

http://www.fws.gov/habitatconservation/coastal_barrier.html

The program will add a new section to page 18-9 concerning the following environmental requirements:

1. Buyers of units located in a flood zone must purchase and maintain flood insurance; and
2. Buyers of units located in an airport runway zone or clear zone must sign a statement acknowledging that they know the implications of residing in such a location and that they are aware that the property may at a later date be acquired by the airport operator.

Chapter 19 Project-Based Voucher Program

The program will add a new chapter to the Administrative Plan to address the administration of project-based vouchers. The program has discretion whether to operate a Project-Based Voucher Program. The federal regulations (see 24 CFR, Part 983) permit the program to provide project-based assistance for up to twenty percent of the budget authority allocated to the program by the U.S. Department of Housing and Urban Development.

The program has not designated any of our baseline allocation of vouchers for project-based voucher assistance. Our agency did, however, receive 1,373 units from the New Jersey Housing and Mortgage Finance Agency on September 1, 2008 by means of a Novation Agreement with the HMFA and the U.S. Department of Housing and Urban Development. The subject units are located at 41 developments located throughout the State of New Jersey.

What follows are the proposed guidelines for the administration of project-based vouchers:

PROJECT-BASED VOUCHER PROGRAM

In accordance with 24 CFR §983.6, *Maximum amount of PBV assistance*, the New Jersey Department of Community Affairs (the program) has discretion whether to operate a Project-Based Voucher (PBV) Program. The program may provide project-based assistance for up to 20 percent of the amount of budget authority allocated to the program by the U.S. Department of Housing and Urban Development (HUD) in the program's Housing Choice Voucher Program.

Owner Proposal Selection Procedures

Before selecting a PBV proposal, the program must determine that the proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing, complies with the cap on the number of PBV units per building, and meets the program's site selection standards.

The program will select PBV proposals that are received in response to the publication of a Request for Proposal. The program may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites. The program will provide broad public notice of the opportunity to offer PBV proposals for consideration by the program. The public notice will be published in a local newspaper of general circulation and will also be posted on the program's Web site (www.nj.gov/dca/divisions/dhcr) to provide broad public notice. The public notice for PBV proposals will specify the submission deadline. Detailed application and selection information will be provided at the request of interested parties, and will be included on our Web site. The program will provide prompt written notice to the party that submitted a selected proposal and will also give prompt public notice of all selected proposals.

Eligible Housing Types

The program may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an *Agreement to Enter into a Housing Assistance Payments Contract* (the Agreement).

Prohibition of Assistance for Ineligible Units

The program may not attach or pay PBV assistance for units in the following types of housing:

1. Shared housing;
2. Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institution;
3. Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care. The program may, however, attach PBV assistance for a dwelling unit in an assisted living facility that provides home health care services such as nursing and therapy for residents of the housing;
4. Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;
5. Manufactured homes;
6. Cooperative housing; and
7. Transitional Housing.

In addition, the program may not attach or pay PBV assistance to a high-rise elevator project that may be occupied by families with children unless the program determines there is no practical alternative, and HUD approves the decision.

Prohibition of Excess Public Assistance

The program may provide PBV assistance only in accordance with HUD subsidy layering regulations (see 24 CFR §4.13) and other requirements. The subsidy layering review is intended to

prevent excessive public assistance for the housing by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The program may not enter an Agreement or HAP contract until HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

Cap on Number of PBV Units in Each Building

Except as provided below, the program may not select a proposal to provide PBV assistance for units in a building or enter into an Agreement or HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the Housing Assistance Payments Contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the building.

In the following cases, PBV units are not counted against the 25 percent building cap:

1. Units in a single-family building; and
2. Excepted units in a multifamily building.

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

“Qualifying families” means elderly or disabled families, or families receiving supportive services.

“Supportive services” means case management appropriate to the household’s plan to achieve residential stability. Case management may include assistance with daily living skills, budgeting and financial literacy, employment training, and assistance with job placement.

The program may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. The program will monitor the excepted family’s continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The program will monitor all excepted families’ participation in their supportive services as part of the family’s annual reexamination.

Site Selection Standards

In determining whether a proposed PBV development will be selected, the program will consider the following factors:

- Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

- Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;
- Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;
- Whether state, local, or federal dollars invested in the area have contributed to the goal of deconcentrating poverty and expanding housing and economic opportunities;
- Whether new market rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;
- If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, the program will consider whether in the past five years there has been an overall decline in the poverty rate;
- Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located; and
- The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964.

Existing and Rehabilitated Housing Site and Neighborhood Standards

A site for existing or rehabilitated housing must meet the following site and neighborhood standards. The site must:

- Be adequate in size, location, and contour to accommodate the number and type of units proposed, and adequate utilities and streets must be available to service the site.
- Avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- Be accessible to social, recreational, educational, commercial, and health facilities and services.
- Be so located that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. While it is important that housing for the elderly not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.

New Construction Site and Neighborhood Standards

A site for newly constructed housing must meet the following site and neighborhood standards:

- The site must be adequate in size, location, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.
- The site must not be located in an area of minority concentration, except as permitted under 24 CFR §983.57(e)(3). A project may be located in an area of minority concentration only if:
(a) Sufficient, comparable opportunities exist for housing for minority families in the income

range to be served by the proposed project outside areas of minority concentration, or (b) The project is necessary to meet overriding housing needs that cannot be met in that housing market area.

- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services.

Environmental Review

In accordance with the federal regulations (24 CFR Part 58), a unit of general local government, a county or a state (the “responsible entity”) is responsible for the federal environmental review. In the case of existing housing, the responsible entity that is responsible for the environmental review must determine whether or not PBV assistance is categorically excluded from review.

Limitation on Actions before Completion of the Environmental Review

The program may not enter into an Agreement with an owner until one of the following occurs:

1. The responsible entity has completed the environmental review procedures required by the federal regulations, and HUD has approved the environmental certification;
2. The responsible entity has determined that the project to be assisted is exempt from an environmental review; or
3. HUD has performed an environmental review and has notified the program in writing of environmental approval of the site.

Housing Accessibility for Persons with Disabilities

The program shall ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973.

Annual Inspections

At least annually during the term of the HAP contract, the program must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with the federal housing quality standards.

Labor Standards

In the case of an Agreement for development of nine or more contract units (whether or not completed in stages), the owner and the owner’s contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in development of the housing.

In addition, all owners must comply with federal equal employment opportunity requirements.

Completion of Housing

The owner must develop and complete the housing units in accordance with the Agreement. When the units have been completed, the owner must submit the following evidence of completion to the program:

1. A certification that the work has been completed in accordance with the housing quality standards and all requirements of the Agreement; and
2. A certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing. To verify compliance with the Davis-Bacon labor standards, the owner must provide the program with a copy of the payroll records for all workers who were employed at the job site.

Housing Assistance Payments (HAP) Contract

The program will enter into a HAP contract with an owner for an initial term of ten years for each contract unit. Within one year before expiration, the program may agree to extend the term of the HAP contract for an additional term of up to five years.

The HAP Contract must specify the number of units in any building that will exceed the 25 percent per building cap (see 24 CFR §983.56, *Cap on number of PBV units in each building*) which will be set-aside for occupancy by qualifying families (elderly or disabled families and families receiving supportive services).

HAP Contract Amendments

The HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit.

The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP contract.

Protection of In-place Families

The term “in-place family” means an eligible individual or family residing in a proposed contract unit on the proposal selection date. In order to minimize displacement of in-place families, if a unit to be placed under contract that is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family will be placed on the program’s waiting list (if the family is not already on the list) and, once its continued eligibility is

determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project.

Selection from the PHA Waiting List

The program may use a separate waiting list for admission to PBV units or may use the same waiting list for both tenant-based assistance and PBV assistance.

The program may place families referred by the PBV owner on its PBV waiting list.

The prohibition on granting preferences to persons with a specific disability (see 24 CFR §982.207(b)(3)) also applies to the PBV Program.

If a PBV owner rejects a family for admission to the owner's PBV units, such rejection by the owner does not affect the family's position on the program's waiting list for tenant-based assistance.

Leasing of Contract Units

The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations. The owner's selection procedures must be approved by the program.

An owner must promptly notify in writing any rejected applicant of the grounds for any rejection. A copy of the notice must also be sent to the program.

Required Lease Provisions

The owner's lease must specify any amount to be charged for food, furniture, or supportive services.

Overcrowded, Under-occupied, and Accessible Units

If the program determines that a family is occupying a wrong-size unit, or a unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the program must promptly notify the family and the owner of this determination, and of the program's offer of continued assistance in another unit.

The program's offer may be in the form of:

- Project-based voucher assistance in an appropriate-size unit (in the same building or in another building);
- Tenant-based rental assistance under the Housing Choice Voucher Program; or

- Other comparable tenant-based assistance under the HOME program or the State Rental Assistance Program.

If the program offers the family the opportunity to receive tenant-based rental assistance under the Housing Choice Voucher Program, the program must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the program).

If the program offers the family the opportunity for another form of continued housing assistance (not in the tenant-based Housing Choice Voucher Program) and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the program, or both, the program must terminate the housing assistance payments for the wrong-sized or accessible unit, at the expiration of a reasonable period as determined by the program. In these circumstances, the program will afford the family 120 days to relocate to another housing unit.

Family Right to Move

The family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to the program) in accordance with the lease. If the family has elected to terminate the lease in this manner, the program must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the Housing Choice Voucher Program or other comparable tenant-based rental assistance.

If a Housing Choice Voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family's lease of a PBV unit, the program will give the family priority to receive the next available opportunity for continued tenant-based rental assistance.

Family That No Longer Is a Qualifying Family

A family (or the remaining members of the family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception must vacate the unit within a reasonable period of time established by the program, and the program shall cease paying housing assistance payments on behalf of the non-qualifying family. If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with the federal regulations (24 CFR §983.206(a), *Amendment to substitute contract units*) or the owner terminates the lease and evicts the family. The program will provide a non-qualifying family with 120 days notice of the requirement to relocate from an excepted unit to other housing.

Determining the Rent to Owner

The rent to owner (except for certain tax credit units) must not exceed the lowest of:

1. An amount determined by the program not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by HUD) for the unit bedroom size minus any utility allowance;
2. The reasonable rent; or
3. The rent requested by the owner.

In the case of a tax credit unit described in 24 CFR §983.301(c)(1), the rent to owner must not exceed the lowest of:

1. The tax credit rent minus any utility allowance;
2. The reasonable rent; or
3. The rent requested by the owner.

Redetermination of Rent to Owner

The owner must request an increase in the rent to owner at the annual anniversary of the HAP contract by written notice to the program. The owner's request must be received a minimum of 60 days in advance of the annual anniversary of the HAP Contract.

Reasonable Rent

The program must redetermine the reasonable rent:

1. Whenever there is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR in effect one year before the contract anniversary;
2. Whenever the program approves a change in the allocation of responsibility for utilities between the owner and the tenant;
3. Whenever the HAP contract is amended to substitute a different contract unit in the same building; and
4. Whenever there is any other change that may substantially affect the reasonable rent.

Payment to Owner

Except for discretionary vacancy payments in accordance with 24 CFR §983.352, *Vacancy payment*, the program may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

Vacancy Payments

The program will make vacancy payments to an owner for a period of vacancy not to exceed one additional month following the move-out month. The amount of the payment is limited to 80 percent of the rent to owner.

The program may make vacancy payments to the owner only if:

1. The owner gives the program prompt, written notice certifying that the family has vacated the unit and containing the date when the family moved out (to the best of the owner's knowledge and belief);
2. The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
3. The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
4. The owner provides any additional information required and requested by the program.

The program may not make any payment to the owner for any damage to the unit, or for any other amount owed by a family under the family's lease.

Other Fees and Charges

In assisted living developments receiving project-based assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

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