

# HOUSING CHOICE VOUCHER PROGRAM

## Administrative Plan



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

State Fiscal Year 2018  
(July 1, 2017 – June 30, 2018)



<http://www.nj.gov/dca/divisions/dhcr/>

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## ADMINISTRATIVE AUTHORITY

This document serves as the New Jersey Department of Community Affairs (DCA), Division of Housing and Community Resources, Housing Assistance Element's operational handbook for the implementation of the U.S. Department of Housing and Urban Development's (HUD) Housing Choice Voucher Program (Program). It also functions as the DCA's Administrative Plan and complies with all of the requirements of 24 C.F.R. §982.54, Administrative plan. Its purpose is to provide the program staff with the necessary guidance to consistently apply the discretionary policies and procedures adopted by the DCA in its administration of the Housing Choice Voucher Program. In accordance with 24 C.F.R. §982.51 (PHA authority to administer program), evidence of the DCA's authority to administer the program is presented in (Appendix A: EXHIBIT 1-1). The DCA is committed to administering the Housing Choice Voucher Program to ensure that individuals and households are not denied housing opportunities because of their race, ethnic origin, religion, disability, familial status, or any other protected class. A statement of the DCA's commitment to affirmatively further fair housing opportunities throughout the state of New Jersey is included as (Appendix A: EXHIBIT 1-2), The Plan is designed to be instructive, but is not exhaustive, and may not include all policies or rules nor any required changes that may occur during the fiscal year that the Plan covers.

As part of a department of state government, the program acts without a Board of Commissioners. The Commissioner of the DCA is the equivalent supervisory entity and, on the advice of the fiscal officer of the Division of Housing and Community Resources, is responsible for the review and approval of all proposed expenditures which may be made from the operating reserve for "other housing purposes."

## **State of Emergency**

In the event of a declaration of a state of emergency in all or part of New Jersey by either the President or the governor, the DCA has the authority to suspend all or part of the policies contained in this *Administrative Plan* in order to assist those affected by the situation. Where appropriate, the DCA will work in conjunction with HUD to provide assistance to as many citizens as possible under the circumstances.

The information in this document is organized in a chronological sequence that traces the standard progression of a household from a program applicant to a program participant. Each chapter examines a major component of this process and describes the specific functions that are performed by the program to assist those with the greatest housing need while meeting the Public Housing Authority (PHA) responsibilities stipulated at 24 C.F.R. §982.153.



## **Definitions**

The following words and terms are regularly used by the DCA in the administration of the program. Lists contained throughout this *Administrative Plan* are intended to be instructive, not exhaustive. In accordance with the regulatory requirements to do so, some of these definitions were created or modified to reflect the discretionary policies of the DCA. Unless the context clearly indicates otherwise, their meaning is as follows:

*Absence from unit.* As defined in 24 C.F.R. §982.312 and to include the DCA's policy that identifies hospitalization as the only situation when an extended absence would be permitted. If a participant is away from an assisted unit for more than 30 consecutive days, he or she must notify the program in writing. A household may be away from an assisted unit for 120 consecutive days provided that proper written notice was given to the program. An extension of up to 60 additional days may be granted by the supervising authority on a case-by-case basis for such reasons as an extended illness or rehabilitation.

*Agreement to enter into Housing Assistance Payments Contract (Agreement).* The Agreement is a written contract between the DCA and the owner in the form prescribed by the U.S. Department of Housing and Urban Development. The Agreement defines requirements for development of housing to be assisted under the Project-Based Voucher Program. When development is completed by the owner in accordance with the Agreement, the DCA enters into a Housing Assistance Payments (HAP) contract with the owner.

*Annual income.* As defined in 24 C.F.R. §5.609 and Appendix D of this *Administrative Plan*.

*Applicant (applicant family).* A family that has applied for admission to the program but is not yet a participant in the program.

*Applicant break-up.* In accordance with 24 C.F.R. §982.206(c), it is the policy of the DCA that an otherwise closed waiting list may remain open to former members of an applicant family that breaks up. On a case-by-case basis, a Regional Supervisor will give consideration to the former members of an applicant family who retain custody of the children, the interests of elderly or disabled household members, and to actual or threatened physical violence against the former members by a spouse or other member of the applicant household.

*Change in Income.* A change in income from wages occurs at the time a household member begins new employment (i.e. on the first day of training/work), not on the date the first paycheck is received. All changes in income, whether related to wages or other source, must be reported to the field office, in writing, within ten (10) days of the date the participant knows there will be a change in income for any reason.

*Co-head of household.* An individual in the household who is equally responsible for the lease with the head of household. This individual is not listed on the Voucher.

*Contested case.* As defined in N.J.A.C. §1:1-2.1, a proceeding in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations, or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing.

*Continuously assisted.* As defined in 24 C.F.R. §982.4 and §982.201(d) and to include the DCA's policy limiting the extent of the brief interruption of an applicant's prior participation to 120 days. The DCA will consider a low-income household for admission to the Housing Choice Voucher Program as continuously assisted if the household was a former participant of one of the DCA's Section 8 unit-based programs and extenuating circumstances exist.

*Contract unit.* Defined in the Housing Assistance Payments Contract as the housing unit rented by the tenant.

*Credible evidence.* Evidence presented by one side that more likely than not proves their position. Evidence that is worthy of belief, or is trustworthy.

*Day.* A day is defined to mean any day of the year, including Saturdays, Sundays and legal holidays. It is the policy of the DCA to calculate time deadlines in consecutive days unless specified otherwise.

*Eligibility.* As defined in 24 C.F.R. §982.201 and to include all the related definitions of HUD and the discretionary policies of the DCA.

*Exception rent.* In accordance with 24 C.F.R. §982.503(c)(2), the HUD Field Office may approve the DCA's establishment of a payment standard in the "upper range" (110% to 120%) of the fair market rent if required as a reasonable accommodation for a family that includes a person with disabilities or for an exception area to address the higher cost of housing in the area. The DCA will apply to HUD for approval of exception rents on a case-by-case basis.

*Extenuating circumstances.* The following conditions are recognized by the DCA as extenuating circumstances that may affect the DCA's administration of the program:

- Domestic violence;
- A serious housing quality standards violation;
- A serious health and safety violation;
- A catastrophe such as a fire, flood or other act of nature; or
- A risk of violence against a household member as a reprisal for providing information to a law enforcement agency, or because of his or her race, color, religion, sex, national origin, handicap, or familial status.

On a case-by-case basis, the DCA may consider an exception to one of its standard policies if there is evidence that one of these conditions is present. In addition, the DCA may request a waiver from HUD, on a case-by-case basis, to one of the Housing Choice Voucher Program regulations if there is evidence that one of these conditions is present.

*Family.* As defined in 24 C.F.R. §5.403 and to include the term "household" as defined by the DCA.

*Family break-up.* As defined in 24 C.F.R. §982.315 and to include the DCA's policy to determine which members of an assisted family continue to receive assistance if the family breaks up. Generally, the assistance will remain with the household members who remain in the contract unit. On a case-by-case basis the Regional Supervisor will give consideration to the household members who retain custody of the children, the interests of elderly or disabled household members, and to actual or threatened physical violence against the household members by a spouse or other member of the household. Members of the household who are not part of the *assisted* household (not listed on the current *Family Report* and owner's lease) at family break-up are not entitled to be considered to succeed as the Voucher holder. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the DCA will take the following actions: (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made. (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. Requests for an extension must be submitted in writing along with the supporting documentation. In such cases, the DCA may extend the caretaker's status as an eligible visitor for a period not to exceed an additional 90 days. After this period, the caretaker will be considered a family member and his/her income will be included. (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker. (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

*Family composition.* As defined in 24 C.F.R. §982.201 and to include the DCA's policy regarding the denial or the removal of an individual as a household member. The owner will determine who can live in the contract unit based on the owner's selection policies and in accordance with local and state law. The DCA, however, may prohibit any person who owes the program money or has committed fraud or abuse in any component of the Section 8 program, or who has a disqualifying criminal history from being a member living in a contract unit or being a member of an applicant household.

*Family unit size.* As defined in 24 C.F.R. §982.4 and to include the DCA's "subsidy standards" to determine the appropriate number of bedrooms for a household (see Chapter 7).

*Guest policy.* As defined in the lease agreement and to include the DCA's policy limiting the visitation of any person to a maximum of thirty (30) days, cumulative, during the twelve (12) months comprising the household's annual certification period.

*Habitable room.* As defined in the New Jersey State Housing Code (N.J.A.C. §5:28-1.2), habitable room means "a room or enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets, and storage spaces" (see Chapter 8, item (b), Space and security).

*Hazard.* As defined in New Jersey Administrative Code (N.J.A.C. §5:10-2.2), hazard means "a condition which because of faulty construction or maintenance of the premises creates significant and recognizable danger or risk to the health and safety of persons on or near the premises."

*Head of household.* The one adult member of the family who is the head of the household for purposes of determining income eligibility and rent (24 C.F.R. §5.504, Definitions).

*Household.* Two or more persons sharing a “domicile” (as defined in 24 C.F.R. §982.4 as the legal residence of the household head or spouse to be determined in accordance with state and local law) whose income and resources are available to meet the household’s needs and who are related by blood, marriage, operation of law, or who give evidence of a stable relationship that has existed over a period of time.

*Housing Assistance Payment.* As defined in 24 C.F.R. §982.4 as the monthly assistance payment made by a PHA and to include the DCA's policy that the effective date of the initial payment will be for the first of the month. An exception to this policy may be considered if extenuating circumstances exist.

*In good standing.* Indicates that a participant is in full compliance with all program regulations and policies as determined by the DCA staff.

*Information about tenant.* As defined in 24 C.F.R. §982.307(b) and to include the DCA's policy to inform a prospective owner or a household's current owner if a household owes rent or other amounts to the program, or to another PHA. The DCA complies with the regulatory requirement to provide notice "to all families and to all owners" by inclusion of this policy in the **Guide to the Housing Choice Voucher Program** (Appendix D).

*Information packet.* As defined in 24 C.F.R. §982.301(b). The DCA complies with the requirement of this section by providing every participant with a copy of the **Guide to the Housing Choice Voucher Program**, Appendix D of this *Administrative Plan*.

*Jurisdiction.* As defined in 24 C.F.R. §982.4(b), the jurisdiction of the DCA is the state of New Jersey.

*Life-threatening.* "Failing conditions presenting an immediate danger to health and safety" (see page 30 of *Housing Inspection Manual: Section 8 Existing Housing Program* (HUD-605-(H)2, March, 1989)).



*Live-in aide.* As defined in 24 C.F.R. §5.403, §982.316, and Chapter 7 of this *Administrative Plan*. For the DCA to approve a live-in aide for a participant, a physician must submit a signed Certification of Need for Live-in Aide form (Appendix A: EXHIBIT A-11). The physician's Certification of Need for Live-in Aide form must be submitted during each annual recertification for as long as a live-in aide is needed by the household member(s).

*Maximum family share at initial occupancy.* At the time the program approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance, and where the gross rent of the unit exceeds the applicable payment standard amount for the family, the family share must not exceed 40 percent of the family's adjusted monthly income. (24 C.F.R. §982.508)

*Minimum rent.* As required by 24 C.F.R. §5.630 and to include the DCA's policy establishing \$0.00 as a participant's minimum rent.

*Mixed household.* A household whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status (see non-contending household member).

*Non-contending household member.* An individual who does not contend to have eligible immigration status. Individuals who do not contend legal immigration status may reside in an assisted housing unit only as long as there are members of the household who contend and are confirmed to be U.S. citizens or have legal immigration status as defined by the Housing and Community Development

Act of 1980. Such a household is classified as a *mixed household* and is eligible for prorated housing assistance.

*Nonresident applicant.* In accordance with 24 C.F.R. §982.353(c), an applicant household that did not reside in the state of New Jersey when it applied to the program does not have any right to portability when it is initially selected for participation. The program must assist a nonresident applicant household for twelve (12) months in the state of New Jersey before the household has the right to receive housing assistance in another state. (For further information on the topic of portability, see Chapter 12)

*Ordinary wear and tear.* Means “damage that takes place from normal, careful use of the property” (see page 9 of *Tenant’s Rights in New Jersey*, published by the Legal Services of New Jersey in 2000).

*Pattern.* A mode of behavior or series of acts that are recognizably consistent. In determining whether a pattern is established, the DCA will consider all drug related (and alcohol related, as applicable) offenses, even if they are outside the three (3) year time period established as reasonable.

*Person with disabilities.* As defined in 24 C.F.R. §5.403 and on page i of the Family Report Form HUD-50058 (6/2004), a person with disabilities has one or more of the following:

- A disability as defined in Section 223 of the Social Security Act;
- A physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions; or

- A developmental disability as defined in Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

*Preponderance of the evidence.* The greater weight of the evidence; superior evidentiary weight, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other. Establishing that it is more likely than not that a fact is true.

*Receipt of the housing assistance payment by the owner.* The housing assistance payment is deemed received by the owner on the date the program mailed the check to the owner.

*Remaining Member of an Assisted Household.* A member of an assisted household who remains in the unit after the other members of the household have left the unit. This term does not include an individual who is an unrelated member of the household who was necessary to care for the well-being of an elderly or disabled head of household or spouse and whose income was not counted for eligibility purposes or to determine total tenant payment.

*Residency preference.* As defined in 24 C.F.R. §982.4 and to include the DCA's determination that for the purposes of selection, residency will be decided on a county-by-county basis.

*Selection policy.* As defined in Chapter 5 of this *Administrative Plan*.

*Shared housing.* Shared housing is a housing unit occupied by two (2) or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private

space for each assisted family. A family may consist of one or more household members. The DCA allows all families and individuals to participate in shared housing arrangements. (24 C.F.R. §982.4, §§982.615-618)

*Special housing types.* As defined in 24 C.F.R. §982, Subpart M - Special Housing Types.

*Spouse.* Defined on page 14 of the Family Report Form *HUD-50058 Instruction Booklet* (6/6/2001) as “the marriage partner of the head of household”.

*Subsidy standards.* As defined in 24 C.F.R. §982.4 and to include the DCA’s policy that establishes the standards used to determine the number of bedrooms listed on a household’s Voucher and exceptions to the standards. (see Chapter 7)

*Suspension.* Stopping the clock on the term of a family’s Voucher from the date the program receives a Request for Approval of Tenancy form up until the date the program approves or denies the request.

*Tenant.* As defined in 24 C.F.R. §982.4 and to include “head of household.”

*Tenant rent to owner.* As defined in 24 C.F.R. §982.4. Appendix D, Determination of Tenant Rent to Owner, provides the guidelines on how the DCA determines a participant’s share of the rent.

*Tenant's legal capacity to enter a lease.* As defined in 24 C.F.R. §982.308(a) and to include a head of household, under 18 years of age, who is able to provide a judicial decree of emancipation that entitles the minor to contract for necessities.

*Vacated unit.* The term “vacated unit” means that no member of the household is residing in the unit, the household has not advised the DCA of an absence from the unit, and the household owes rent to the owner.

*Veteran.*

*Violent Crime.* A crime that has as an element the use, attempted use, threatened use, or substantive risk of use of physical force against the person or property of another

State of New Jersey Department of Law and Public Safety  
Division of Law Banking, Insurance and Public Securities Section  
Richard J. Hughes Justice Complex  
CN 112  
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April 21, 1988

U.S. Department of Housing and Urban Development  
Newark Area Office  
Gateway 1, Raymond Plaza  
Newark, New Jersey 07102

Attn: Area Office Director

Re: Certification of Department of Community Affairs, Division  
of Housing and Urban Renewal, as a Public Housing Agency

Dear Sir/Madam:

The following is a brief review of the Department of Community Affairs's qualification as a "public housing agency" and its authorization to participate in the Section 8 Housing Assistance Program.

The State Housing Authority was created in 1933 as a result of the Public Housing Law, N.J.S.A. 55:15-1 et seq. As part of its enabling legislation, it was authorized to have state-wide responsibility for the acquisition, demolition, reconstruction and construction of public housing. N.J.S.A. 55:15-2,3 and 10. In 1944 the Authority was abolished but its respective functions, powers and duties devolved upon the Department of Economic Development. N.J.S.A. 52:27C-5. The devolution makes clear the Department of Economic Development succeeded to all of the powers of the Authority. N.J.S.A. 52:27C-18d. In addition, however, a Public Housing and Development Authority was specifically created within the Department. N.J.S.A. 52:27C-22. This "new" Authority was given additional powers including the power to apply for federal grants, acquire property by any lawful means and provide rental assistance grants.

EXHIBIT 1-1

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N.J.S.A. 52:27C-24. It was also specifically authorized to maintain and operate housing projects it was involved with. N.J.S.A. 52:27C-25.

In 1948 the Public Housing and Development Authority was transferred "intact" to the Department of Conservation and Economic Development. N.J.S.A. 13:1B-6. Shortly thereafter, by virtue of the State Housing Law of 1949, N.J.S.A. 55:14H7 et seq., the Authority's power to apply for grants, acquire property and administer housing projects was again greatly expanded. N.J.S.A. 55:14H-8, 9 and 10. Finally, in 1966 the Authority was continued as a body politic, but transferred to the Department of Community Affairs then being created, with its functions, powers and duties exercisable by the Commissioner of Community Affairs through the Division of Housing and Urban Renewal in that Department. N.J.S.A. 52:27D-22. Instructively, at that time the Department and Division and Commissioner were specifically authorized to apply for and accept grants from the federal government, in order to accomplish the purposes of the Department, and concomitantly, the Authority. N.J.S.A. 52:27D-10.

In light of the legislative history of the Public Housing and Development Authority and the rather specific powers granted to it to construct, administer and subsidize housing on a state-wide basis, it is my considered legal opinion that the Department, through the Division of Housing and Urban Renewal, qualifies as a "Public Housing Agency" within the meaning of Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, 42 U.S.C.A. 1437f(b)(1); as well as within the meaning of 24 C.F.R. 883.103. It is also abundantly clear that the Department is legally qualified and authorized to participate in the Section 8 Housing Assistance Payments Program.

Very truly yours,

W. Cary Edwards  
Attorney General of New Jersey

By: /s/\_\_\_\_\_  
Eliaser Chaparro  
Deputy Attorney General

## EXHIBIT 1-2

### Statement of Commitment to the Goal of Affirmatively Furthering Fair Housing

Equal housing opportunity for all persons, regardless of race, color, national origin, religion, age, sex, familial status, marital status, or disability, is a fundamental policy of the Department of Community Affairs (DCA). The DCA is committed to ensuring that all of its housing programs comply fully with all state and federal fair housing laws. The DCA will comply with the requirements of 24 C.F.R. §903.7 (o), *Civil rights certification*, to affirmatively further fair housing by examining its programs and proposed programs in order to identify any impediments to fair housing choice. Any impediments identified will be addressed in a reasonable fashion in view of the resources available. The DCA will also work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the DCA's involvement. The DCA will maintain records reflecting these analyses and actions.

Moreover, the DCA will implement the following proactive steps in addressing accessibility problems for persons with disabilities at an individual's request: (1) The program will assist applicants and participants gain access to supportive services available within the community (*but will not require eligible applicants or participants to accept such supportive services as a condition of continued participation in the program*); (2) In accordance with rent reasonableness requirements, the program will approve higher rents to property owners that provide accessible units with structural modifications for person with disabilities; and (3) The program will provide referrals of local Fair Housing and Equal Opportunity Offices to owners interested in making reasonable accommodations or units accessible to person with disabilities.

In addition, the DCA administers all housing assistance programs in a manner to affirmatively further fair housing by:

- Designing the field offices so that they are accessible to persons with disabilities.
- Providing translators to assist clients who are not proficient in English understand the program requirements and related documents.
- Providing all program applicants with fair housing information at their initial briefing including guidance on how to find a safe and affordable unit, and information about leasing provisions that are prohibited under the law.
- Collaborating with local Continuums of Care. Through this collaboration, the members of our staff become more aware of support services in the communities that may be accessed by disabled or non-disabled program applicants and participants. Such support services could include providing housing search assistance, and/or identifying public or private funding sources to assist persons with disabilities to cover the cost of accessibility features that are needed.



## EXHIBIT 1-2

- Permitting program participants the opportunity to migrate from one housing program administered by the DCA to another housing program.
- Conducting data analysis reviews with the Lead Hazard Control Unit to identify housing problems for families with young children because of the presence of lead-based paint in housing built before 1978.
- Publishing waiting list opening notices (in English and Spanish) online on the DCA's website (<http://www.nj.gov/dca/>), in a local newspaper of general circulation, and by minority media and other suitable means.
- Providing applicants and participants with information detailing what actions or non-actions would initiate a complaint and providing literature detailing how to file a complaint with the Fair Housing Complaint Department. (The toll free number to report complaints is 1-800-669-9777. Persons with hearing or speech impairments should contact the Federal Information Relay Service number, which can be accessed via TTY by calling 1-800-887-8339.)
- Operating a voluntary housing counseling program to expand housing opportunity. This program will offer participants additional assistance in finding units in areas of higher opportunity across the state that are defined based on characteristics such as income, quality of education, employment opportunity, accessibility and other demographic measures.

## **PERFORMING OUTREACH TO ELIGIBLE HOUSEHOLDS**

It is the policy of the DCA that all interested parties will be given an equal opportunity to apply when the availability of funding is announced. The DCA will publish the public notice (in English and Spanish) online on the DCA's website (<http://www.nj.gov/dca/>), in a local newspaper of general circulation, and by minority media and other suitable means. In addition to the public notice, the DCA shall promote outreach to social welfare agencies and agencies serving non-English speaking persons. The application process, including completion and submission of the Application for Housing Assistance, will be performed online. Persons with disabilities who require reasonable accommodation in completing an application may contact the DCA to make special arrangements to complete their application (Appendix C).

With the exception of HUD program regulations pertaining to special admissions and targeted funding, as more fully set forth below, persons will be placed on the DCA's waiting list using a lottery system. Only complete applications will be accepted for the lottery. Once each complete application has been entered into the system and randomly assigned a number, the applications will be placed on the waiting list according to DCA preferences and in order of the assigned numbers.

Applications not selected in the lottery are viewed as surplus applications and are not included on the waiting list.

Program regulations, however, require the placement of an otherwise eligible household on a closed waiting list if:

1. HUD has awarded the DCA funding that is targeted for households in specified units

(24 C.F.R. §982.203) and the households residing in these specified units are not on the waiting list; or

2. HUD has awarded the DCA funding that is for a specified category of tenant (24 C.F.R. §982.204(e)) and there are no households on the waiting list that meet the specified criteria.

HUD requires a clear audit trail that verifies each applicant has been selected in accordance with the program's selection policy (see Chapter 5).

In the event of a declaration of a state of emergency, part or all of this process may be suspended or modified in order to accommodate the citizens in need of assistance.

## OUTREACH TO OWNERS

The DCA recognizes that the continued success of the Housing Choice Voucher Program is dependent upon the participation of rental property owners who provide affordable housing that is in decent, safe, and sanitary condition. Since the original outreach efforts in 1976, the DCA has developed a working relationship with over 16,000 property owners throughout the state.

### **Owner Disapproval**

The program will deny lease approval if it is required to do so in accordance with 24 C.F.R.

§982.306 and for the following reasons:

- The DCA is required to deny approval by state law.
- The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending.
- A court or administrative agency has determined that the owner violated the Fair Housing Act, or other federal opportunity requirements.
- The owner has violated obligations under a Housing Assistance Payments (HAP) Contract under Section 8 of the 1937 Act (42 USCS §1437f).
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity.
- The owner has a history or practice of non-compliance with the housing quality standards for units leased under the Housing Choice Voucher Program, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other

federal housing program.

- The owner is included on the program's debarred list.
- The owner is the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister or brother (including a stepsister or stepbrother) of any member of the family. Such relatives of assisted families may be allowed to be participating landlords for the assisted housing unit to provide reasonable accommodation to a person with disabilities. This rule applies only at the initial lease and does not apply to continued tenancy in the same unit (see 24 C.F.R. §982.306(d)). If, because of divorce, the property owner is no longer an immediate family member, the property owner may enter into a Housing Assistance Payments Contract with the program to benefit their former family members.

## **PROCESSING APPLICATIONS AND DETERMINING ELIGIBILITY**

The DCA will ensure that the initial assessment of each applicant's eligibility is performed in a uniform and consistent manner. . An applicant must submit his or her application to DCA online (see Chapter 2). Applications will only be accepted electronically during an open enrollment period. Disabled households requiring a reasonable accommodation to file an application will be provided the opportunity to work directly with Applicant Services to submit one. Outreach will be conducted by the Division to reach the largest number of potentially eligible households, particularly in hard to serve populations. Ample notice of the opening of a waiting list will be provided. The Division has developed and implements an "Outreach Plan for Opening of Waiting List" which is updated periodically to insure barriers to participation are eliminated to the greatest extent feasible. Once the enrollment period has ended, the Division will conduct a blind lottery if the number of applicants exceeds the number of slots on the waiting list. A blind lottery means that the Division cannot view or make changes to any application until the lottery process has been completed. Each successful applicant will be notified of their selection and placement on the waiting list via email to the email address listed on their application. A notification for those not selected for the waiting list shall also be completed either by regular mail or email. A written explanation is also given to an applicant when they are on the waiting list but are no longer eligible. Requests for reinstatement to the waiting list will be considered, with appropriate documentation, for a three (3) year period. The procedures for an ineligible applicant to request an "informal review" are presented in Chapter 16. All aforementioned notices will be retained, along with the household's application, for at least three (3) years.

It is the policy of the DCA that an otherwise eligible head of household must be at least 18 years of age, or an emancipated minor, for his or her Application for Housing Assistance to be considered

for eligibility.

Without just cause, applications cannot be transferred to another “household member,” that was not originally listed on application at the time of its placement on the waiting list.

**Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]**

HUD permits PHAs to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit. As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member’s current address upon the DCA’s request.

The DCA will not remove a household member with income who voluntary leaves the household after the DCA has determined the family's income exceeds the income limits for admission and has sent a denial letter to the applicant. In the case where a family who has members who are removed from the household as a result of death, admission to a nursing home, incarceration or other involuntary reasons, the DCA may reevaluate the family's eligibility even if a denial had been made for exceeding the income limits.

## Screening for Alcohol and/or Drug Abuse and Criminal Activity

### Denial of Admission

The DCA will deny admission of an applicant for alcohol and/or drug abuse and criminal activity in accordance with the provisions of 24 C.F.R. §982.553 and the policies stated herein. The DCA will obtain criminal background screenings to assist in the implementation of the provisions of 24 C.F.R. §982.553:

- DCA will conduct screenings of new applicants and all household members over 18 will be subject to an employment, wage records and criminal background screening<sup>1</sup>.
- Previous Eviction: the DCA will deny admission of an applicant for three (3) years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, the program may admit the household if the member who engaged in the drug-related criminal activity is no longer a member of the household or if he or she has successfully completed a supervised drug rehabilitation program. 24 C.F.R. §982.553(a)(1)(i))
- Currently Engaged in Illegal Use of a Drug: DCA will use a look back period of three (3) years from the date of admission screening. The DCA may deny admission to a household where any member has engaged in illegal use of a drug. An “individualized assessment” of each applicant that considers (1) the facts or circumstances surrounding the criminal conduct; (2) the age of the individual at the time the conduct occurred; (3) evidence that the individual has maintained a good tenant history before and after the conviction or conduct; (4) and evidence of rehabilitation efforts. The DCA will deny admission of an applicant if the program has

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<sup>1</sup> In the Veterans Affairs Supportive Housing (VASH) Program, the DCA may only screen for and deny admission to a family member that is subject to a lifetime registration requirement under a state sex offender registration program. However, when new family members are added after the Veteran is a participant, regular DCA screening criteria applies.



Evidence that a household member's illegal drug use or pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. (24 C.F.R. §982.553(a)(1)(ii)(B))

- The DCA will deny admission of an applicant if any household member has ever been convicted of drug-related criminal activity for manufacturing or production of methamphetamine on the premises of federally assisted housing. (24 C.F.R. §982.553(a)(1)(ii)(C))
- The DCA will deny admission of an applicant if any household member is subject to a lifetime registration in a Meghan's Law and or a State sex offender registration program. The DCA will perform sex offender registration checks in the state of New Jersey and in other states where the household members are known to have resided. (24 C.F.R. §982.553(a)(2)(i)). Other sex offenders will be denied admission for 15 years following their conviction of a sex crime involving a minor (under the age of 18).
- The DCA will deny admission of an applicant if any household member has been convicted: 1) Drug-related criminal activity; 2) Violent criminal activity, 3) other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; 4) other criminal activity which may threaten the health or safety of the owner, property management staff, or person performing a contract administration function or responsibility on behalf of DCA (including a DCA employee or a DCA contractor, subcontractor or agent).

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<sup>2</sup> The DCA has established three (3) years as a reasonable time in which the applicant must not have engaged in these activities before admission. (24 C.F.R. §982.553(a)(2)(ii)(B))

The conviction must have occurred within three (3) years of the criminal screening, except that violent felony activity shall be considered within fifteen (15) years of the criminal screening. "Violent crime" means a crime that has as an element the use, attempted use, threatened use, or substantive risk of use of physical force against the person or property of another. DCA will conduct an "individualized assessment" that considers (1) the facts or circumstances surrounding the criminal conduct; (2) the age of the individual at the time the conduct occurred; (3) evidence that the individual has maintained a good tenant history before and after the conviction or conduct; (4) and evidence of rehabilitation efforts

The DCA will deny admission of an applicant if there is reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or peaceful enjoyment of the premises by other residents. (24 C.F.R. §982.553(a)(2)(ii)(C)(3))

## **Terminating Assistance**

The program will terminate program participants for drug abuse and other criminal activity in accordance with the provisions of 24 C.F.R. §982.553 and the policies of the DCA which includes an “individualized assessment” of each applicant that considers (1) the facts or circumstances surrounding the criminal conduct; (2) the age of the individual at the time the conduct occurred; (3) evidence that the individual has maintained a good tenant history before and after the conviction or conduct; (4) and evidence of rehabilitation efforts.

- The DCA will terminate assistance for a household if any household member is currently engaged in any illegal use of a drug. (Such use or possession must have occurred within five (5) years before the date that the program provides notice to the household of the determination to terminate assistance.) (24 C.F.R. §982.553(b)(1)(i)(A))
- The DCA will terminate assistance for a household if the program has reasonable cause to believe that a household member’s pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. (24 C.F.R. §982.553(b)(1)(i)(B))
- The DCA will terminate assistance for a household if the program determines that a member of the household has been convicted of drug-related criminal activity for manufacturing or production of methamphetamine on the premises of federally assisted housing. (24 C.F.R. §982.553(b)(1)(ii))
- The DCA will terminate assistance for a household if the program determines that a member of the household has violated the obligations of participation under §982.551 not to engage in any drug-related criminal activity. (The drug-related criminal activity must have occurred within three (3) years before the date that the program provides notice to the household of the determination to terminate assistance.) (24 C.F.R. §982.553(b)(1)(iii))

- The DCA will terminate assistance for a household if the program determines that a member of the household has violated the obligations of participation under §982.551 not to engage in violent criminal activity. (The violent criminal activity must have occurred within three (3) years before the date that the program provides notice to the household of the determination to terminate assistance. (24 C.F.R. §982.553(b)(2)). "Violent crime" means a crime that has as an element the use, attempted use, threatened use, or substantive risk of use of physical force against the person or property of another.
- The DCA will terminate assistance for a household if there is reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or peaceful enjoyment of the premises by other residents. (24 C.F.R. §982.553(b)(3))
- For households admitted to the program after June 25, 2001, the DCA will terminate assistance for a household if the program determines that any member of the household is subject to a lifetime registration requirement under any state sex offender registration program. If the member subject to the lifetime registration requirement is not the head of household, the DCA will afford the head of household the opportunity to have the ineligible household member leave the household to avoid termination of participation. (24 C.F.R. §982.553(a)(2)(i))

### **Consideration of Circumstances**

When denying or terminating assistance, the DCA shall consider all relevant circumstances including the seriousness of the case, the extent of the participation by the household member, any mitigating circumstances related to the disability of a household member and the effect denial or termination would have on the household members not engaged in the activity. The DCA reserves the right to

require the household to exclude the offending member in order to continue receiving housing assistance.

When denying or terminating assistance, the DCA shall consider all relevant circumstances including an “individualized assessment” of each applicant that considers (1) the facts, circumstances and seriousness surrounding the criminal conduct; (2) the age of the individual at the time the conduct occurred; (3) evidence that the individual has maintained a good tenant history before and after the conviction or conduct; (4) and evidence of rehabilitation efforts; (5) any mitigating circumstances related to the disability of a household member and; (6) the effect denial or termination would have on the household members not engaged in the activity. The DCA reserves the right to require the household to exclude the offending member in order to continue receiving housing assistance

The DCA will consider participation in or completion of a supervised drug or alcohol rehabilitation program if denial or termination of assistance is based on illegal use of drugs or alcohol abuse and the household member is no longer engaged in the behavior. The DCA will require the applicant or participant to submit written certification of rehabilitation from a social worker, counselor, or physician representing the rehabilitation facility.

If the household includes a person with disabilities, the decision of the program is subject to consideration of a reasonable accommodation. (Appendix C)

The DCA will terminate assistance for criminal activity based on a “preponderance of the evidence” that a household member has engaged in the activity regardless of whether the household member has been arrested or convicted for such activity.

## **Access to Criminal Records**

The DCA has the authority to obtain criminal conviction records from the National Crime Information Center (NCIC), police departments, other law enforcement agencies and other private databanks.

To obtain criminal history records, every applicant and participant household member who is 18 years of age or older must sign a release form for the search of criminal records. Failure to do so will result in denial or termination of assistance as covered on pg 7-17, the client's application file shall be duly noted. (see 7-17). The DCA shall ensure that any criminal records received by the program under the regulatory provisions are:

1. Maintained confidentially;
2. Not misused or improperly disseminated; and
3. Destroyed once the purpose for which the record was requested has been accomplished

When denying or terminating assistance, the DCA shall provide written notice to the applicant or participant of the intended action. The effected household may request an opportunity to contest the decision. The subject of the criminal record must request a copy of the criminal history, in writing. A copy of the criminal record may only be released to that individual and the applicant, unless a specific written authorization for release to another individual is provided by the subject.

The program may not pass along to the household the cost of a criminal records check.

All screening resulting in denial of admission or termination of assistance shall be administered in accordance with the Fair Housing Act insuring every individual's rights to privacy and nondiscrimination based on race, color, nationality, religion, familial status, handicap/disability, or gender, and in accordance with the "individualized assessment" of each applicant that considers (1)

the facts or circumstances surrounding the criminal conduct; (2) the age of the individual at the time the conduct occurred; (3) evidence that the individual has maintained a good tenant history before and after the conviction or conduct; (4) and evidence of rehabilitation efforts. Chapter 16, Informal Review Procedures for Applicants and Informal Hearing Procedures for Participants

### **Debarred List - Previous Participant Screening**

Whenever an applicant is a previous program participant who has been terminated for cause, the applicant shall be denied readmission to participate if there are grounds to deny as stated in 24 C.F.R. §982.552. The applicant has the right to an informal review. To implement this policy, the program will maintain a “debarred list” of persons terminated for cause. Mere failure to list an applicant who is a previous program participant terminated for cause shall not prevent applying the policy to the applicant.

Exceptions to debarment may be considered on a case-by-case basis for situations involving victims of domestic violence whose termination occurred while involved in an abusive relationship, and other similar extenuating circumstances that contributed to the debarment.

Before issuing a voucher DCA will insure that none of the household members were previously terminated from the program with cause. If any household member was previously terminated with cause, the applicant is informed in writing that, subject to the applicant's right to an informal review, the applicant's name is being assigned an "inactive" status on the waiting list.

## **SELECTION OF HOUSEHOLDS FOR PARTICIPATION**

The selection process begins with the program's commitment to exceed the regulatory requirement that not less than 75 percent of the households admitted to the Housing Choice Voucher Program from the program's waiting list must be extremely low-income households. The DCA selection policy then employs a local preference for households that include a person with disabilities, victims of domestic violence and Veterans of the United States Armed Forces. The program has the discretion to establish local preferences that are consistent with the PHA Plan and Consolidated Plan under which the local PHA jurisdiction is covered.

Residency is a secondary preference that is used to further rank those applicants with a local preference and applicants without a preference. Applicants living in the county are offered assistance before non-residents of the county. The residency preference will not have the purpose or effect of delaying or denying admission because of the applicant's age, race, color, religion, sex, national origin, or other protected class

The standards instituted by the DCA for verification of a local preference are presented in (Appendix A: EXHIBIT 5-2).



Applicants who have not claimed a preference are afforded the opportunity to claim a preference at any time while on the waiting list. However, a change from no preference to a local preference will not be implemented without supporting documentation. Applicants are notified of their right to an informal review if their claim of a local preference is denied.

Date of placement on the waiting list is the final criteria used in the selection of applicants.

As noted above, with the exception of HUD program regulations pertaining to special admissions and targeted funding, persons will be placed on the DCA's waiting list using a lottery system.

In selecting applicants for participation, the DCA will first offer assistance to Tier I applicants. If there are no Tier I applicants on the jurisdiction's waiting list, assistance is offered to Tier II applicants. If there are no Tier II applicants on the waiting list, assistance is offered to Tier III applicants. (see Appendix A: EXHIBIT 5-1).

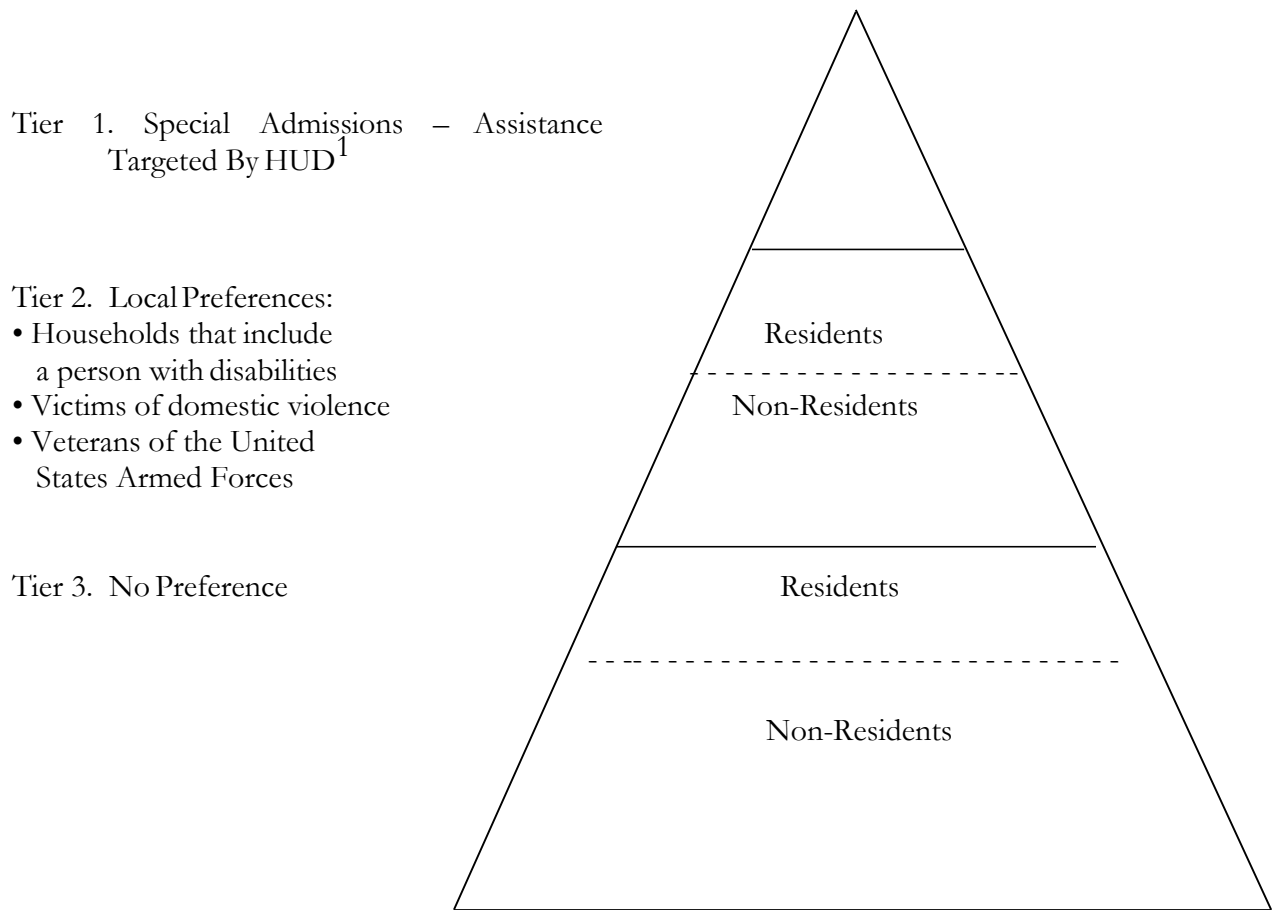
Applicants selected from the waiting list must provide all required documentation within fifteen (15) business days of the date of the notice from the Housing Choice Voucher Program. Extenuating circumstances will be considered in order to provide a reasonable accommodation, on a case-by-case basis.

Programs that require variations to the standard selection policy are identified in (Appendix A: EXHIBIT 5-4).

### **Single Member Households**

In accordance with 24 C.F.R. §982.207, *Waiting list: Local preferences in admission to program*, the DCA provides a preference for the admission of single persons with disabilities over other single person households.

## ILLUSTRATION OF THE DCA'S APPLICANT SELECTION POLICY



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<sup>1</sup> The DCA will select a household that is not included on the waiting list, or without considering the household's waiting list position, if HUD awards the program funding that is targeted for households living in specified units.

## EXHIBIT 5-2

### **Verification Standards for the Local Preferences**

All documents received to verify a local preference must be dated and current. To be considered “current” a document must not be dated more than sixty (60) days before the issuance date of a Voucher to an applicant household. All certifications from a third party (including facsimile transmissions) must be on the agency’s letterhead, dated and signed by the appropriate representative of the agency. If verifications are more than sixty (60) days old before a Voucher is issued, new written verifications must be obtained.

#### **Households That Include a Person with Disabilities**

1. Documentation from the Social Security Administration that a member of the household is a disabled person who is receiving Social Security Disability or Supplemental Security Income benefits; or
2. Certification from a physician, on a Certification of Disability form (Appendix A: EXHIBIT 5-3), that a member of the household is a person with disabilities.

#### **Victims of Domestic Violence**

Official correspondence from a social services agency, the local police department, a court of competent jurisdiction, a clergyman, a physician, or a public or private facility that provides shelter or counseling to victims of domestic violence that the applicant:

1. Is currently living in a housing unit in which a member of the household engages in such violence. The actual or threatened violence must be of a continuing nature or have occurred within the past 120 days; or
2. The applicant has been displaced because of domestic violence and is not currently residing in standard, permanent replacement housing.

## **Veteran of the United States Armed Forces**

Only veterans discharged or released from active duty in the armed forces under honorable conditions are eligible for veterans' preference. This means you must have been discharged under an honorable or general discharge.

If you are a "retired member of the armed forces" you are not included in the definition of preference eligible unless you are a disabled veteran OR you retired below the rank of major or its equivalent.

To qualify for Veterans Preference, the Veteran must have served on active duty during a qualifying war era. Following documents will be needed to prove this service occurred:

- WD Form 53-55 or DD Form 214
- Honorable Discharge Certificate
- Additional documents as needed

*The surviving spouse of a Veteran* who died outside of service is entitled to the same preference as the Veteran, up until they remarry.

## **Qualifying War Era Service Dates**

The amount of active duty service required to qualify for Veterans Preference varies by war era.

Regardless of war era, active duty service accrued during the following Reserve or National Guard training obligations does NOT count towards the Veterans Preference active duty requirement:

Basic Training

Advanced Training

Officer Candidate School

Weekend Drills

## Annual Training

To qualify for Veterans Preference, the following war eras require at least 90 days of active duty service, begun within the specified windows:

### **World War II**

September 16, 1940 to December 31, 1946

*(including Merchant Marine Personnel)*

### **Korean Conflict**

June 23, 1950 to January 31, 1955

### **Vietnam Conflict**

December 31, 1960 to May 7, 1975

To qualify for Veterans Preference, the following war eras require:

At least 14 days of active duty service begun within the specified window OR at least 1 day of active duty service begun within the specified window and received a service incurred injury or disability

The service was in the geographic area or on a ship patrolling the territorial water of the nation (or in airspace over it, in the case of Bosnia/Herzegovina)

### **Lebanon Crisis**

July 1, 1958 to November 1, 1958

### **Lebanon Peacekeeping Mission**

September 26, 1982 to December 1, 1987

### **Grenada**

October 23, 1983 to November 21, 1983

### **Panama**

December 20, 1989 to January 31, 1990

### **Operation Desert Shield/Desert Storm**

December 20, 1989 to January 31, 1990

## **Operations Southern and Northern Watch**

August 27, 1992 to current

## **Somalia**

December 5, 1992 to March 31, 1994

## **Bosnia and Herzegovina**

November 20, 1995 to December 20, 1998

## **Haiti**

September 19, 1994 to March 31, 1995

## **Operation Enduring Freedom**

September 11, 2001 to current

## **Operation Iraqi Freedom**

March 19, 2003 to current

## VARIATIONS TO THE STANDARD SELECTION POLICY

### **Mainstream Program**

The Mainstream Program assists households in which the head of household or spouse is a person with disabilities. The program administers Mainstream Vouchers in Atlantic, Burlington, Cape May, Cumberland, Essex, Gloucester, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, and Union Counties. Mainstream Vouchers combine housing assistance and appropriate supportive services that are provided by local social service agencies. The program assists individuals in gaining access to the supportive services in their community. The person with disabilities, however, is not required to accept the services as a condition of participation in the program.

The DCA will first review its regular Housing Choice Voucher Program waiting list in selecting applicants for admission to the Mainstream Program. Households in which the head of household or spouse is a person with disabilities that are included on a county waiting list where the Mainstream Program is administered will be offered a Mainstream Voucher. If the waiting list does not include any eligible households, the DCA will perform outreach activities to local social service and non-profit agencies.



## **COMPUTING TENANT RENT TO OWNER**

If it is determined that an applicant is eligible to participate in the Housing Choice Voucher Program, their program representative is responsible for providing the household with an estimate of what their total tenant payment will be. Total tenant payment is the greater of:

- 30% of the family's monthly adjusted income; or
- 10% of the family's monthly income.

For a full discussion of income, assets, and adjustments to income, see Appendix D, Determination of Tenant Rent to Owner, to this *Administrative Plan*.

## **BRIEFING HOUSEHOLDS**

Pertinent information regarding the program is presented in the **Guide to the Housing Choice Voucher Program** (Appendix D). This brochure ensures that the required briefings of the heads of household are conducted in a consistent manner.

Depending upon individual circumstances, the briefing session is scheduled to occur in the field office or in the household's current residence. When auxiliary aids or supportive services are required to address the special needs of the household, a representative of the referring agency or a relative is encouraged to attend.

A significant number of the participants in the Housing Choice Voucher Program are elderly or persons with disabilities. In some cases, these households and individuals can be briefed individually in their homes or at a service agency. If an applicant or participant has limited English proficiency, the field office staff may include a bilingual person or services for hearing impaired, who can communicate with the household. If not, the program has a Limited English Proficiency (LEP) plan in place to ensure that language barriers do not hinder access to the program (see Appendix E). (see Appendix D).

### **Complaints**

The procedure for filing complaints about program services will be explained in the tenant briefing.

### **Obligations of the Family (24 C.F.R. §982.551)**

An emphasis is placed on the explanation of the household's responsibilities as outlined in the "Obligations of the Family" section of the Voucher. A copy of this form is provided to the household and it is stressed that the household's actions or inactions in performing these "obligations" affect both their initial program eligibility and their continued participation in the Housing Choice Voucher Program. Therefore, the DCA has established specific criteria and operational definitions to assist the head of household's understanding of these requirements and to measure compliance. These standards are transmitted to the Voucher holder as follows:

#### **The household must:**

1. Sign an Authorization for the Release of Information/Privacy Act Notice form, supply any certification, or documentation that the DCA determines to be necessary in the administration of the program and stipulate that all information provided by the household is true and complete;
2. Disclose and verify Social Security numbers (see Appendix A: EXHIBIT 7-1);
3. Correct any **tenant caused** breaches of the housing quality standards (HQS) caused by the household;
4. Allow the program access to the dwelling unit for initial, annual and special HQS inspections after reasonable notice;
5. Notify the program and the owner before the household moves out of the dwelling unit, or terminates the lease with written notice to the owner (see Appendix A: EXHIBIT 7-4);
6. Promptly give the program a copy of any owner eviction notice;
7. Use the assisted unit solely for residence of the household members listed on the lease and as the household's sole residence (the visitation of a guest is limited to a maximum of thirty (30) days cumulative during the one (1) year certification period);

8. Notify the program in writing within ten (10) days of the birth, adoption or court-awarded custody of a child. The household must request the program's advance approval to add any other household member as an occupant of the assisted unit;
9. Notify the program within ten (10) days, in writing, if any household member no longer resides in the assisted unit;
10. Notify the program within ten (10) days, in writing, of an absence from the assisted unit; and
11. Notify the program in writing within ten (10) days of any change in the household's total annual income.

**The household must not:**

1. Commit any serious or repeated violation of the lease;
2. Sublease, or rent the assisted unit, or any part of the assisted unit;
3. Assign the lease or transfer the assisted unit;
4. Own or have any interest in the dwelling unit except for a household assisted in cooperative housing, or a mobile home where the household leases the pad, or a household assisted under the homeownership option (see Chapter 18);
5. Commit fraud (see 24 C.F.R. §792.103 for definition), bribery or any other corrupt or criminal act in connection with the Housing Choice Voucher Program;
6. 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;
7. Abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises; and

8. Receive assistance under the Housing Choice Voucher Program while receiving a housing subsidy under any other federal, state or local housing assistance program.

### **Absence from the Assisted Unit**

A household may be required to temporarily leave their assisted housing unit because of illness or an emergency medical situation. If a household is absent from the assisted unit for an extended period because a household member is hospitalized, the program participant must provide written notice to the Field Office. The participant will be asked to provide an estimate of the hospitalization period. A program participant is required to continue to pay the tenant rent to owner and any cost of utilities required under the lease during the “absence” from the assisted housing unit (see definition in Chapter 1).

Unless circumstances warrant, the period of vacancy will not exceed 120 days or the anniversary date of the HAP Contract, whichever comes first. The program manager, or designee, may grant an extension of up to an additional 60 days in cases of extended illness or rehabilitation. However, program regulations mandate (24 C.F.R. §982.312 (a)) that the household “may not be absent for a period of more than 180 consecutive calendar days in any circumstance, or for any reason.”

### **Standards Used to Issue Vouchers**

Voucher size is determined by household size and composition. These subsidy standards are applied consistently for all households of like size and composition. They are also consistent with the space requirements under the housing quality standards (see “Standards Used to Determine Acceptability of Unit Size” in Chapter 8) and, therefore, meet the regulatory requirement to “provide for the

smallest number of bedrooms needed to house a family without overcrowding.” (24 C.F.R. §982.402(b)(1))

### Subsidy Standards for Standard Issuance

Voucher Size	Household Size
0-bedroom	1
1-bedroom	1-2
2-bedroom	2-4
3-bedroom	4-6
4-bedroom	6-8
5-bedroom	8-10
6-bedroom	10-12

### Exceptions to the Subsidy Standards – Reasonable Accommodations

The household must request an exception to the subsidy standards in writing. The request should explain the reason(s) for the request and how a larger unit would improve the current circumstances of the household. The DCA may grant an exception from the established subsidy standards if it is determined that an exception is justified because of the age, sex, health, handicap, or relationship of household members or other personal circumstances. The program will consider **“Reasonable Accommodation”** requests for an exception to the subsidy standards on a case-by-case basis (Appendix C). Examples include but are not limited to:

- A household that includes one or more elderly persons, or near-elderly persons, or a person with disabilities<sup>1</sup> who requires a live-in-aide (see page 7-10);
- Providing reasonable accommodation to a person with disabilities who may require additional living space because of their disabling condition;

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<sup>1</sup> See page 1-11 for the definition of a “person with disabilities.”

- Helping a household move from a high-poverty area by expanding their housing choices; or
- The program may approve an additional bedroom for medical equipment if the need is documented by a physician. The actual equipment in the extra bedroom must be verified by a program inspector during the initial and each annual inspection of the housing unit. If the extra bedroom is not being used for the intended purpose, the program must reduce the subsidy standard and the corresponding payment standard amount at the household's next annual reexamination. A physician certification regarding the need for medical equipment must be provided at every annual recertification for as long as the equipment is needed.

Exceptions to the subsidy standards must be approved by the Field Office.

### **Reduction in Voucher Size**

In accordance with federal regulations and HUD directives, over-subsidization is not permissible. All households must be issued the smallest size Voucher that will accommodate the family size. Tenants will be given thirty (30) days' written notice if a Voucher will be "downsized" to the appropriate size and accompanying payment standard. Households subject to such "downsizing" will have the option to remain in the current unit and pay the higher tenant portion of rent, or to move to more appropriately sized unit. Downsizing of a Voucher will occur during a household's annual recertification, interim redetermination of household income and family composition, or during an interim relocation.

### **Extension of the Term of a Voucher**

The term of a Housing Choice Voucher is sixty (60) days. If a household fails to submit a Request for Approval of the Tenancy within the sixty (60) day term, the household may request an extension.

The program will grant a sixty (60) day extension if the household complies with the following:

1. The household's request must be in writing (see section 6 of the Voucher) and it must be received before the expiration date;
2. The household must show that efforts have been made to locate acceptable housing by pursuing referrals from the field office and by contacting landlords, real estate agencies and other sources.

More than one extension of the term of the Voucher is possible. A second sixty (60) day extension, to a cumulative total of 180 days, will be considered for households who have complied with the



above stated requirements. Extensions beyond 180 days will be considered on a case-by-case basis.

In order to make the program more accessible and useable by a household with a member who is a person with a disability, the program will automatically extend the term of the Voucher to 120 days from the beginning of the initial term. The program will also grant an additional 120 day extension to help such households meet the housing requirements that are uniquely suited to the needs of persons with disabilities. Additional extensions of up to sixty (60) days each will be considered on a case-by-case basis as long as the household continues to make reasonable and appropriate efforts to locate acceptable housing. Such efforts to locate acceptable housing must be documented, in writing, to the field office.

The DCA field office will notify the Voucher holder in writing of an extension or denial of an extension of the term of the Voucher (see Appendix A: EXHIBIT 7-3 and EXHIBIT 7-4).

### **Housing Search Assistance**

The most viable resource to identifying available housing is the property owners who participate in the program. The New Jersey Housing Resource Center (HRC) is another tool that is available to assist households who are searching for acceptable housing. The DCA partnered with the New Jersey Housing Mortgage Finance Agency to develop the HRC. The HRC is a database of affordable housing units located throughout the state of New Jersey. Property owners with vacant units may use web based services to list their units. Program participants in housing search may use the site to locate an affordable unit. This site may be accessed at <http://www.njhousing.gov> or by selecting the link for the New Jersey Housing Resource Center on the DCA homepage.

## **Security Deposits**

A prospective landlord may collect a security deposit from the tenant in accordance with state law. If the security deposit is not sufficient to cover amounts owed under the lease, the owner may seek to collect the balance from the tenant. The DCA may prohibit security deposits in excess of private market practice as described in 24 C.F.R. §982.313 to help protect tenants from extraordinarily high security deposits.

## **Authorization of Live-In Aides**

As defined in 24 C.F.R. §5.403, a live-in aide is a person who resides with one or more elderly persons, or near-elderly persons, or a person with disabilities and who:

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

In accordance with 24 C.F.R. §982.316, *Live-in aide*, a household that consists of one or more elderly, near-elderly or disabled persons may request that the program approve a live-in aide to reside in the unit and provide necessary supportive services for a household member who is a person with disabilities, or an elderly or near-elderly person. The program must approve a live-in aide if needed as a reasonable accommodation (Appendix C) in accordance with 24 C.F.R. Part 8 to make the program accessible to and usable by the household member with a disability, or an elderly or near-elderly person. (See 24 C.F.R. §982.402(b)(6) concerning effect of live-in aide on family unit size.)

At any time, the program may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if:

1. The person commits fraud, bribery or any other corrupt or criminal act in connection with

any federal housing program;

2. The person commits drug-related criminal activity or violent criminal activity; or
3. The person currently owes rent or other amounts to the program or to another public housing authority in connection with Section 8 or public housing assistance under the 1937 Act.

A live-in aide may not be otherwise employed during the hours that the live-in aide is essential to provide necessary supportive services to a household member.

A live-in aide that meets the requirements specified in the Code of Federal Regulations citations listed above will be approved by the DCA if the household submits a Certification of Need for Live-in Aide form (Appendix A: EXHIBIT A-11) completed by a physician. Annually the physician must specify the number of days per week and the number of hours per day that the live-in aide must provide the necessary supportive services.

The income of an employed person with his or her own legal residence who is not a member of the household before authorization as a live-in aide will be excluded from annual income when the person becomes a member of the assisted household as a live-in aide.

An employed person who is a member of the assisted household when the household requests that he or she be approved as a live-in aide will not be approved for live-in aide status.

Live-in aides do not have the rights to voucher if voucher holder dies.

### **Move with Continued Tenant-Based Assistance**

One of the obligations of participation requires an assisted household to notify the program and the owner, in writing, before the household moves out of an assisted unit. If a household moves from their assisted housing without giving proper notice and occupies housing that has not passed the housing quality standards inspection, and is therefore not eligible for housing assistance, the tenant would be responsible for the full rentpayment.

A participant's failure to provide proper notice to their landlord before vacating an assisted unit, will result in the delay, denial, or termination of housing assistance to the household. A participant planning to relocate, within the jurisdiction of the DCA or through portability, should be financially prepared for an interruption in the housing assistance payments made on their behalf. The household may have to assume full responsibility for all of their housing costs until the new unit that they have selected complies with all program requirements. The DCA will make every reasonable effort to complete the required HQS inspection(s), confirm that the rent is reasonable and conduct negotiations with the new owner in a timely manner. The household, however, must be prepared to assume the entire cost of their housing, without reimbursement from the program, until all of these mandated requirements have been satisfied.

Before a Voucher can be reissued to a program participant to begin their housing search, the DCA must confirm that proper notice was given to their current landlord and that the household is in good standing and otherwise eligible. The earliest a Voucher may be dated and re-issued to a current participant, who has given proper notice and who has been determined to be otherwise eligible, is sixty (60) days prior to the last day of occupancy stated on their notice. For program

purposes, this calculation is always computed from the last day of a month because each housing assistance payment represents a payment that is made for the entire month.

It is the policy of the DCA not to overlap the last housing assistance payment for the month when the household moves from the assisted unit to the new unit. Exceptions to this policy will be considered on a case-by-case basis if extenuating circumstances exist.

The program may approve overlapping housing assistance payments if the housing meets the federal housing quality standards at the time the tenant occupies the housing. This requires that the tenant give sufficient notice to the program to schedule an inspection before relocating. Further, situations have occurred from time to time when tenants have occupied housing where the rent to owner is not a reasonable rent. In these circumstances, tenants are responsible for the payment of the rent if the owner will not enter into a HAP Contract for an amount determined to be reasonable.

If an applicant or participant is denied an opportunity 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 funding (see 24 C.F.R. §982.314(e)), the program will inform the household in writing when the decision is made. Every month the program determines the number of households that are assisted, calculates the total amount of housing assistance approved for payment, determines the average cost per unit, and reports this information to the U.S. Department of Housing and Urban Development's Voucher Management System.

When the DCA's monthly analysis indicates that funding levels are sufficient to assist additional households, the program will, before any applicants are selected from the waiting list, determine if any program participants were denied a move to a higher cost unit because of insufficient funding

within the past six (6) months. If so, the household(s) will be notified in writing of these new circumstances and will be given the opportunity to relocate to a new housing unit.

### **Prohibition on Move within the Initial Year of a Lease Agreement**

A participant may not move more than one time during the initial year of a lease agreement unless the lease agreement has been terminated by mutual agreement of the owner and the household and extenuating circumstances exist (see definition in Chapter 1).

### **Violence Against Women Act (42 U.S.C. §13925 et seq.)**

The Violence Against Women Act (VAWA), Public Law 109-162, was enacted on January 5, 2006. Sections 606 and 607 amend Section 8 of the U. S. Housing Act of 1937 to protect certain victims of criminal domestic violence, dating violence, sexual assault or stalking, as well as members of the victims' immediate families from losing their HUD assisted housing as a consequence of the abuse of which they were a victim.

The HUD statutes support and strengthen efforts to combat domestic violence and other forms of violence against women. Title VI, "Housing Opportunities and Safety for Battered Women and Children", has provisions prohibiting the eviction of and removal of assistance from certain persons living in public or Section 8 assisted housing if the asserted grounds for such actions are based upon an instance or instances of domestic violence, dating violence, sexual assault, or stalking.

### **Discretionary Grounds for Denial or Termination of Assistance (24 C.F.R. §982.552(c))**

The Housing Choice Voucher Program may deny assistance for an applicant or terminate assistance for a participant for any of the following reasons:

1. If the household violates any of the obligations (see 24 C.F.R. §982.551, *Obligations of participant*) under the Housing Choice Voucher Program. See 24 C.F.R. §982.553 concerning denial or termination of assistance for crime by family members.
2. If any member of the household has been evicted from federally assisted housing in the last five (5) years.
3. If a housing agency has ever terminated assistance under the program for any member of the household.
4. If any member of the household has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
5. If the household currently owes rent or other amounts to the program or to another housing agency in connection with Section 8 or public housing assistance under the United States Housing Act of 1937.
6. If the household has not reimbursed the program or another housing agency for amounts paid to an owner under a Housing Assistance Payments Contract for rent, damages to the unit, or other amounts owed by the household under the lease.
7. If the household breaches an agreement to pay amounts owed to the program or to another housing agency.
8. If a household participating in the Family Self-Sufficiency (FSS) Program fails to comply, without good cause, with the household's FSS Contract of Participation.
9. If the household has engaged in or threatened abusive or violent behavior toward program personnel.
10. If a welfare-to-work family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program. (where applicable)
11. If the household has been engaged in criminal activity or alcohol abuse as described in 24 C.F.R. §982.553, *Denial of admission and termination of assistance for criminals and alcohol abusers*.

### **Mandatory Grounds for Denial or Termination of Assistance (24 C.F.R. §982.552(b))**

1. For provisions on denial of admission and termination of assistance for illegal drug use, other criminal activity, and alcohol abuse that would threaten other residents, see §982.553.
2. The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.
3. The PHA must deny admission to the program for an applicant, or terminate program assistance for a participant, if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title.
4. A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.
5. The PHA must deny or terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in *24 CFR 5.612*.

If a household owes monies to the program as described above, the program, at its discretion, may offer the household an opportunity to enter into an agreement to reimburse the program. The program will prescribe the terms and conditions of the agreement and will deny or terminate



assistance for a breach of the agreement. Households that owe the program more than \$3,000 because of their failure to report changes in their total annual income may be terminated without being given the opportunity to enter into a repayment agreement. The program, at its sole discretion, may offer a repayment, in lieu of termination, for debts in excess of \$3000, on a case by case basis.

### **Termination of HAP Contract Due to Insufficient Funding**

Pursuant to 24 C.F.R. §982.454, the DCA reserves the authority to terminate Housing Assistance Payments (HAP) Contracts when the DCA determines that available funding under the CACC (Consolidated Annual Contributions Contract) is insufficient to support continued assistance to all participants in the program. Notice will be posted on the DCA's website if this process must be initiated. The DCA will terminate assistance based on the following criteria and in the order listed below:

- HAP Contracts for households that **do not** have an elderly member, disabled member, minor dependent, or are participating in the Homeownership Program will be terminated beginning with households that have been receiving program assistance for the longest period of time.
- HAP Contracts for households that **do not** have an elderly member, disabled member, or are participating in the Homeownership Program that have assets exceeding \$100,000.00 will be terminated beginning with households that have been receiving program assistance for the longest period of time.
- HAP Contracts for households that **do not** have an elderly member, disabled member, or are participating in the Homeownership Program will be terminated beginning with the HAP Contracts with the lowest cost to the DCA.

The DCA will terminate HAP Contracts up until the point that the DCA determines that CACC funding is sufficient to support continued assistance for the remaining program participants.

If the DCA determines that such terminations are necessary, impacted households and property owners will be given a minimum of thirty (30) days notice, in writing, of the termination.

The decision to terminate a HAP Contract due to insufficient funding is not one that is subject to an informal hearing, pursuant to 24 C.F.R. §982.555(b)(1) and (2). This decision is considered final and the impacted household will not receive preference for resumption of assistance.

### **Disclosure and Verification of Social Security Numbers**

The documentation necessary to verify the Social Security Number (SSN) of an individual who is required to disclose his or her SSN includes:

1. An original SSN card issued by the Social Security Administration (SSA);
2. An original SSA-issued document which contains the name and SSN of the individual; or
3. An original document issued by a federal, state, or local government agency which contains the name and SSN of the individual.

In accordance with 24 C.F.R. §5.216, *Disclosure and verification of Social Security and Employer Identification Numbers*, these requirements apply to assistance applicants and program participants<sup>2</sup>.

**Applicants** – Each member of the applicant’s household, regardless of age, must disclose and verify their SSN when the applicant’s eligibility to participate in the program is being determined. A household on the waiting list will not be provided housing assistance until such time as all household members have disclosed and verified a valid SSN. However, if the household is otherwise eligible to participate in the program, the household may maintain their position on the waiting list for no more than 90 days to provide each member of the applicant household with an opportunity to comply with the SSN disclosure and documentation requirements.

**Participants** – Each member of the household (except that age must disclose and verify their SSN if the member has:

- Not previously disclosed a SSN;
- Previously disclosed an invalid SSN; or
- Been issued a new SSN.

Each member of the household subject to the disclosure requirements must disclose and verify their SSN at the next interim or annual reexamination of income and household composition.

**Addition of a New Household Member** – When a program participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must disclose and verify the new member’s SSN at the time of the request, or at the time of processing the interim or annual reexamination of household composition that includes the new member.

When a program participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant is required to disclose and verify the child’s SSN within 90 calendar days of the child being added to the household. The program may grant an extension of one additional 90-day period if the program, in its discretion, determines that the participant’s failure to comply was because of circumstances that could not have reasonably been foreseen and were outside the control of the participant.

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<sup>2</sup> Individuals who do not contend eligible immigration status are exempt from the requirement to disclose a SSN.

EXHIBIT 7-2

**Guidelines for Submission of Notice to the Landlord by a Program Participant**

The household must provide written notice to their landlord regarding their intention to vacate the landlord's unit before moving from the assisted housing unit.

The notice must specify the household's final day of occupancy. (The last day of occupancy must be the last day of a month.)

The household is responsible for insuring that their landlord receives the written notice within the time period specified in their lease agreement.

A copy of the written notice that the household provides to the landlord must be mailed to the program on the same day that the notice is given to the landlord.

It is recommended that the notice to the landlord be sent certified mail return receipt requested so that the household has evidence of complying with the notice requirement of their lease agreement. The program will also verify with the landlord that he or she received the notice and that the household has not violated any other provisions of their lease agreement.

Under New Jersey law, a termination of tenancy notice from the owner to the tenant is not good cause for eviction. Assistance will continue if the tenant decides to remain in the housing unit.

**Sample Notice by Tenant to Terminate Lease Agreement**

I, <<Head of Household>>, the tenant, hereby give notice to <<Owner Name>>, the landlord, of my household's intention to vacate the assisted housing unit located at <<Unit Address>> owing no rent. The final day of our occupancy will be the last day of \_\_\_\_\_, 20\_\_\_\_, and the unit will be free of damages beyond normal wear and tear.

\_\_\_\_\_  
Tenant's Name (print)

\_\_\_\_\_  
Tenant's Signature

\_\_\_\_\_  
Date

## INSPECTING UNITS FOR CONFORMITY TO THE HOUSING QUALITY STANDARDS

The DCA adheres to the housing quality standards (HQS) performance requirements as specified in 24 C.F.R. §982.401. The DCA has the discretion to conduct unit inspections biennially rather than annually, for both the HCV and PBV programs. It also authorizes the use of alternative inspection methods for periodic inspections, such as inspections performed by HUD or conducted pursuant to the HOME Investment Partnerships (HOME) program or housing financed using Low-Income Housing Tax Credits (LIHTCs). In addition, all housing must meet the acceptability criteria, as well, except for the following variations:

**a) Sanitary facilities.** Hot water heaters must be free of hazardous conditions and equipped with a discharge line that terminates within 12 inches of the floor. Hot water heaters will not be permitted to be located in bedrooms or other living areas. Gas and electric hot water heaters located in a secondary room (a room not used for living) will be permitted provided the unit is otherwise free of hazardous conditions. Gas and electric hot water heaters will be permitted in a kitchen or bathroom provided that “safety dividers” or “shields” are installed to protect the occupants from any contact with the unit.

**b) Space and security.** The New Jersey multiple dwelling regulations are used to define a bedroom or living/sleeping room of “appropriate size.” N.J.A.C. §5:10-22.3, *Floor Area*, states that every room occupied or intended to be occupied for sleeping purposes for one occupant shall have a minimum usable floor area of 70 square feet. Every room occupied or intended to be occupied for sleeping purposes by more than one occupant shall have a useable floor area of at least 50 square feet for each occupant (two (2) occupants require a minimum of 100 square feet). To be

considered a living/sleeping room, the smaller dimension of the room must not be less than seven feet; thus ensuring enough space to get past the bed.

**c) Thermal environment.** Adequate heat “appropriate for the climate” is not defined by the federal HQS regulations. The DCA will comply with N.J.A.C. §5:10-14.4, *Minimum Temperature*, of the New Jersey multiple dwelling regulations which requires from October 1 of each year to the next succeeding May 1, every dwelling unit and every habitable room therein shall be maintained at a temperature of at least 68 degrees Fahrenheit between the hours of 6:00 A.M. and 11:00 P.M. and at least 65 degrees Fahrenheit between the hours of 11:00 P.M. and 6:00 A.M.

**d) Structure and materials.** This section is concerned with the structure of the ceilings, walls, and floors, but is silent regarding a minimum ceiling height or usable floor area. The New Jersey multiple dwelling regulations will again be utilized to provide a standard.

N.J.A.C. §5:10-22.5, *Required Ceiling Height*, requires a clear height of at least 7 feet, 0 inches, for a room to be considered a habitable room. The ceiling height in a non-habitable room is a tenant preference issue.

**e) Other interior/exterior hazards.**

1. All windows required to be openable under the HQS requirements must operate as designed.
2. All windows required to be openable under the HQS requirements must also comply with N.J.A.C. §5:10-10.1, *Screens*, which requires insect screens from May 1 to October 1 of each year.
3. A wall switch must operate a ceiling or wall mounted light fixture in a bathroom.

Should the DCA's housing standards conflict with a local housing code (i.e. refusal to issue a Certificate of Occupancy) the policy of the DCA will control. The DCA reserves the right to waive any of these HQS variations on a case-by-case basis with the authorization of the program manager or designee.



### **Standards to Determine Acceptability of Unit Size**

In accordance with HUD directives, the DCA subsidy standards provide for the smallest subsidy level that will avoid overcrowding and will permit households to rent decent, safe and sanitary units with adequate space and security. Generally, there must be at least one (1) bedroom or living/sleeping room of appropriate size for each two (2) persons. The DCA's subsidy standards permit the following maximum occupancy, assuming a living room is used as a living/sleeping area:

<b>Unit Size</b>	<b>Maximum Occupancy</b>
0-bedroom	2
1-bedroom	4
2-bedroom	6
3-bedroom	8
4-bedroom	10
5-bedroom	12
6-bedroom	14

The DCA will not prohibit a family from renting a unit with fewer bedrooms than the number stated on the Voucher if the above criteria are satisfied. The DCA will assign one bedroom for each two persons within the household, except in the following circumstances:

- Persons of the opposite sex (Other than spouses, and children under age 10) will be allocated separate bedrooms.
- Live-in aides will be allocated a separate bedroom.
- Single person families will be allocated one bedroom

This would provide a sufficient number of bedrooms so that the children would not be required to share the same bedroom. Regardless of the number of bedrooms stated on the Voucher, no otherwise acceptable unit shall be disapproved because it is too large.

In accordance with regulatory requirements, the DCA shall grant an exception from the standard if it is determined that an exception is justified because of the relationship, age, sex, health or handicap of the household members, or other individual circumstances (see Chapter 7).

### **Certification of Compliance with the HQS**

The program regulations (24 C.F.R. §982.404) state that the program must not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defects within the period specified by the program<sup>1</sup> and the program *verifies* the correction. The regulations, however, do not require the program to conduct a visual re-inspection of the housing unit to confirm that the failed items have been corrected. Therefore, under certain circumstances the program will rely on the owner's certification, supplemented with photos, that the required repairs were made. In addition, the tenant also must confirm that the repairs have been completed in an acceptable manner.

The Field Office Supervisor will have the discretion to determine whether HQS compliance will be determined by a visual re-inspection, or by owner certification. This will be decided based upon the severity of the conditions to be corrected and the program's experience with the property owner. In cases where the household is responsible for the breach of the HQS, the program will be required to visually re-inspect the property to determine compliance.

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<sup>1</sup> If a defect is life threatening, the owner must correct the defect within no more than twenty-four (24) hours. For other defects, the owner must correct the defect within no more than thirty (30) calendar days (or any DCA-approved extension).

**Waivers to the DCA's Standards**

Upon the determination of good cause, the program manager or designee may waive any DCA higher standard to the HQS. Each waiver shall be maintained as part of the case file with a written explanation of the specific reasons for the waiver. The pertinent facts and justification in seeking the waiver must be provided in the form of a written memorandum by the requesting Field Office Supervisor.

**Waivers to HUD's HQS**

Upon the demonstration of good cause, the program manager or designee may submit a written request to the HUD Newark office for a waiver to the HQS. The requesting Field Office Supervisor must provide the documentation required to support the waiver. Each waiver that is approved shall be maintained as part of the case file.

## **APPROVING LEASES AND EXECUTING CONTRACTS**

The DCA provide accurate, orderly and prompt issuance of housing assistance. This process involves the timely processing of required program documents, adherence to a verification standard that ensures accurate calculations, the disbursement of funds by the New Jersey Department of the Treasury, and an integrated program that also produces data management reports. Each of these activities is assigned as a separate function within the organizational structure of the program. The absence of autonomy minimizes the opportunity for repetitive error and serves as a viable control. It also imposes a second review of the required items in a participant's file.

### **County Field Offices**

The submission of a Request For Tenancy Approval form will “stop the clock” during the term of the household's Voucher (see Chapter 7) when the Request For Tenancy Approval form meets all of the following conditions:

- The Request For Tenancy Approval form must be signed and dated by both the owner of the proposed unit and the head of household;
- The Request For Tenancy Approval form must have a copy of the owner's proposed lease agreement attached to it;
- The Request For Tenancy Approval form must be received by the program during the term of the household's Voucher;
- The Request For Tenancy Approval must contain the owner's telephone number(s), address and e-mail address, if available; and

- The Request for Tenancy Approval form must have a “Requested Beginning Date of Lease” (see item #3 on the form) that is not more than thirty (30) days beyond the expiration date of the household’s Voucher.

If the program disapproves the Request for Tenancy Approval form, a Notice of Disapproval (Appendix A: EXHIBIT 9-1) is sent to the household, and a copy is sent to the owner. This notice specifies the reason(s) for disapproval and establishes the deadline by which the household must submit another Request for Tenancy Approval form for the proposed unit or another rental unit.

The deadline specified in the Notice of Disapproval is not an extension of the Voucher as described in Chapter 7. This procedure does not increase the number of days a household has to conduct their housing search. The deadline stipulated in the Notice of Disapproval merely amends the expiration date identified on the household’s Voucher. The amended deadline reflects the number of days that the clock was officially stopped. The number of days is determined from the date the program receives the household’s Request for Tenancy Approval form and the date on the Notice of Disapproval. The resulting number of days is then used to adjust the expiration date of the Voucher accordingly. For example: The expiration date of a Voucher is the 15<sup>th</sup> of the month. A Request for Tenancy Approval form is submitted that “stops the clock” for three (3) days. The expiration date of the Voucher would be amended to the 18<sup>th</sup> of the month.

Program representatives are thoroughly trained to prepare and present the Request for Tenancy Approval, the lease agreement and the appropriate Housing Assistance Payments (HAP) Contract for a property owner’s signature. The program representative’s presentation includes a detailed explanation to the owner of all relevant program documents and emphasizes the importance of

immediately advising the field office regarding any change affecting the lease agreement and the HAP Contract.

Owners are advised that they must include the Tenancy Addendum, which contains all the language required by HUD, as part of their lease agreement. Program representatives are capable of evaluating whether the owner's standard lease agreement is acceptable under New Jersey law. Questions that require a legal interpretation of complex lease provisions are referred to the Office of Landlord/Tenant Information. The location of expert professionals within the same department greatly facilitates this process.

Program representatives allow sufficient time for a section-by-section review of the Housing Assistance Payments Contract with a property owner. When the owner agrees to participate in the program, his or her signature is secured on all required documents and the program representative performs verification of property ownership. The program representative is required to provide a written estimate (see Appendix A: EXHIBIT 9-2) to the household regarding the tenant's portion of the rent. During the term of the HAP Contract, any subsequent change in the tenant's portion of the rent requires the program representative to provide the household with the same written estimate at least thirty (30) days prior to the effective date of the change.

### **Case Review**

In order to assure compliance with the regulations, the Field Office Supervisors audit each record that is entered into the Housing Pro database. These employees are trained to examine all aspects of the calculations necessary to determine the "tenant rent to owner" and the amount of the housing

assistance payment. The Field Office Supervisors also review the program forms and verification documents to confirm that:

- Appropriate forms and documents are included and executed properly by both the participant and the owner; and
- Appropriate verification documents are included and adhere to established verification standards (Appendix A: EXHIBIT A-1).

Cases that are complete are locked-in for payment by the Field Office Supervisor, or other authorized program representatives, in the Housing Pro computer program database. The software calculates tenant rent to owner and the amount of housing assistance payments in accordance with program regulations. It also generates the required notices to the participant and the owner (Appendix A: EXHIBIT 9-3) regarding the division in the rent to owner. A number of reports are produced for financial control and management of all Housing Assistance Payments Contracts in effect.

### **Rent Reasonableness Determinations**

The stated purpose of HUD's rent reasonableness limitation is to ensure that a federally subsidized rent does not exceed the fair rental value of a comparable unit on the private unassisted market. To meet this objective, an initial and annual certification of rent reasonableness is performed for each housing unit selected for program participation. In addition, a rent reasonableness determination is required whenever there is a five (5) percent decrease in the published fair market rent (FMR) for the unit size rented by a participant as compared to the FMR in effect one (1) year before the household's contract anniversary.

The program uses two (2) methods to certify and document that a housing unit complies with the requirements of 24 C.F.R. §982.507, *Rent to owner: Reasonable rent*. The first method relies on the owner's certification. If the subject property is a building with more than four (4) units, the program will rely on the owner's certification on the Request for Tenancy Approval form. In section 12a of this form, the owner will certify to the rental amount, date rented, and unit address for three (3) comparable unassisted units on the premises. If the program confirms that the information provided by the owner is for comparable units and the rent for the subject unit is reasonable when compared to the unassisted units on the premises, no additional comparables are required.

The second method the program uses to certify and document that a housing unit complies with the rent reasonableness requirement is a unit-to-unit comparison. The design of the certification form used by the DCA for this function is based on the format suggested by HUD in the *Public Housing Agency Administrative Practices Handbook for the Section 8 Existing Housing Program* (7420.7, 11/79). The DCA form lists three (3) examples of gross rents currently being charged for comparable units in the private, unassisted market. A rental property is considered a comparable unit based upon the location, quality of construction, size, unit type, and age of the property.

The comparable units must be in the same municipality as the proposed unit and should be in the same neighborhood. For a unique unit (e.g. a barrier free unit or a special housing type), a broader search of the area may be necessary to locate true comparable housing units and these may therefore be in a different neighborhood or municipality. Every effort will be made, however, to locate comparable units in the same vicinity as the location of the proposed unit.



The comparable units must include the same number of bedrooms and be the same housing type as the proposed unit. The program categorizes housing into six (6) housing types:

1. *Single-family detached* includes building structures that house only one (1) family under one (1) roof.
2. *Semi-detached* includes units in duplexes and two (2) family homes.
3. *Low-rise* includes multifamily apartment buildings of five (5) or more units and up to four (4) stories. Also include five (5) or six (6) story buildings without an elevator.
4. *High-rise with elevator* includes buildings of five (5) stories or more with elevators
5. *Rowhouse/townhouse* includes structures with three (3) or more units side-by-side and under one (1) roof.
6. *Manufactured home* includes mobile homes.

The program will also consider any amenities, housing services, maintenance, and utilities to be provided by the owner.

The comparison of the rent of the subject unit to the rent of the comparable units listed on the Certification of Rent Reasonableness form is actually a comparison by gross rent (gross rent equals rent to owner plus the utility allowance). The gross rent of the subject unit must be equal to or less than the average gross rent of the comparable units listed on the program form.

All of the listed factors to determine that a unit is comparable to the subject unit will be considered but each of them does not have to be individually considered in order to determine the rent reasonableness of each assisted housing unit.

The most viable resource for identifying available housing is the property owners who participate in the program. Many participating owners recognize the program's benefits and inform the local field office of impending vacancies. The Vacant Unit Referral Form (Appendix A: EXHIBIT 7-7) was developed to create a list of available units of which the program is aware. This process has proven to be successful in advising Voucher holders of available housing that meets their particular needs, and for identifying available unassisted units for the purposes of rent reasonableness.

A new resource, the New Jersey Housing Resource Center (HRC), is another tool that is available to assist households who are searching for acceptable housing, and in making rent reasonableness determinations. The DCA partnered with the New Jersey Housing Mortgage Finance Agency to develop the HRC. The HRC is a database of affordable housing units located throughout the state of New Jersey. Property owners with vacant units may use web based services to list their units. Program participants in housing search may use the site to locate an affordable unit. This site may be accessed at <http://www.njhousing.gov> or by selecting the link for the New Jersey Housing Resource Center on the DCA Homepage.

Once the program has certified the rent for a unit as reasonable, the household is free to select the unit unless other sections of the program regulations specifically prohibit (e.g. ineligible housing, ineligible owner, or housing not meeting HQS) its inclusion.

### **Exception Payment Standard Amount as a Reasonable Accommodation**

The DCA will request HUD Field Office approval of an exception payment standard amount above 110 percent of the fair market rent (FMR) to 120 percent of the (FMR) for a household that is otherwise eligible (see 24 C.F.R. §982.201) and includes a person with disabilities.

A certification from the DCA Field Office Supervisor on a Request for HUD Approval of Exception Payment Standard Amount form (Appendix A: EXHIBIT 9-4) explains how the rental property selected by the household addresses the disability of the household member. This certification describes how the unit's location, size, housing type, amenities, facilities, or specific adaptations/alterations made to it accommodate the household member's disabling condition.

The Field Office Supervisor submits the form to the attention of the Supervisor of Field Operations along with the following materials:

- Documentation that the household includes a person with disabilities; and
- A completed Certification of Rent Reasonableness form.

The Supervisor of Field Operations reviews the materials submitted by the Field Office Supervisor to ensure that the request for an exception rent is complete and includes all necessary documentation. A request determined to be incomplete is returned to the Field Office Supervisor with instructions for corrective action. Requests deemed to be complete are forwarded to the HUD Field Office for consideration.

When an exception payment standard is approved, and a HAP Contract is negotiated, the request form and the materials included with the original request are included in the file of record. If the

request is not approved, the Field Office Supervisor must advise the household and continue to assist them in their housing search.

### **Documentation of Property Ownership**

In addition to the owner's certification on the Housing Assistance Payments Contract, it is the policy of the DCA to verify ownership of the assisted unit. The program representative, or staff member designated by the Field Office Supervisor, is responsible for confirming property ownership by reviewing and making a photocopy of the most recent municipal tax bill. A substitution may be used if it clearly identifies both the assisted unit and the owner as legally recorded. When the Field Office Supervisor is satisfied that ownership of the assisted unit has been verified, a copy of the document used to verify property ownership is included in the file of record. If a change in ownership occurs during the term of the HAP Contract, a Request for Transfer of the Housing Assistance Payments Contract form is executed. Court Orders directing housing assistance payments to be made to parties other than the owner specified on the Housing Assistance Payments Contract are forwarded to the supervisor of the Payment Auditing Section for review and final determination.

All payments are disbursed by the New Jersey Department of the Treasury (Treasury). Specific dates for submission of payment orders to Treasury are established in advance for each month of the year.

The Housing Choice Voucher Program has set deadlines for entering records into the Housing Pro database to ensure coordination with the dates scheduled by Treasury. Program representatives are informed of the established deadlines, and therefore, can advise owners of the approximate payment date.

The accuracy of all payments is assured by the use of the Housing Pro computer program by Happy Software, Inc.

The DCA has established procedures to ensure the integrity of the payments system. These procedures require the Field Office Supervisors to review all cases once the required data is entered into the Housing Pro database. The Field Office Supervisors are responsible for reviewing and approving case documentation including family composition data, medical expenses, verification of income, and any other documents affecting the amount of housing assistance payments.

Following the review and approval of case documentation, the Field Office Supervisor, or other authorized program representative, will lock-in the record in the occupancy module of the computer program. Each month, this data is imported into the payments module to produce the housing

assistance payments to the owners and utility reimbursement payments to program participants. The Department of the Treasury disburses all payments at the beginning of each month.

If a Housing Assistance Payments Contract is terminated, the owner is given proper notice (Appendix A: EXHIBIT 10-1) as defined by the contract.

An annual function of the program's information and technology unit is to report housing assistance payments to the U.S. Department of the Treasury, Internal Revenue Service (IRS). Every participating property owner is made aware of this and provides their taxpayer identification number to enable the program to comply with IRS reporting requirements. IRS form 1099, Miscellaneous Income, is mailed to the property owners by the deadline imposed by the IRS. This information is also electronically submitted to the IRS.

## **CERTIFYING AND RECERTIFYING HOUSEHOLD INCOME**

The DCA emphasizes the obligation of the head of household to report all sources of income to the program. It is the responsibility of the head of household to know of all income changes for all household members and to report same to DCA within ten (10) days of the change, in writing. The program will document all income reported, but will only count as income that which is defined as income by the program regulations (see 24 C.F.R. §5.609). Any change in the household's total annual income must be reported to the program, in writing, within ten (10) days.

The verification standards used by the DCA to determine annual income are not unduly restrictive, but still minimize the potential for fraud and program abuse. A summary of the DCA's verification standards is presented in Appendix A: EXHIBIT A-1 of Appendix A, Determination of Tenant Rent to Owner. Appendix A, which also contains examples of the forms that are used to compile and verify a household's total annual income and the calculation of their share of the rent.

The preferred method of verification is written documentation from a third party. A notarized certification from the household may be accepted when third party verification is not possible. The person who notarizes a document submitted to the program may not be an employee of the program.

All verification documents must be dated and current. The date on a document used to determine initial program eligibility and initial total tenant payment must not be dated more than sixty (60) days before the issuance date of a Voucher. At the time of execution of a HAP Contract, the program

representative will reconfirm household composition and total annual income. If, according to the family, circumstances have not changed the program does not have to obtain new verifications.

If a change in circumstances has occurred, new verifications must be obtained.

For annual reexaminations and interim reexaminations of household income and composition, a 120 day validity period is the standard.

Regardless of the circumstances (annual or interim) that require a reexamination to be scheduled, a household's refusal to submit the requested verification materials or to sign an Authorization for the Release of Information/Privacy Act Notice form is sufficient reason to terminate their participation in the program.

The DCA has a cooperative agreement with the New Jersey Department of Labor, a State Wage Information Collection Agency (SWICA), to obtain income information about program applicants and participants in accordance with 24 C.F.R., Part 5, Subpart B. The program can electronically access information about an individual's wages and unemployment benefits directly from the Department of Labor's database. The program also has electronic access to a household's credit history. This information is compared to what the household has reported as their income to identify any inconsistencies and to ensure that the information reported to the program is complete and accurate.

In recent years, the program has expanded these activities due to the advent of HUD's Enterprise Income Verification (EIV) System. This system offers the advantage of providing more than wage



and unemployment benefits information. It also furnishes the program with information on Social Security, Medicare, Supplemental Social Security Income, and disability benefits.

Whenever the determination of family rent to owner results in a housing assistance payment equal to zero, a Notice of Suspension of Housing Assistance Payment (Appendix A: EXHIBIT 11-3) is sent to both the participant and the landlord.

### **Annual Reexaminations**

The Housing Pro computer program provides a report that lists all participants who are scheduled for annual reexamination during a particular month. This system also produces a written notice to the household (Appendix A: EXHIBIT 11-1) that outlines the standard procedures for reexamination. These reports are produced at the field offices and the Field Office Supervisors use them to make work assignments for their program representatives. The program representatives are responsible for documenting all household income and verifying that the household is complying with all other requirements for participation. For greater program integrity, case assignments are alternated each year, whenever possible, to prevent a program representative from receiving the same case assignment two (2) years in a row.

### **Interim Reexaminations**

Program regulations require participants to inform the program of the birth, adoption or court awarded custody of a child. Except under these three (3) specific situations, the household must request the program's approval to add any other person as an occupant of the assisted unit. This approval must be requested prior to the person moving in to the assisted unit. It is also an obligation of the household to notify the program, in writing, within ten (10) days if a household member no longer resides in the assisted unit.

Program participants are required to provide written notice to the program, within ten (10) days, of any change in household composition. Households are advised of this policy in the **Guide to the Housing Choice Voucher Program** (Appendix D). An interim reexamination Family Report (HUD form 50058) is completed as evidence of the household meeting its regulatory obligation and acknowledgment by the DCA that the change is officially approved.

The policies of the DCA regarding interim changes in household income are presented in Appendix A: EXHIBIT 11-2. A reduction in tenant rent to owner can take effect on the first of the month, if the household adheres to the required reexamination procedures and the documentation that is received meets the verification standards. If the tenant rent to owner is increased, the change will become effective on the first of the month, but the household must be given a minimum of thirty (30) days advance written notice of the increase.

### **Special Circumstances**

If it is not feasible to anticipate a level of income over a twelve (12) month period, the income anticipated for a shorter period may be annualized, subject to a reexamination at the end of the shorter period. The objective is to avoid repetitive adjustments in tenant rent to owner and to document the most appropriate income to accurately project total annual income.

A household reporting no income source must certify this status on a month-to-month basis. This certification (Appendix A: EXHIBIT A-3) by the head of household is required until an income source is verified.

## **INTERIM REEXAMINATION POLICY**

Pursuant to program regulations, a participant may request an interim reexamination of household income or composition because of any changes since the last determination by the program. Verification rules are the same as those used for annual reexaminations, except only those factors that changed will need to be verified at an interim reexamination. (The program does not apply a new payment standard amount for interim reexaminations.)

The policy of the DCA to make a change in the tenant rent to owner because of an interim reexamination is as follows:

### **Increasing the Tenant Rent to Owner**

The DCA will increase the tenant rent to owner only under the following circumstances:

- The household reports that a member of the household is now receiving income from a new income source; or
- The household reports an increase in their total annual income that is equal to or greater than 10 percent of the household's current annual income.
- The household reports a new household member who has income that must be included in the family's total annual income.

**All changes in income must be reported to the field office, in writing, within ten (10) days. Such changes must be reported within ten (10) days of the commencement of employment or training period, not when the first paycheck is received.**

### **Decreasing the Tenant Rent to Owner**

The DCA will decrease the tenant rent to owner if the household requests an interim reexamination of household income or composition and the reexamination of the household's current circumstances corroborates that a reduction in the tenant rent to owner would result.

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Note: Documentation of the household's current circumstances must meet the DCA's verification requirements (see Appendix A-1).

Note: A participant in the Family Self-Sufficiency Program who receives an increase in wages may request an interim reexamination to establish an escrow account or to increase an existing escrow account.

Before the program will issue a new Voucher to a participant household, the household must comply with the regulatory requirements concerning a move with continued assistance (see 24 C.F.R. §982.314). The effective date of the Voucher and the actual date of issuance cannot be more than sixty (60) days before the termination date of the HAP Contract. This policy prevents duplicative housing assistance being provided to a household unless an emergent reason exists, both PHAs agree, and the overlap of housing assistance does not exceed one month (see 24 C.F.R. §982.311(d)). For example: A participant provides thirty (30) or sixty (60) days advance written notice of his or her intention to vacate the assisted unit on the 31<sup>st</sup> of May. The program must first verify that the notice is in accordance with the lease and verify that the household is otherwise eligible. If the household is otherwise eligible, the earliest issuance and effective date for the new Voucher is the 1<sup>st</sup> of April.

A household may move more than once under the portability procedures but a subsequent portability move to another PHA's jurisdiction will be limited to not more than one (1) in any twelve (12) month period.

All portability cases must be evaluated to determine if the household is in good standing prior to being approved to port. Any household that has entered into a repayment agreement with the DCA must be in good standing with regard to that agreement (i.e. making all payments in a timely fashion) before being approved for a port. Cases will be reviewed, and determinations made, on a case-by-case basis.

## **Moves within the Jurisdiction of the DCA**

### **Responsibilities of the Initial Field Office**

- Complete a Family Report (HUD form 50058).
- Verify the household's current total annual income.
- If the household is an applicant, determine if the household is income eligible in the jurisdiction of the receiving DCA field office. If the household is a participant of the program, income eligibility does not have to be reexamined.
- Issue a Voucher to the household if determined eligible. (A Tenant ID number is not required, but the Field Office Supervisor of the initial field office must sign the Voucher.)
- Provide a cover memo to the receiving field office with any pertinent information regarding the household.
- For original certifications, the original application and verification of preference(s) are required.
- Forward the required items to the supervisor of the receiving field office.

### **Responsibilities of the Receiving Field Office**

- Treat the household as a current participant of the field office's Housing Choice Voucher Program who wants to relocate to a new unit.
- Verify total annual income to determine the tenant rent to owner.
- Assign a Tenant ID number to the Voucher.

## **Portability Move-In Cases**

### **Responsibilities of the DCA Portability Coordinator**

- Review the portability request for compliance with HUD regulations.
- If the portability request is complete, forward it to the appropriate field office.
- Inform the initial PHA whether the DCA will accept the household into its program or bill the initial PHA.
- Obtain an Authorization for Release of Information and run a criminal background check in accordance with DCA policies.

### **Responsibilities of the Receiving Field Office**

- Review the documents provided by the initial PHA.
- Send a letter (Appendix A: EXHIBIT 12-2) to the household acknowledging receipt of the transfer.
- Determine the household's total annual income.
- Identify the case as a portability transfer in the "Port Status" field on the Initial Data screen of the Housing Pro system.
- Advise the portability coordinator of the final disposition of the case at least ten (10) workdays prior to the billing deadline.

## **Portability Move-Out Cases**

### **Responsibilities of the Sending Field Office**

Forward the following items to the DCA portability coordinator:

- The household's Request for Portability (Appendix A: EXHIBIT 12-1) identifying the jurisdiction to which the household wishes to relocate and the name and address of the receiving PHA.
- Part I of the Family Portability Information form (HUD form 52665).
- An active Voucher (with an assigned Tenant ID number).
- A copy of the current Family Report (HUD form 50058).
- Verification of income and assets listed on the current Family Report form. (The verification information sent to the receiving housing agency will include the household's Income Report from the U.S. Department of Housing and Urban Development's Enterprise Income Verification system, if the information is available for the household.)

## **Responsibilities of DCA's Portability Coordinator**

- Forward the required documents to the receiving PHA.
- Inform the sending field office of the receiving PHA's final disposition of the case.

When the issuance of Vouchers and leasing is constrained by the budget, the portability coordinator may deny a household's request to move because of insufficient funding<sup>1</sup> in accordance with 24 C.F.R. §982.314(e)(1) except in the following circumstances:

- The receiving PHA has a payment standard that is equal to or less than the DCA's payment standard.
- The receiving PHA's payment standard is more than the DCA's payment standard, but the receiving PHA agrees to absorb the cost of the transfer.

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<sup>1</sup> These procedures apply if the number of assisted units equals or exceeds 97 percent of the HUD baseline number of units, or if spending levels are estimated to be at or exceed 97 percent of budget authority.



## REVIEWING AND ADJUSTING UTILITY ALLOWANCES

The DCA reviews changes in utility rates annually. The review period coincides with the annual publication of the Fair Market Rent guidelines in the *Federal Register*.

The DCA has adopted a schedule of utility allowances based upon a modification of form HUD 52667 (12/97) which was circulated as Change 2 of Handbook 7420.8. This form did not feature utility rates for units larger than five (5) bedrooms. The DCA will use the five (5) bedroom utility rates for units with more than five (5) bedrooms. The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance (see 24 C.F.R. §982.604(b)).

The national norms for utility consumption contained in Handbook 7420.8, Change 2, are used except when local data was obtained from the Board of Public Utilities or utility suppliers. The average unit size (2.5 bedrooms) costs were adjusted by the factors used in Handbook 7420.8 to determine the costs for the various bedroom sizes:

Size of Unit	Factor
0 bedroom	0.5
1 bedroom	0.7
2 bedroom	0.9
3 bedroom	1.1
4 bedroom	1.4
5 bedroom	1.6

This schedule features a separate set of heating allowances for the six (6) structure types identified on the Family Report (HUD form 50058):

1. *Single-family detached* includes building structures that house only one (1) family under one (1) roof.
2. *Semi-detached* includes units in duplexes and two (2) family homes.
3. *Low-rise* includes multifamily apartment buildings of five (5) or more units and up to four (4) stories. Also included are five (5) or six (6) story buildings without an elevator.
4. *High-rise with elevator* includes buildings of five (5) stories or more with elevators.
5. *Rowhouse/townhouse* includes structures with three (3) or more units side-by-side and under one (1) roof.
6. *Manufactured home* includes mobile homes.

The differentials used to arrive at the heating costs for the various structure types are based on the average differential for these categories when compared to the single family detached category in the June, 1990 General Accounting Office publication, *Rent Burdens in Public Housing and Section 8 Housing Programs*. The differentials are:

<b>Structure Type</b>	<b>Differential</b>
• Single family detached	1.00
• Semi-detached	0.77
• Low-rise	0.55
• High-rise with elevator	0.55
• Rowhouse/townhouse	0.55
• Manufactured home	1.00

The DCA will approve a lease if the utility responsibilities of the tenant are separately metered. An exception to this policy will be considered in the case of a shared housing unit.

## **REINSPECTING UNITS UNDER CONTRACT**

Annual inspections are performed in accordance with the housing quality standards (HQS) performance requirements and acceptability criteria (24 C.F.R. §982.401), except for those variations identified in Chapter 8. To begin the inspection cycle, the Field Office Supervisors use the Housing Pro system to produce a report listing the annual reexaminations that are scheduled for a particular month. Inspections are assigned to a program representative other than the one who inspected the unit last year, whenever possible, to ensure objectivity. The Housing Pro system also generates the notices to the program participants (Appendix A: EXHIBIT 14-1).

These inspections are conducted to provide on-site verification that the owner is meeting his or her obligation to maintain the unit under contract and that he or she is providing the services and utilities as specified in the lease agreement. It also affords the opportunity to document the present condition of the unit and to determine rent reasonableness before negotiations with the owner begin. Annual inspections are performed in the same manner as initial inspections and the results are recorded on the Inspection Form (HUD form 52580-A) or the DCA's Inspection Form. If a fail item is identified, the owner is notified in writing (Appendix A: EXHIBIT 14-4) and is provided with thirty (30) calendar days in which to correct any routine violations. The program may provide the owner with an extension of the deadline based upon the nature of the work, to allow for the late delivery of supplies, difficulty in scheduling contractors, inclement weather, or another valid reason. If a defect is life threatening, the owner must correct the defect within no more than twenty-four (24) hours. If an owner fails to take corrective action by the deadline, or DCA approved extension, the HAP Contract is terminated unless a suspension of housing assistance payments (see Appendix A: EXHIBIT 14-3) has

been implemented. The program's policy regarding a breach of the HQS by the household is presented in (Appendix A: EXHIBIT 14-5).

### **Special Unit Inspections**

There are two (2) circumstances when a special inspection may be conducted to determine if an assisted unit is in compliance with the housing quality standards:

1. An HQS evaluation is requested by an owner to ascertain a unit's acceptability for potential program participation; or
2. To verify the existence of an HQS deficiency in response to a complaint received for a unit under contract.

The first situation does not represent a substitute for an initial inspection, but is more closely aligned with those owner outreach activities described in Chapter 3. The second situation, however, requires immediate attention and investigation because of the HAP Contract's conditions that stipulate primary responsibility and uninterrupted compliance by the owner.

The program responds to complaints received from participant households and reliable sources regarding alleged HQS deficiencies. A reliable source is limited to an authorized representative of a public or private social services agency, or a household member who does not live in the assisted unit but provides for the well-being of the assisted household.

The severity of the condition or HQS violation reported determines the required action, extent of action, and whether an on-site inspection is required. This activity is performed in conjunction with

appropriate New Jersey statutes governing the required actions of landlords and tenants. This policy is as follows:

### **HQS Violations**

If a participant contacts a DCA field office regarding a HQS violation, the household is advised to send a written notice of the situation to the property owner and a copy of the notice to the field office. Any such notice should immediately be followed with a phone call by the household to the property owner.

Upon receipt of the household's letter, the field office will attempt to contact the household within five (5) business days. If the problem has been corrected, the household's file will be documented accordingly. If the problem has not been corrected, but corrective action is scheduled, the file is documented and the household is instructed to advise the field office when corrected measures have been completed. If the problem has not been corrected and there is no indication that the owner has taken any action, the field office will schedule and conduct a special inspection. If the unit fails the HQS inspection, any routine violations of the housing code must be corrected within thirty (30) days, or by any DCA approved extension. If the violations are not corrected by the deadline date, the field office will suspend payment (see Appendix A: EXHIBIT 14-3) or terminate the HAP Contract.

### **HQS Violation That Is Life Threatening**

If a participant contacts the program regarding a serious HQS violation, the household is advised to contact the property owner as soon as possible and, if appropriate, the public utility company, or the local police, fire or health department. The field office will schedule a special inspection with the household at that time. If the special inspection indicates the problem has been resolved, the file is

documented and no further action is necessary. A special inspection is not limited to the reported violation(s). A record is made of any other HQS violations that are detected during the inspection.

If the special inspection reveals the problem has not been resolved, the field office will notify the property owner of the violation in writing and provide the owner with twenty-four (24) hours to correct the defect. The program will abate or suspend housing assistance payments to the owner for failure to correct an emergency or life threatening violation by the deadline (see Appendix A: EXHIBIT 14-3).

When the substandard condition(s) have been corrected, payments may resume.

These procedures place ultimate responsibility for the correction of any HQS violation found during a complaint inspection with the owner. (See Appendix A: EXHIBIT 14-5 for the program's policy regarding a breach of the HQS caused by the household.)

Although a landlord/tenant dispute concerning the lease is not grounds for a complaint inspection (unless it results in a HQS violation), the program will offer its services as mediator for either the tenant or landlord. The laws of the state of New Jersey, as summarized in the statement prepared pursuant to the Truth in Renting Act, N.J.S.A. §46:8-43 *et seq.*, are the basis for resolving disputes of this nature.

## EXHIBIT 14-3

### **Guidelines for the Suspension of Housing Assistance Payments**

The terms of the Housing Assistance Payments Contract permit the DCA to reduce the amount of housing assistance or terminate the contract when a property owner fails to maintain and operate the contract unit and related facilities in decent, safe and sanitary conditions. These procedures outline the requirements to suspend payments or terminate a contract when an assisted unit fails an annual inspection or a special inspection. A HAP Contract may be suspended for a maximum of 180 days (see 24 C.F.R. §982.455, *Automatic termination of HAP Contract*).

#### **Annual Inspections**

- Written notice of any HQS violations, and the deadline to correct the violations, is sent to the property owner (see Appendix A: EXHIBIT 14-4).
- When the owner certifies that the required repairs have been completed by returning a signed copy of the *Inspection Summary*, a reinspection of the unit is scheduled (unless the Field Office Supervisor decides to rely on the owner's certification and the tenant's confirmation that the required repairs have been completed).
- If the owner does not contact the program by the repair deadline, the program will contact the owner and/or the tenant to determine if the unit is ready for reinspection.
- If the unit is not ready for reinspection, the program may provide the owner with an extension of the deadline based upon the nature of the work, to allow for the late delivery of supplies, difficulty in scheduling contractors, inclement weather, or another valid reason.



- If the violations are not corrected by the deadline, or within the extension period, the program representative will suspend or abate future housing assistance payments.
- If the household has given proper notice to vacate, a new Voucher is issued to the household unless the program has grounds to deny issuance (see 24 C.F.R. §982.552, *PHA denial or termination of assistance for family*).
- If the violations are corrected during the housing search period, housing assistance payments may resume, however, housing assistance payments will not be made for the period the unit did not comply with the HQS.
- If the necessary repairs are not completed by the deadline, the HAP Contract is terminated and a new Voucher is issued to the household unless the program has grounds to deny issuance.
- The rent to owner may be adjusted when the unit complies with the HQS.

### **Special Inspections**

- A special inspection is scheduled if a program participant contacts the program about a serious HQS violation.
- If the unit fails the inspection because of a life threatening condition, written notice of the HQS violation, and the deadline to correct the violation, is sent to the property owner (Appendix A: EXHIBIT 14-4).
- If the violation has not been corrected by the deadline, the program representative will suspend or abate future housing assistance payments.

- Housing assistance payments may resume when the HQS violation has been corrected. To resume payments, the program representative removes the abatement from the Transactions screen of the Housing Pro system.
- If the program participant notifies the program that the household wants to relocate, or if the household is required to move because of overcrowding, a new Voucher is issued as soon as possible, unless the program has grounds to deny issuance of a new Voucher (see 24 C.F.R. §982.552, *PHA denial or termination of assistance for family*).
- The household must give the property owner proper notice in accordance with the lease. A participant may give a shorter notice than the lease requires if circumstances warrant, for example: lack of heat, contaminated water, or other serious conditions that would jeopardize the health and safety of the members of the household.

## **Breach of the Housing Quality Standards by the Household**

The program regulations at 24 C.F.R. §982.404(a)(4) state that: “The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible (as provided in §982.404(b) and §982.551(c)). (However, the PHA may terminate assistance to a family because of HQS breach caused by the family.)” These procedures allow the owner to continue receiving housing assistance payments while affording the household an opportunity for an informal hearing prior to termination of the HAP Contract.

### **Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies: Tenant-paid utilities not in service

- Failure to provide or maintain family-supplied appliances
- A fire exit that is blocked by family furniture
- The heavy accumulation of refuse or debris in the unit
- No battery in the smoke and/or carbon monoxide detector
- The smoke and/or carbon monoxide detector has been removed by the family
- Excessive grease or dirt on the stove
- 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.

## **Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family or impose other remedies as outlined in the lease (e.g., charge back for tenant caused damages).

The following procedures are used to enforce the household's obligations regarding the HQS and to initiate the termination process in accordance with 24 C.F.R. §982.552.

## **Annual Inspections**

- The tenant is notified in writing of the HQS violation(s) and the deadline to correct the violation(s) (see Appendix A: EXHIBITS 14-6 and 14-7).
- The program representative may provide the tenant with a deadline extension based upon the nature of the work, to allow for the late delivery of supplies, difficulty in scheduling contractors, inclement weather, or another valid reason.
- If the violation(s) have not been corrected by the deadline, or any DCA-approved extension, the program representative will suspend or abate future housing assistance payments.

- The program representative must commence the program's standard termination procedures. A Warning of Adverse Action (Appendix A: EXHIBIT 16-4) is mailed to the household and an Initial Notice to Terminate Housing Assistance Payments Contract (Appendix A: EXHIBIT 16-3) is sent to the owner.

### **Special Inspections**

- A special inspection is scheduled if a program participant contacts the program about a serious HQS violation.
- The tenant is notified in writing of the HQS violation(s) and the deadline to correct the violations (see Appendix A: EXHIBITS 14-6 and 14-7).
- If the violation(s) have not been corrected by the deadline, standard termination procedures are instituted. A Warning of Adverse Action (Appendix A: EXHIBIT 16-4) is mailed to the household and an Initial Notice to Terminate Housing Assistance Payments Contract (Appendix A: EXHIBIT 16-3) is sent to the owner.

### **Missed Inspection Fees**

#### **Reinspection**

Housing Quality Standards (HQS) Reinspection Fees (§ 982.405) DCA will charge a fee of \$25.00 if a cited deficiency remained upon reinspection. The fee may be charged only if an owner stated that a deficiency had been fixed and the deficiency is found during reinspection to persist or if a reinspection conducted after the expiration of the timeframe for repairs reveals that the deficiency persists.

## **Reinstatement Fees**

\$30 Reinstatement Fee-Owners who have not resolved inspection failures that are their responsibility once the unit goes into abatement may be required to pay a \$30 reinstatement fee before a re-inspection can be scheduled. Once the fee is paid, the Inspections Department will contact the Landlord to schedule the re-inspection appointment

## **ADJUSTING CONTRACT RENTS**

Upon the property owner's request, the rent to owner may be increased on the anniversary of the Housing Assistance Payments (HAP) Contract, or at least sixty (60) days after the program receives the owner's request. A rent adjustment is conditional, however, on the unit satisfying the requirements of the housing quality standards and the owner's compliance with the terms and provisions of the dwelling lease and the HAP Contract. The owner and the family are responsible for negotiating the new rent to owner, but the amount of increase is subject to the rent reasonableness limitation.

### **Annual Adjustments**

The DCA has developed a program form, Transmittal Report for an Annual Reexamination, which functions as documentation of the reexamination process. The purpose of this form is to specify the HUD and DCA forms that are required at reexamination and to identify the new rent to owner. This document is to be signed by the participant after the eligibility of the unit has been determined. Whenever feasible, this document is to be signed by the property owner. Although program regulations provide for an annual extension of an assisted tenancy, it is the policy of the DCA to secure these signatures as an acknowledgment of rent negotiations. Unless negotiated by the property owner or his or her agent, an allowable increase in the rent to owner is not automatically approved.

### **Interim Adjustments**

The Housing Assistance Payments Contract Amendment allows for the correction of an administrative error, but is primarily used to make an increase in the rent during the certification

period. It also may be used to approve a HUD authorized rent increase or to approve an increase in the rent on the tenant's anniversary date rather than on the anniversary of the HAP Contract.

All increases require proper documentation, the signature of the property owner, the signature of the head of household, and the approval of the program manager.



## INFORMAL REVIEW PROCEDURES FOR APPLICANTS AND INFORMAL HEARING PROCEDURES FOR PARTICIPANTS

The purpose of the DCA's informal review process and informal hearing process is to ensure that a decision to deny or terminate housing assistance complies with the regulations of HUD and the administrative policies of the DCA. The regulatory grounds (24 C.F.R. §982.552, *PHA denial or termination of assistance for family*) for denying assistance to an "applicant" and terminating housing assistance to a "participant" are the same. This regulation allows the program to deny or terminate housing assistance at any time when one (1) of the stipulated grounds is present. The DCA, however, recognizes its administrative responsibility to ensure that the required procedural protections of due process are provided.

These policies are established to maintain a reasonable balance between avoiding an erroneous denial or termination of housing assistance and the need to have effective and expeditious procedures for determining facts. As noted by HUD in the preamble to the 1984 rule<sup>9</sup> that originally promulgated the regulatory requirements for informal reviews and informal hearings, "a PHA is not constitutionally required to provide any administrative due process hearing on PHA determinations to grant or deny participation to an applicant" because "neither the statute nor the regulation create any property right to assistance under the Act." This distinction is maintained in the following description of the DCA's informal review and informal hearing procedures. Both procedures comply with the basic intent of the regulation to inform a household of the basis for the program's decision and to provide the opportunity for the household to present its objection.

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<sup>9</sup> *Federal Register*, March 29, 1984, p. 12225

## **Informal Reviews for Applicants**

The program's informal review process is conducted in accordance with 24 C.F.R. §982.554, *Informal review for applicant*.

An informal review must be requested in writing within twenty (20) days after the initial decision was mailed to the household's last-known address. The request should include the name, address, telephone number and e-mail address (if applicable) of the applicant and the factual basis or reasons why he or she wants an informal review. The applicant is given an opportunity to present written or verbal objections to the decision. A program supervisor not involved in the initial decision will review the evidence and provide the applicant with a written notice of the final decision that includes a brief explanation of the decision.

Applicants are promptly notified in writing of the decision and reasons for denial of:

1. Listing on the waiting list;
2. Issuance of a Voucher;
3. Participation in the program;
4. Verification of a selection preference; or
5. Assistance under portability procedures.

The notice denying placement on the waiting list (Appendix A: EXHIBIT 4-2) states the applicant's right to request and the procedures to obtain an informal review. The notice denying issuance of a Voucher or participation in the program (Appendix A: EXHIBIT 4-3) states the applicant's right to request and the procedures to obtain an informal review. The notice denying verification of a selection preference (Appendix A: EXHIBIT 5-5) states the applicant's right to request and the procedures to obtain an informal

review. When there are an extensive number of applications already on a county's waiting list and the waiting list has been closed, applicants are notified in writing (Appendix A: EXHIBIT 4-5) that the waiting list is closed and that their applications will not be accepted. The act of closing the waiting list is considered one of the discretionary, administrative decisions of the program that does not require the program to afford an applicant with an informal review.

### **Informal Reviews for Participants**

A participant who requests a hearing for a decision regarding a matter that is not subject to a hearing may be afforded an informal review. If granted, this informal review will be conducted by a program supervisor, not involved in the initial decision being appealed, and a written determination will be issued to the participant.

Participants may request an informal hearing, pursuant to 24 C.F.R. §982.555, *Informal hearing for participant*, if they disagree with the program over the following:

- 1) A determination of the household's annual or adjusted income, and the use of such income to compute the housing assistance payment. (24 C.F.R. §982.555(a)(1)(i))
- 2) A determination of the appropriate utility allowance, if any, for tenant-paid utilities from the program's utility allowance schedule. (24 C.F.R. §982.555(a)(1)(ii))
- 3) The determination of the number of bedrooms/unit size entered on the Voucher issued to the participant. (24 C.F.R. §982.555(a)(1)(iii); 24 C.F.R. §982.555(a)(1)(iv))
- 4) A determination to terminate the participant's assistance because of the household's actions or failure to act, or for prolonged absence. (24 C.F.R. §982.555(a)(1)(v); 24 C.F.R. §982.555(a)(1)(vi))

All other matters are subject to an informal review.

## **Pre-termination Conferences**

In an effort to reduce the number of terminations and the number of late payments to landlords, at its discretion the DCA may offer the opportunity to participate in a pre-termination conference to program participants who have:

- Failed to respond to appointment letters;
- Failed to provide requested information;
- Breached a repayment agreement; or
- Failed to enter into an agreement to reimburse the program.

In these cases, a letter will be sent to the participant offering a pre-termination conference to discuss why they are unable or unwilling to provide the necessary information. The participant will have twenty (20) days to comply with the conference appointment before an initial decision to terminate assistance is issued. The program's intention is to complete the household's annual reexamination in a timely manner to avoid the necessity of an informal hearing to determine whether or not to terminate the household's participation in the program. The participants in the pre-termination conference will be the head of household, the caseworker and the Field Office Supervisor.

## **Informal Hearings**

The informal hearing process is conducted in accordance with 24 C.F.R. §982.555, *Informal hearing for participant*.

The standard sequence of steps leading to termination of a participant's housing assistance are outlined in Appendix A: EXHIBITS 16-1 and 16-2. Program participants are given written notice in advance of the proposed action and are informed of the procedures for requesting a hearing.

Information regarding the hearing process is reviewed during the initial tenant briefing and is included in the **Guide to the Housing Choice Voucher Program** (Appendix D). Variations to the standard hearing policy for the Family Self-Sufficiency Program are included as Appendix A: EXHIBIT 16-8.

When a Housing Assistance Payments (HAP) Contract is terminated because of the action or inaction of an assisted household, the program must give the owner written notice (Appendix A: EXHIBIT 16-3) at least thirty (30) days before the intended HAP Contract termination or the expiration of the annual certification period. The household may receive advance notice of an adverse action (Appendix A: EXHIBIT 16-4), but will always receive at least thirty (30) days written notice (Appendix A: EXHIBIT 16-5) of the initial decision to deny or terminate its participation in the program. A variation to the standard notice is used when a participant requests to relocate prior to the opportunity to schedule the informal hearing (Appendix A: EXHIBIT 16-6, Notice of Denial to Relocate and Initial Decision to Terminate Program Participation).

A request for an informal hearing must be submitted to the program in writing within twenty (20) days of the initial decision to terminate the household's assistance. The request must be from the head of household, co-head, or the remaining member of an assisted household who is an adult or an emancipated minor. The request must include the name, address, telephone number and e-mail address (if applicable) of the requester and the factual basis or specific reasons why he or she is requesting an informal hearing. The request must also indicate if an interpreter of any kind is needed to assist the participant during the informal hearing. The written request must be addressed to: Division of Housing and Community Resources, Hearing Coordinator, PO Box 051, Trenton, NJ 08625-0051. Compliance in meeting the submission deadline is determined by the postmark on

the envelope containing the request. An acknowledgement letter will be sent to the household at the address provided in the request and, if provided, to the e-mail address provided.

Extenuating circumstances and requests to provide reasonable accommodation for persons with disabilities are considered on a case-by-case basis.

All functions normally performed to certify or recertify the household's participation will continue to be performed, as long as the tenant remains in the assisted unit, until the Hearing Officer issues a final decision. The household will continue to receive its present level of housing assistance as long as all other eligibility criteria are being met. The participant will receive notice of the informal hearing prior to the scheduled date by regular mail directed to the address provided in the request and, if provided, to the e-mail address provided. Adjournments will only be granted if requested within two (2) full business days and supported by documentary evidence of the reason. In the case of an emergency, proof of the incident or event must be provided, in writing, to the Hearing Officer within twenty-four (24) hours of the scheduled hearing date (or other time frame as specified by the Hearing Officer) before a new hearing will be scheduled. All requests for adjournment will be evaluated on a case-by-case basis.

The protocol for an informal hearing is outlined in Appendix A: EXHIBIT 16-12. If participant retains an attorney, the Hearing Officer should be notified of said representation, in writing, prior to the hearing date. The Hearing Officer will regulate the conduct of all parties participating in an informal hearing. The Hearing Officer reviews evidence pursuant to the Guidelines for the Submission of Evidence (Appendix A: EXHIBIT 16-14), but without regard to admissibility under the rules of evidence that are applicable to judicial proceedings. Factual determinations made by the Hearing Officer are limited

solely to the evidence presented at the hearing and “a preponderance of the evidence” is used as the standard in making a final decision. As noted by HUD, the program “is not being asked to adjudicate guilt, but rather whether, under a civil standard of preponderance of the evidence, a family member, in fact, is engaging in certain activities. It is the fact of the activity rather than assessment of criminal liability that is at issue. (*Federal Register*, July 11, 1990, p. 28540).”

The Hearing Officer will issue a final decision in writing and this written decision will briefly state the reasons for the decision. The written decision is furnished within fifteen (15) business days of the hearing to the participant and a copy is sent to the Field Office Supervisor and the Regional Supervisor. The Hearing Officer will keep a copy of all final decisions where a household’s participation in the Housing Choice Voucher Program has been terminated. The period of retention will be five (5) years from the date of the decision.

### **Failure to Appear**

If a participant fails to appear at a scheduled informal hearing as prescribed in the Notice of Informal Hearing (Appendix A: EXHIBIT 16-10), the Hearing Officer may reschedule the informal hearing if the following conditions are met:

1. The head of household must contact the Hearing Officer within twenty-four (24) hours of the time that the informal hearing was scheduled to start; and
2. The head of household must document, as specified by and to the satisfaction of the Hearing Officer, the circumstances for his or her failure to appear.

Failure to contact the Hearing Officer or to provide the documentation requested by the Hearing Officer will constitute abandonment by the head of household of his or her request for an informal hearing and the initial decision to terminate will automatically become the final decision.

## **Appeals**

The program has established a system in which a final decision by a Hearing Officer may be questioned without the need to go to the Superior Court, Appellate Division. The petitioner will have forty-five (45) days from the date of the Hearing Officer's final decision to request a review of the decision by writing to a different Hearing Officer. The Hearing Officer will evaluate the request to determine if the matter qualifies as a "contested case" to be transmitted to the Office of Administrative Law (OAL). The household's request must include the name, address, telephone number and e-mail address (if applicable) of the participant and the factual basis or specific reasons why he or she is requesting a review of the Hearing Officer's final decision. The written request must be addressed to: Division of Housing and Community Resources, Hearing Officer, PO Box 051, Trenton, NJ 08625-0051. Compliance in meeting the submission deadline is determined by the postmark on the envelope containing the request.

**Any such request must be submitted to the above address within forty-five (45) days from the date of the Hearing Officer's final decision.**

Once the participant requests a review of the final decision, in accordance with the Administrative Procedures Act (N.J.S.A. §52:14B-12), the matter will be transmitted to the Office of Administrative Law (OAL) as a contested case if it meets the criteria.



An appeal to the OAL involves transmitting the case to the OAL to be heard by an Administrative Law Judge (ALJ). This process includes a formal hearing before the ALJ, who will issue an initial decision. The Commissioner of the DCA reviews the initial decision and issues a final decision, either accepting the initial decision, modifying it, or rejecting it. The initial decision and the final decision will both be sent to the participant at the address provided in the request.

### **Repayment Agreements**

Pursuant to the Administrative Plan section 16-1 Grounds for Termination; Failure to provide truthful and accurate financial data will be grounds for termination through the Informal Hearing process, citing 24 CFR 982.551(b)(4) and 552(c). In lieu of termination, the Program, at its sole discretion, may enter into a repayment plan that meets the minimum criteria outlined in this section when:

- A. It has been determined that the family currently owes rent or other amounts to the DCA (24 C.F.R. §982.552(c)(1)(v) due to the fact that the head of household failed to properly report income and/or asset information; or
- B. The family has not reimbursed the DCA for amounts overpaid to an owner under a HAP contract for rent (24 C.F.R. §982.552(c)(1)(vi));
- C. The family breached a previously entered into repayment agreement (24 C.F.R. §982.552(c)(1)(vii)). Or

A participant is in breach of their repayment agreement when they have not paid a monthly

payment within 30 days of the agreed upon date. The Field Office shall verify that a participant is current on their repayment agreement prior to allowing the participant to transfer or port out. Under the Admin Plan Section 11-1 Certifying and Recertifying Household Income - Section 15-1 Interim adjustments, a Head of Household must request an interim adjustment if there is a change in household income. An interim adjustment based upon a \$600 per year or greater reduction in income shall qualify a participant for a review to amend an existing repayment agreement. If a participant's actions, or inactions, have resulted in money being owed to the program, there is no fraudulent activity as determined by the Field Office Supervisor or Regional Supervisor, and the total owed is below the \$3,000 cap (as described at page 7-17), a repayment agreement may be entered to resolve the matter. The payment terms will be determined by the Field Office Supervisor or the Regional Supervisor based upon several criteria. The total amount due will be calculated and will be divided into monthly payments not to exceed 10% of the family's adjusted monthly income. If the balance due will not be paid in full within 36 months, a larger first payment may be required. No participant who is in breach of a repayment agreement shall be permitted to enter into a new repayment agreement. The maximum number of repayment agreements that a participant may be permitted to enter into is two (2) throughout the duration of participation. The head of household and all adult household members must sign the repayment agreement.

If the debt owed the Department has been discharged through a bankruptcy action, the Field Office may terminate the debtor based upon the original infraction of failure to provide proper income information.

## Debtor Fails to Enter Into a Repayment Agreement

If the debtor fails to enter into a repayment agreement, the Field Office shall provide written notice of the Program's intention to take collection action. Collection action may include, referral to the Tax Offset Program and filing of a lien.

## EXHIBIT 16-1

### **Guidelines for the Submission of a Notice of Intent to Terminate**

1. A program representative determines that there are grounds to terminate a participant in accordance with 24 C.F.R. §982.552.
2. A pre-termination conference should be conducted where appropriate.
3. Until the Hearing Officer issues a final decision, and as long as the tenant resides in the assisted unit, all functions normally performed to certify or recertify the household's participation must continue to be performed.
4. The program representative compiles all pertinent information and presents this evidence to the Field Office Supervisor for review and consideration. The Field Office Supervisor may consult with the Regional Supervisor depending upon the complexity of the issue.
5. If the Field Office Supervisor confirms that grounds to deny or terminate the household exist, the Field Office Supervisor ensures that at least thirty (30) days advance written notice (EXHIBIT 16-5) of the "initial decision" is provided to the household. A copy of the notice to the household is faxed to the central office to the attention of the Hearing Coordinator.
6. The Hearing Coordinator takes action when the period to request an informal hearing (twenty (20) days) has expired or the request for an informal hearing is received by the deadline. If a written request from a household is not received by the deadline, the notice originally faxed by the Field Office Supervisor is faxed back to the Field Office Supervisor with a cover sheet, signed and dated, confirming that the household did not respond. The program representative sends final notice of termination to the household and the owner (EXHIBIT 10-1).
7. When a written request for an informal hearing is received by the deadline, the Hearing Coordinator will:
  - Reject in writing any request when the DCA is not required to provide an informal hearing in accordance with 24 C.F.R. §982.555;
  - Order corrective action, with notification, if program staff clearly erred in the decision; or
  - Acknowledge the household's hearing request (EXHIBIT 16-9) and forward the hearing request to the Hearing Officer who will schedule a review or a hearing.
8. The Hearing Officer schedules the informal hearing (EXHIBIT 16-10) and prepares a "final decision," in writing, to the household, within fifteen (15) business days of the hearing. When the initial decision is upheld as the final decision, the household's participation is terminated. When the initial decision to terminate is not upheld, the Hearing Officer forwards a copy of the final decision to the Field Office Supervisor who enforces any "conditions" imposed by the Hearing Officer for the household's continued participation.

## **Variations to the Standard Hearing Policy for the Family Self-Sufficiency Program**

### **Intent to Terminate FSS Contract of Participation**

The Field Office Supervisor will send a warning letter to a FSS participant for any breach of their FSS Contract of Participation. The warning letter will include the following:

- Notice of contract violation;
- Corrective action that must be taken; and
- A deadline by which the violation must be corrected.

If the FSS participant takes corrective action, no further action is necessary. If the FSS participant does not take corrective action, the Field Office Supervisor will send the household a letter by regular mail and by certified mail. The letter will state the reason(s) for termination and will include an explanation of the appeal process available to the family.

### **Appeal Process**

If a participant disagrees with the decision to terminate their FSS Contract, they may request a review before the FSS Program Coordinator by writing within twenty (20) days from the date of the termination letter. The request must include the participant's name, address, telephone number and e-mail address (if applicable) and the reasons why they are requesting a review.

The FSS Program Coordinator may recommend changes to the participant's FSS Contract Individual Services and Training Plan such as adding support services, addiction treatment, referral to another agency, or elimination of activities.

### **Termination of FSS Contract and/or Withholding Supportive Services**

A family's FSS Contract of Participation can be terminated or supportive services withheld under the following circumstances:

1. If the family fails to fulfill its obligations under the FSS Contract of Participation five (5) years after entering into the contract;
2. If the family's housing assistance is terminated in accordance with HUD requirements;
3. The family withdraws from the FSS Program;
4. If the family's actions or failure to act are deemed inconsistent with the purpose of the FSS Program;
5. If 30 percent of the family's monthly adjusted income equals or exceeds the rent to owner;  
or
6. By operation of law.

If a family's FSS Contract of Participation is terminated, they will not lose their Housing Choice Voucher Program assistance, but any escrow account earnings will be forfeited.

## PAYMENT STANDARD AMOUNTS

Each year, the U.S. Department of Housing and Urban Development publishes proposed fair market rents (FMRs) in the *Federal Register* for the upcoming federal fiscal year, which begins on the 1<sup>st</sup> of October. In accordance with 24 C.F.R. §982.503, *Voucher tenancy: Payment standard amount and schedule*, the program must establish a payment standard amount for each unit size in each county within the “basic range” (between 90 percent and 110 percent) of the published fair market rent.

The DCA’s review of the proposed FMRs begins with a review of all active Vouchers by county and by unit size. The report that is produced to conduct this analysis provides information on the gross rent of all assisted units and the level or degree of program participants’ rent burden<sup>1</sup> by a range of values rather than as a simple average. This information provides the program with the necessary information to evaluate the proposed FMRs based upon the cost of the housing units that have been selected by the program participants.

If the FMR is greater than the average gross rent by county and unit size, the payment standard is set at the FMR. Whenever possible, the DCA will not set a payment standard amount that is less than the FMR. In addition, whenever possible, the program will not set a new payment standard amount that is less than the current payment standard amount. Under these circumstances, the current payment standard amount will continue to be used rather than reducing the payment standard amount to the new FMR.

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<sup>1</sup> Rent burden is the percentage of a participant’s adjusted monthly income (AMI) contributed toward their total tenant payment (TTP).

If the average gross rent is greater than the FMR, the payment standard is set at the lesser of the average gross rent or at the maximum amount within the basic range (110 percent of the FMR).

On a case-by-case basis, the DCA may request approval from the HUD State Office of an exception payment standard amount above 110 percent of the FMR to 120 percent of the FMR if required as a reasonable accommodation for a family that includes a person with disabilities (see EXHIBIT 9-4).

### **Applying a Different Payment Standard Amount**

The program must apply a new payment standard at a program participant's annual reexamination if any of the following events occur:

- If the program has increased the payment standard amount applicable to the household or market area, it must use the increased payment standard.
- If the household's size or composition changes, the payment standard amount for the appropriate unit size is used.

If the program lowers a payment standard amount, the payment standard in effect on the effective date of the Housing Assistance Payments Contract with the property owner will remain in effect until the household moves to another unit, has a change in its household size or composition, or until the *second* annual reexamination of the household's income and household composition after the program decreases the payment standard amount.

If there is an increase in the FMR, the DCA is not required to raise the payment standard to correspond to the increased FMR. All decisions with regard to the payment standard are made at the DCA's discretion on a case-by-case basis.



### **Actions to Reduce Voucher Program Costs**

If the amount of renewal funding for the current program year is inadequate to assist all of the Vouchers in the program's baseline allocation, the program may have to take steps to reduce costs and/or the number of active Vouchers holders to reduce program costs.

The DCA will take the following cost-cutting steps when faced with a budgetary shortfall:

- Reduction of the payment standard to 90%;
- The program will not re-issue Vouchers that are surrendered through normal program attrition; and
- The program will terminate the participation of program participants that receive the smallest amount of monthly housing assistance (excluding elderly households and households that include a person with disabilities).

Program participants who are terminated because of a funding shortfall will receive a minimum of forty-five (45) days advance notice of the termination, and in accordance with 24 C.F.R. §982.555 (*Informal hearing for participant*) are not eligible for an informal hearing as this action is a discretionary, administrative determination by the DCA. (see 24 C.F.R. §982.555(b)(1))

## **HOMEOWNERSHIP OPTION**

The DCA has elected to offer the first-time homebuyer homeownership option to certain participants in the Housing Choice Voucher Program. The U.S. Department of Housing and Urban Development defines first-time homeowner in 24 C.F.R. §982.4(b) as “[a] family in which no member owned any present ownership interest in a residence of any family member during the three years before commencement of homeownership assistance for the family.” This term includes a single parent or a displaced homemaker who, while married, owned a home with his or her spouse, or resided in a home owned by his or herspouse.

### **Eligible Units**

To be considered for homeownership assistance, the housing unit must be either a one (1) unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium. Any housing unit located in a Coastal Barrier Resource System (CBRS) is ineligible for the program. The CBRS maps are available at:

[http://www.fws.gov/habitatconservation/coastal\\_barrier.html](http://www.fws.gov/habitatconservation/coastal_barrier.html)

### **PHA Capacity**

The DCA has provided housing counseling by HUD certified housing counselors through the State’s Homelessness Prevention Program since 1984. This program assists homeowners who are in danger of mortgage foreclosure by providing counseling, referral, and financial assistance, when funding is available.

The DCA will utilize New Jersey Housing and Mortgage Finance Agency (NJHMFA) approved HUD certified housing counseling agencies to provide pre-homeownership counseling to program participants. A minimum of eight (8) hours of education and counseling will be provided to participants in group settings, or in one-on-one sessions. The training must comply with the minimum requirements of the certified housing counseling agency. The DCA will also refer participants to the NJHMFA to apply for first-time homebuyer assistance, down payment assistance, and thirty (30) year mortgages at below market interest rates.

The DCA will refer program participants to the U.S. Department of Housing and Urban Development, the New Jersey Division of Civil Rights, Legal Services of New Jersey and other agencies that may assist with complaints about housing discrimination or unfair lending practices.

A minimum of eight (8) hours of education and counseling will be provided to participants in group settings, or in one-on-one sessions. The training must comply with the minimum requirements of the certified housing counseling agency.

The DCA will also refer participants to the New Jersey Housing and Mortgage Finance Agency and other lenders to apply for counseling, first-time homebuyer assistance, down payment assistance, and thirty (30) year mortgages at below market interest rates.

The DCA will refer program participants to the U.S. Department of Housing and Urban Development, the New Jersey Division of Civil Rights, Legal Services of New Jersey and other agencies that may assist with complaints about housing discrimination or unfair lending practices.

The Council on Affordable Housing will notify the program about new homeownership

opportunities that are created through the State's Mount Laurel requirements.

**Number of Homeownership Families**

The DCA will not place a limit on the number of families that may receive homeownership assistance.

### **Additional Program Requirements for Participation**

All applicants for homeownership assistance must be participants in good standing with the Housing Choice Voucher Program and have a credit score of at least 670 points. In addition, all applicants except the elderly and disabled, must have at least 3.5 percent of the estimated sales price saved prior to applying for the program.

The DCA will issue the homeownership Voucher for sixty (60) days with two (2) sixty (60) day extensions after the participant finds a home to purchase. Participants will be allowed 120 days to obtain financing and close on the property.

These allowable periods may be extended by the DCA to provide reasonable accommodation for a household that includes a person with disabilities or for individual circumstances. (Appendix C)

If a family fails to complete the purchase of a home within the period allowed by the DCA, the family may retain the Voucher for tenant-based rental assistance. The family may reapply for homeownership after one (1) year.

Non-elderly and non-disabled homeownership assistance applicants must be full-time employees for at least one (1) full year at the time they apply for the program. Full-time employment is defined as having worked at least thirty (30) hours per week for fifty-two (52) consecutive weeks.

### **Minimum Income Requirements**

Homeownership assistance applicants (head of household) must have at least \$25,000 of earned income to be eligible for the program. If an applicant's earned income decreases prior to closing on an eligible unit, the household may be deemed ineligible if the unit is no longer affordable. However, for elderly or disabled applicants the minimum income requirement is twelve (12) times the monthly SSI/SSD amount for the state of New Jersey. All Housing Choice Voucher Program participants that are interested in participating in the homeownership option will be required to furnish the program with a tax return transcript for the most current year or period available.

### **Self-Employment**

Applicants who can demonstrate that they have been self-employed for at least one (1) full year may be eligible for homeownership assistance provided they have earned at least the required \$25,000 annual income over the previous twelve (12) months.

### **Elderly/Disabled Households**

As stipulated in 24 C.F.R. §982.627(d)(3) there are no employment standards or hours of work required for an elderly family or a disabled family.

Welfare assistance will be counted when determining the minimum annual income for an elderly family or a disabled family (see *Definitions* in 24 C.F.R. §5.403).

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<sup>1</sup> To order a tax return transcript free of charge, use IRS Form 4506-T or call 1-800-829-1040.

### **Counseling Before Commencement of Homeownership**

Within 120 days before the commencement of the first attempt at homeownership, the participant (head of household or spouse) will be required to complete the pre-homeownership counseling course. All costs for the homeownership counseling will be paid by the DCA.

If the tenant has successfully completed the pre-homeownership counseling course required by the program, and the tenant fails to succeed in the homeownership effort, the tenant will be required to attend a refresher one-on-one homeownership counseling session.

### **Financing the Purchase of a Home**

If a homeowner proceeds with refinancing and/or obtaining a home equity loan or a second mortgage without DCA's approval, they may be terminated from the program.

The program will prohibit the following types of financing for purchase of a home: Balloon payments and variable interest rates. All mortgages must be for a thirty (30) year term at a fixed rate and issued by a DCA approved mortgage company.

The DCA will review lender qualifications and the mortgage loan terms before authorizing homeownership assistance.

The DCA will disapprove proposed financing, refinancing or other debt if it determines that the debt is unaffordable, or if it determines that the lender or the loan terms do not meet program qualifications. In making such determinations, the DCA may take into account other family expenses, such as child care, unreimbursed medical expenses, homeownership expenses, and other

family expenses as determined by the DCA.

For the duration of the DCA's assistance, homeowners must consult with the Homeownership Program staff prior to applying for a home equity loan or a second mortgage. Program participants who are interested in refinancing their existing mortgages must first consult with the program. The DCA will only consider requests for refinancing for the following reasons:

1. To refinance the current principal owed if the new interest rate is at least 1.25 percent below the homeowner's original mortgage lock-in rate. This difference should yield a "break even" period in approximately three (3) years.

2. To draw upon the earned equity in the home if the new interest rate is at least 1.0 percent below the homeowner's original mortgage lock-in rate and the homeowner does not have the financial resources to:

- Replace a major system (electrical, plumbing, roofing, heating, air conditioning, structural) that has failed and the cost exceeds \$20,000; or
- Pay for unexpected medical expenses for a household member that does not have medical insurance.

Any refinancing plan must be reviewed by the program and will be approved or denied depending on the household's total annual income and the affordability of the reworked debt package. When reviewing all requests, the DCA will consider the following: original purchase price, original mortgage rate, remaining principal, the application and closing costs associated with refinancing, and the new lender. All lenders must have the ability to accept two (2) payments – one (1) from the household and one (1) from the program. At no time will DCA approve the refinancing of a mortgage above the original mortgage amount. In addition, the DCA will approve only one (1) request to refinance during the term of a program participant's participation in the program.



If a homeowner proceeds with refinancing and/or obtaining a home equity loan or a second mortgage without DCA's approval, they may be terminated from the program.

### **Financing and Affordability Requirements**

Financing and affordability requirements will be established by the DCA. HUD certified housing counseling agencies will provide services to participants in the program in conjunction with generally accepted lending practices and subject to FHA mortgage insurance requirements if the home is financed with FHA mortgage insurance.

### **Maximum Purchase Price**

Effective July 1, 2017, the DCA will not set a maximum purchase price for homes eligible to participate in the homeownership program. Homes must meet the affordability standard as described in the Administrative Plan and as determined by DCA in its sole discretion. Participants must comply with all DCA policies on income, payment standards, and other requirements.

### **Minimum Down Payment Requirement**

The DCA has established a minimum homeownership down payment requirement of 3.5 percent of the purchase price from the participants' assets for participation in the homeownership program.

For elderly and disabled participants, only 1 percent must be from the participant's funds.

### **Determination of Homeownership Expenses**

The DCA will allow the following homeownership expenses:

- Principal and interest on initial mortgage debt;
- Any refinancing of such debt;

- Any mortgage insurance premium incurred to finance the purchase of the home; Real estate taxes and public assessments on the home;
- Homeowner's insurance;
- An allowance for maintenance expenses and the cost of major repairs and replacements (these amounts will be determined on a case-by-case basis);
- A monthly allowance for utilities;
- Principal and interest on mortgage debt incurred to finance the cost of major repairs, replacements or improvements to the home;
- Homeownership association fees;
- Condominium fees and service assessments;
- Fees for renting a manufactured home space, if required by a participant who purchases a manufactured home; and
- Debt incurred to finance the cost of modifications to the property to make it accessible for a family member who is a person with disabilities.

### **Homeownership Expenses for a Cooperative Member**

The DCA will determine the homeownership expenses for cooperative members on a case-by-case basis and in accordance with 24 C.F.R. §982.635(c)(3).

### **Homeownership Assistance Payment for Mortgage**

The DCA will pay homeownership assistance payments directly to the lender on behalf of the family.

## **Portability**

All households who have used the portability feature of the Housing Choice Voucher Program to transfer to, or return to, the jurisdiction of the DCA's program must be assisted by the DCA for one (1) year before they are eligible for homeownership assistance.

Participants receiving homeownership assistance will be prohibited from moving into another homeownership unit. Exceptions to this policy may be considered to provide reasonable accommodation or in cases involving domestic violence, a natural disaster, or other extenuating circumstances on a case-by-case basis (Appendix C).

## **Housing Quality Standards Inspections**

The DCA will conduct an initial housing quality standards evaluation of all homes that are purchased under the homeownership option. These evaluations will enable the program to assess the conditions of the homes and to provide any counseling or training that may be needed to sustain the homeownership opportunity for participating families. Once a housing unit passes the initial housing quality standards inspection, the DCA may conduct annual inspections in order to ensure the home remains in good repair.

## **Voucher Size**

The voucher size utilized at the commencement of homeownership assistance will remain the same for the duration of program participation (up to 15 years for non-elderly or non-disabled and up to 30 years for elderly or disabled).

## **Environmental Requirements**

Buyers must meet the following requirements prior to their units being approved for the Homeownership Program:

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.

## **Annual Reexaminations**

At the time of a Homeownership Program participant's annual reexamination, the program will also:

1. Pull a credit report to determine if there is any additional debt linked to the property; and
2. Obtain an IRS tax return transcript (see page 18-4) to verify family assets.

## **PROJECT-BASED VOUCHER PROGRAM**

In accordance with 24 C.F.R. §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](http://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 the DCA's 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 (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 C.F.R. §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 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 (5) 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 C.F.R. §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 C.F.R., 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 (9) 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 up to (20) years for each contract unit. Within one (1) year before expiration, the program may agree to extend the term of the HAP Contract for an additional term of up to ten (10) years.

The HAP Contract must specify the number of units in any building that will exceed the 25 percent per building cap (see 24 C.F.R. §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). Once the in-place family’s continued

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

### **Selection from the Waiting List**

The program must use the same waiting list for both tenant-based assistance and PBV assistance. The program will notice specific bedroom-size eligible families by mail concerning vacancies at PBV units and will request that these families express interest in residing in specifically designated units. The program will provide a list of interested families to the PBV owner who must offer a suitable PBV unit, unless the owner has a legal basis for refusing a tenancy pursuant to all applicable federal and state laws. The family must reside in the PBV unit for a period not less than one year (12 months) in order to be eligible to transfer to the Housing Choice Voucher Program. After one (1) year of successful residency in a PBV unit, an interested family in good standing with the program will be awarded a Section 8 Housing Choice Voucher.

If the program has noticed all eligible families on the waiting list and the list becomes exhausted, the program may open a separate waiting list for admission to PBV units.

The prohibition on granting preferences to persons with a specific disability (see 24 C.F.R. §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 the 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 C.F.R. §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 C.F.R. §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 sixty (60) days in advance of the annual anniversary of the HAP Contract.

### **Reasonable Rent**

The program must re-determine the reasonable rent:

1. Whenever there is a 5 percent or greater decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit sizes specified in the HAP Contract) as compared with the FMR in effect one (1) 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 C.F.R. §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 (1) 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. Nonpayment of such charges is grounds for termination of the lease by the owner in an assisted living development.

## **REASONABLE ACCOMMODATION POLICIES AND PROCEDURES**

See Appendix C