

**DRAFT: SUBJECT TO REVISION**



**NEW YORK CITY HOUSING AUTHORITY**

Housing Choice Voucher Program Administrative Plan

---

DRAFT

**Housing Choice Voucher Program**  
**2016 Administrative Plan**

Contents	Page
I. INTRODUCTION.....	5
A. Covered Programs.....	5
B. Changes to the Administrative Plan.....	5
II. FAIR HOUSING AND EQUAL OPPORTUNITY.....	5
A. Non-Discrimination .....	5
B. Discrimination Complaints.....	5
C. Policies Related to Persons with Disabilities .....	5
D. Violence Against Women Act .....	6
E. Promoting Deconcentration .....	6
III. SPECIAL ADMISSION PROGRAMS .....	6
A. Mainstream Disabled.....	7
B. Veterans Affairs Supportive Housing (VASH).....	7
C. Family Unification Program (FUP).....	7
D. Non-Elderly Disabled (NED) .....	7
E. Tenant Protection Vouchers .....	7
IV. APPLICATIONS, WAITING LIST AND TENANT SELECTION.....	7
A. Waiting List: HCVP.....	8
B. Tenant Selection .....	8
V. ELIGIBILITY.....	9
A. Definitions of Family and Household Members .....	9
B. Family Break-Up.....	10
C. General Occupancy Standards.....	10
D. Income .....	10

E.	Citizenship/Eligible Immigration Status.....	12
F.	Mandatory Social Security Numbers .....	12
VI.	VERIFICATION.....	13
VII.	DENIAL OF ASSISTANCE .....	14
A.	Mandatory Denial of Assistance .....	14
B.	Other Permissible Grounds for Denial.....	15
C.	Screening.....	15
D.	NYCHA Discretion.....	16
VIII.	PAYMENT STANDARDS .....	16
A.	Establishing Payment Standards.....	16
B.	Modifying Payment Standards.....	16
IX.	FAMILY SHARE.....	17
A.	Calculating Family Share .....	17
B.	Increase in Payment Standard Amount During Contract Term.....	18
C.	Change in Family Voucher Size .....	18
E.	Applying Utility Allowance .....	19
X.	VOUCHER ISSUANCE .....	19
A.	Voucher Issuance .....	19
B.	Occupancy Standards.....	19
C.	Voucher Term .....	20
E.	Good Cause Extensions.....	20
XI.	Description of Housing Quality Standards.....	20
A.	Standards .....	21
B.	Inspection Types .....	22
C.	No Access .....	22
D.	Participant’s Cancellation of HQS Inspection .....	22

E.	Suspension of Housing Assistance Payments & HAP Contract/Program Termination for HQS Failure.....	23
XII.	RENT REASONABLENESS .....	25
A.	Rent Reasonableness Determinations.....	25
XIII.	GENERAL LEASING POLICIES AND HOUSING ASSISTANCE PAYMENT CONTRACT .....	26
A.	Initial Screening.....	26
B.	Housing Types .....	26
C.	Lease and Tenancy Addendum .....	26
D.	HAP Contract Renewal.....	26
E.	Overcrowded Unit.....	27
F.	Absence from Unit .....	27
G.	Continuously Assisted Family .....	27
I.	Separate Agreements .....	27
J.	Security Deposits .....	27
K.	Request for Tenancy Approval for Initial Rental or Transfer.....	28
L.	HAP Contracts .....	29
XIV.	OWNERS.....	29
A.	Definition of Owner .....	29
B.	Disapproval of Owner .....	30
C.	Change in Ownership.....	31
D.	New Owners to the Section 8 Program .....	31
E.	Payment Method .....	31
XV.	ANNUAL AND INTERIM RECERTIFICATIONS.....	31
A.	Annual Recertifications.....	31
B.	Interim Recertifications .....	32
C.	General Requirements for Adding Persons to the HCVP Household .....	33

- XVI. TRANSFERS AND PORTABILITY ..... 34
  - A. Portability..... 34
  - B. Emergency and Non-Emergency Transfers within New York City..... 34
  - C. Non-Emergency Transfers ..... 35
- XVII. TERMINATION OF ASSISTANCE ..... 35
  - A. General Procedures ..... 35
  - B. NYCHA Discretion..... 37
  - C. Informal Conferences and Impartial Hearings for Participants..... 37
- XVIII. PROGRAM INTEGRITY..... 38
  - A. Preventing, Detecting, and Investigating Errors and Program Abuse ..... 38
  - B. Corrective Measures and Penalties ..... 38
- XIX. REPAYMENT AGREEMENTS..... 39
- XX. CONVERSION PROGRAMS..... 39
  - A. Enhanced Vouchers ..... 39
  - B. Rental Assistance Demonstration (RAD) PBV Units..... 40
- XXI. PROJECT BASED VOUCHERS..... 49
- XXII. LLC DEVELOPMENTS ..... 57
- XXIII. FAMILY SELF-SUFFICIENCY PROGRAM ..... 57
- Glossary..... 58

## I. INTRODUCTION

The purpose of the administrative plan is to establish local policies for the administration of the Section 8 Housing Choice Voucher Program (HCVP) in accordance with United States Department of Housing and Urban Development (HUD) requirements.

### A. Covered Programs

The New York City Housing Authority (NYCHA) administers the HCVP. -The HCVP also covers Project Based Vouchers (PBV) and Veterans Affairs Supportive Housing (VASH).-The policies described herein apply to the HCVP, except in specified cases for which special rules pertain.

### B. Changes to the Administrative Plan

On an ongoing basis, NYCHA may make minor, non-substantive modifications to the Administrative Plan in order to clarify existing policies and procedures and/or to correct editing errors. -The NYCHA Board will approve proposed substantive changes to the Administrative Plan.

The Administrative Plan is a supporting document to NYCHA's Annual Plan and is available for public review.

## II. FAIR HOUSING AND EQUAL OPPORTUNITY

### A. Non-Discrimination

NYCHA must comply with applicable federal, state, and local non-discrimination and fair housing laws to ensure equal access to housing in HUD programs regardless of race, color, religion, ~~sex, sexual orientation, gender identity, national origin, disability, or familial status.~~ national origin, sex, disability, sexual orientation, age, familial status, marital status, partnership status, lawful occupation, lawful source of income, military status, alienage or citizenship status, or on the grounds that a person is a victim of domestic violence, dating violence, sexual assault or stalking.

NYCHA will provide information to individuals to enable them to pursue housing discrimination complaints with local, state, or federal entities. -NYCHA provides this information during the family briefing session and includes the Fair Housing Information and Discrimination Complaint Forms in the voucher holder's briefing packet. -NYCHA also displays fair housing posters in its offices.

### B. Discrimination Complaints

In the event a person alleges discrimination in his/her housing search, the case will be forwarded to NYCHA's Department of Equal Opportunity for further action, as appropriate. Additionally, NYCHA will provide a list of outside agencies with whom the voucher holder can file claims.

### C. Policies Related to Persons with Disabilities

NYCHA will make reasonable accommodation to persons with disabilities to ensure that they may fully access and use the HCVP and related services. -NYCHA will provide an opportunity for an

applicant or participant to request an accommodation on the application and other forms. -This policy is intended to afford persons with disabilities equal opportunity to obtain the same results and gain the same benefits as those who do not have disabilities, and is applicable to all situations described in this Plan. The individual making the request must meet requirements outlined in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, the Americans with Disabilities Act, and the New York State and New York City Human Rights Laws.

NYCHA will review all requests and will make a determination based on the information provided. In accordance with Section 504 of the 1973 Rehabilitation Act, if the need for the accommodation is not readily apparent, the family must explain the relationship between the requested accommodation and the disability. -In order for NYCHA to approve a request for reasonable accommodation, the applicant or participant may be required to submit documentation from a medical professional to support the request.

NYCHA may deny the request if it will cause an undue financial or administrative burden, or will change the fundamental nature of the program. -NYCHA will notify applicants and participants in writing if it denies the request.

#### **D. Violence Against Women Act**

The Violence Against Women Act (VAWA) is a federal law protecting victims of domestic violence, dating violence, sexual assault, and stalking from discrimination in admissions and from being evicted just because they are victims. -NYCHA can terminate HCVP assistance to those who commit criminal acts of domestic violence, dating violence, sexual assault, or stalking against household members. -VAWA also enables owners to evict abusers by “bifurcating” a lease to remove a person who has ~~committed~~the committed the abuse.

A person seeking protection under VAWA must verify that he or she is a victim ~~of domestic~~of domestic violence, dating violence, sexual assault, or stalking. - One way a person may satisfy this requirement is by providing NYCHA with a signed HUD Form 50066, which may be found on NYCHA’s website.

Even if an assisted person is a victim under VAWA, NYCHA may terminate his/her HCVP assistance, or an owner may evict him/her for failure to meet program requirements, lease violations, or on other independent grounds.

#### **E. Promoting Deconcentration**

NYCHA obtains owner apartment referrals through an established network of public sector and private sector contacts. -Interested owners are invited to participate. ~~Owners can also post by listing their~~ available vacant units online-online via the NYCHA Owner Extranet. All owner listed units are posted on the NYCHA Self Service Portal for voucher holders to view and schedule appointments with owners.

### **III. SPECIAL ADMISSION PROGRAMS**

NYCHA receives grants of HCVP assistance for special purposes that entail program-specific administration requirements. Examples of such special purposes are: Mainstream Disabled, VASH, ~~and~~ Family Unification Program, Non-Elderly Disabled (NED) and Tenant Protection Vouchers.

#### **A. Mainstream Disabled**

Mainstream Disabled vouchers are designed to enable persons with disabilities (elderly and non-elderly) to rent affordable private housing. To qualify the head of household, co-head or spouse must be elderly or non-elderly and disabled. As applicants are selected from the wait list, NYCHA will assure that the appropriate designation is assigned to maximize use of the Mainstream Disabled vouchers allotted.

#### **B. Veterans Affairs Supportive Housing (VASH)**

VASH vouchers are designed to assist homeless veterans with disabilities and/or severe psychiatric and/or substance abuse disorders with locating stable affordable housing. NYCHA accepts referrals of eligible veterans from the Department of Veterans Affairs (VA). As turnover vouchers become available, NYCHA will accept referrals from the VA.

#### **C. Family Unification Program (FUP)**

FUP vouchers are designed for eligible families with a child(ren) at risk of entering foster care or currently living in foster care due to the lack of adequate housing, and for eligible youth who recently left foster care and lack adequate housing. NYCHA accepts referrals of eligible families and/or youth from the New York City Administration for Children's Services (ACS). As turnover vouchers become available, NYCHA will accept referrals from ACS.

#### **D. Non-Elderly Disabled (NED)**

NED vouchers are designed to enable non-elderly disabled person to rent affordable housing. To qualify the head of household, co-head or spouse must be disabled. As applicants are selected from the wait list, NYCHA will assure that the appropriate designation is assigned to maximize use of the NED vouchers allotted.

#### **E. Tenant Protection Vouchers**

Tenant protection vouchers were designed to subsidize rents for tenants facing certain housing conversion actions such as mortgage prepayments, contract expirations and the sale or foreclosure of HUD-owned property. To qualify for a tenant protection voucher, the family must be an existing resident of the property being converted and must remain in place following conversion.

## **IV. APPLICATIONS, WAITING LIST AND TENANT SELECTION**



## A. Waiting List: HCVP

### 1. Opening and Closing Waiting List

In accordance with 24 CFR § 982.206, NYCHA will periodically review its HCVP waiting list to ascertain whether it contains an adequate pool of applicants who qualify for preferences and, with Board approval, will open or close the list, in whole or in part, as required to ensure it has an adequate applicant pool. NYCHA will advertise the opening or closing of the waiting list on NYCHA's website and will place appropriate notifications in English language publications within NYCHA's jurisdiction and in publications in its jurisdiction in other frequently-encountered languages, including but not limited to Spanish-language publications. NYCHA will also notify appropriate city agencies, non-profit and for profit housing providers and community based organizations regarding waitlist outreach.

### 2. Removal from the Waiting List

An applicant will be removed from the waiting list if he or she:

- Failed or refused to submit necessary, requested information within 30 days of the date of the request.
- Failed to complete the online application after two notification attempts.
- Failed or refused to appear for eligibility interviews or briefings after two scheduled appointments.
- Failed to rent an apartment before the voucher expired.

## B. Tenant Selection

### 1. Preferences

NYCHA's established preferences for the HCVP program, as set forth in NYCHA's Annual Plan, are prioritized in accordance with the following HCVP Priority Codes (1= highest ranking; 7 = lowest ranking):

Preferences	Description
1	Homeless referrals from NYC agencies
2	Victim of Domestic Violence Intimidated Witness - Referred by Prosecutorial or Law Enforcement Agency to NYCHA's Family Services Department
3	NYCHA residents required to move because unit is not habitable
4	Mobility Impaired and Residing in Inaccessible Housing
5	Extremely under occupied in a NYCHA apartment, and on waiting list
6	Elderly persons and persons with disabilities
7	All other applicants

### 2. Income Targeting Requirement

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year NYCHA will reserve a minimum of 75% of its new admissions for families whose income

does not exceed 30% of the area median income (AMI) or the federal poverty level. HUD refers to these families as “extremely low-income families.” HUD will treat multiple public housing authorities (PHA) serving one jurisdiction as a single PHA for income targeting purposes. NYCHA will ensure that aggregate admissions comply with the 75% requirement for the jurisdiction. Enhanced vouchers are exempt from this requirement.

**3. Selection of Families from Wait List**

Applicants are selected from the HCVP waiting list in order of (1) preference and (2) initial application date on file. \*

\*Applicants who were certified eligible for the Section 8 program prior to closure of the wait list in 2007 will be selected first until this group of applicants is exhausted.

**4. Screening of Applicants**

NYCHA will conduct criminal background checks and sex offender checks for all HCVP applicants 16 years of age and over. Public information is accessed as part of application processing.

**V. ELIGIBILITY**

**A. Definitions of Family and Household Members**

A family may consist of a single person; and/or additional persons, who occupy the assisted unit in accordance with NYCHA’s HCVP Occupancy Policy.

***Definitions of Family and Household Members***

Family	A single person or a group of two or more persons with or without children who maintain an interdependent relationship and whose income and resources are available to meet the family’s needs.
Head of Household	The head of household is the voucher holder. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program.
Spouse	Spouse means the partner of the head of household in a marriage or domestic partnership recognized within or outside of this jurisdiction. The term “spouse” does not apply to boyfriends, girlfriends, or significant others.
Elderly Family	A family whose head, spouse, or sole member is at least 62 years of age.- It may include two or more persons, each of whom is at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
Disabled Family	A family whose head, spouse or sole member is a person with disabilities; two or more persons with disabilities; or one or more persons with disabilities with one or more live-in aides <u>(see definition of disability on page 39).</u>
Displaced Family	A family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster, declared or otherwise formally recognized by federal disaster relief laws.

Remaining Member	<p style="color: red;">See Section XIV.C., pp. 27</p> For purposes of continued occupancy: the term family also includes the remaining member of a resident family with the capacity to execute a lease. Foster Children, Foster Adults, and Live-in Aides may be members of NYCHA households, but they have no rights as remaining family members.
---------------------	---

**B. Family Break-Up**

NYCHA shall determine, on a case-by-case basis, which family member or members remain in the assisted household, and whether the resulting assisted household may remain in the housing unit that it occupies at the time such decision is made. -Any such decision must comply with NYCHA’s subsidy standards, NYCHA’s HCVP succession policy, and NYCHA’s compliance with VAWA.

**C. General Occupancy Standards**

Only the head of household and authorized family members who are listed on the Affidavit of Income (AOI) as part of the family composition are authorized family members permitted to reside in the subsidized apartment, provided they remain in continuous occupancy. -Except for births and adoption or court awarded custody of minors, no person may join a HCVP household unless NYCHA grants written permission.

**D. Income**

**1. Income Limits at Admission**

Household income at the time of initial eligibility determination and admission shall not exceed 50% of the AMI except for enhanced vouchers, tenants in certain government-assisted projects, and other special circumstances, as described below. -Annual income will be determined in accordance with 24 CFR § 5 and includes all amounts, monetary or not, that go to or are on behalf of, the family head or spouse (even if temporarily absent) or to any other family member, or all amounts anticipated to be received from a source outside the family, and assisting the family, during the 12-month period following admission or

annual reexamination date. -Families must provide verification of income any time prior to certification, as requested by NYCHA.

## **2. Adjustments to Income**

### *a) Medical Expenses*

Deductions from income for medical expenses are allowed for all family members in households whose head or spouse is elderly or disabled. -Families who claim medical expenses will be required to submit proof of the expense.- The allowable medical expense is that portion of total medical expenses that exceeds three percent of annual income.

### *b) Childcare Expenses*

A childcare expense may be deducted from income only when it allows an adult family member to be employed, to actively seek employment, or to further his/her education. Childcare expenses deducted to permit employment must be reasonable and may not exceed the amount of employment income that is included in annual income. -Childcare deductions are applicable to children 12 years old or younger.

### *c) Income from Full-Time Students*

In accordance with HUD regulations, NYCHA will not include in annual income calculations the earnings in excess of \$480 for each full-time student 18 years and older. However, financial aid amounts exceeding tuition must be included in annual income with the exception of financial aid paid to a student over 23 with dependent children, or to a full-time student residing with his or her parents.

### *d) Income of Temporarily Absent Family Members*

Generally an individual who is, or is expected to be, absent from the assisted unit for 180 consecutive days or less and is expected to return is considered temporarily absent and continues to be considered a family member.

Income of family members who are temporarily absent is counted except for full-time students who have documented their absence from the family. -This includes the income (pay and allowances) of family members serving in the military except for hazardous duty pay when exposed to hostile fire.

### *e) Averaging Income*

NYCHA will generally use the method of annualizing income to determine income that is not received for a full year.

### *f) Assets Disposed of for Less than Fair Market Value*

At initial eligibility and annual recertification, NYCHA will determine whether an applicant or participant family has disposed of an asset for less than fair market value

within the past two years. -As permitted by regulation, NYCHA may adopt a minimum threshold to ignore small amounts that would not be counted toward income.

*g) Earned Income Disallowance*

Pursuant to 24 CFR § 5.617, 960.255, NYCHA will disallow the increase in annual income provided by the regulations covering the self-sufficiency incentive for disabled families. The disallowance of increases in income as a result of employment of persons with disabilities will not apply, for purposes of admission to the program.

**E. Citizenship/Eligible Immigration Status**

In order to receive assistance, at least one family member must be a U.S. citizen or eligible immigrant. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD in 24 CFR § 5. -Families that include eligible and ineligible individuals are called “mixed.” Such applicant families will be given notice that their assistance will be pro-rated and that they may request an informal review if they contest this determination. -Eligible status according to US Immigration and Naturalization Service (INS) is:

- US Citizen
- Lawful Permanent Resident
- Asylum/Refugee under Section 207 or 208
- Parolee
- Cuban/Haitian Entrant
- Conditional Entrant, A refugee-Section 203(a) 7 of INS in effect prior to April 1,1980

Verification of citizenship will be determined by NYCHA staff accessing the US Systematic Alien Verification for Entitlements Program.

Individuals who NYCHA finds are neither citizens nor eligible immigrants may elect to contest NYCHA’s determination of their status. -For citizenship and eligible immigration status eligibility requirements only, the applicant is entitled to an impartial hearing, and not an informal review.

**F. Mandatory Social Security Numbers**

All family members with eligible immigration status are required to submit a copy of their social security card. -When existing households are adding new members, they will be given 30 days to provide the required documentation.

Applicant households ~~Applicant households~~ adding a family member under the age of six (6) years will be given a 90-day period to provide documentation necessary to verify the member’s SSN. If it is determined that failure to comply with the documentation requirement was due to unforeseeable and/or uncontrollable circumstances, NYCHA may use discretion in providing an

extension of one additional 90-day period. NYCHA will follow 24 CFR 5.218 for any applicant family who does not comply with the documentation requirements.

## VI. VERIFICATION

NYCHA must verify all information that is used to establish the family’s eligibility and level of assistance, and is required to obtain the family’s consent to collect the information. All adult applicants and participants will be required to sign a Third Party Verification—Consent to Release (059.293), NYCHA’s form of HUD’s Authorization for Release of Information (HUD-9886). If any family member who is required to sign a consent form fails to do so, NYCHA will deny admission to applicants and terminate assistance of participants. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. NYCHA will not pass on the cost of verification to the family.

All information provided by the participant regarding amount and source of income, deductions from income, admission preferences and family composition will be verified in accordance with HUD program regulations. Upfront Income Verifications (UIV), i.e. HUD’s Enterprise Income Verification (EIV) system, the Work Number, and third party verifications obtained directly from the family (check stubs, award letters, etc.) are preferred for clarification in the order referenced. If both written third party form and oral third party verification are impossible to obtain, NYCHA may review participant (family) declared information. NYCHA will document the record describing why a method other than UIV, third party written, third party written form, or oral verification was used.

Level	Verification Type (also referred to as Verification Technique by HUD)	HUD Ranking	Description
6	Upfront Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system*  <u>*EIV is not available for new program participants.</u>	Highest (Mandatory)	<del>Annual Income can be determined based on PHAs are no longer permitted to use</del> actual <del>historical</del> past income <del>received or earned within</del> from the last 12 months, as reported in the HUD-EIV system to calculate employment income. <u>EIV can be utilized to confirm employment; however, other verification levels must be used for calculation purposes.</u>
5	Upfront Income Verification (UIV) using non-HUD system	Highest	Annual Income can be determined based on actual historical income received or earned within the last 12 months, as reported in a non-HUD UIV system. (e.g., Welfare Management System (WMS))
4	Written Third-Party Verification	High	An original document provided by the participant that is generated by a third-party source, dated within 60 days prior to the Annual Recertification or NYCHA request date. (e.g., a pay stub, an award letter, a printout of benefits, as reported in a UIV system)

3	Written Third-Party Verification Form	Medium-Low	A standardized form used to collect income information directly from a third-party source.-
2	Oral Third-Party Verification	Low	PHA staff calls a third-party source to follow up on a written third-party verification form submitted.
1	Tenant Declaration	Low	A statement of reported income and/or expense signed by the participant. This verification level is used if no other documentation is provided.

NYCHA will verify income from sources not available in EIV, using the same time period for both wage and non-wage income.

For income that is completely excluded pursuant to 24 CFR § 5.609(c), NYCHA will rely on self certified information for verification.

## VII. DENIAL OF ASSISTANCE

### A. Mandatory Denial of Assistance

Pursuant to HUD regulations, NYCHA must deny HCVP assistance to an applicant under any of the following circumstances:

- The family does not meet program eligibility criteria (e.g. preference category, income eligibility, enhanced voucher conversion residence requirements).
- Any family member has ever been convicted of manufacturing or producing methamphetamine on the premises of federally-assisted housing.
- Any member of a household is subject to a lifetime registration requirement under a state sex offender registration program.
  - Any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR § 5.

- No family member can establish either citizenship or eligible immigration status (i.e., at least one member of the family must establish either citizenship or eligible immigration status.).

**B. Other Permissible Grounds for Denial**

- NYCHA has previously terminated HCVP assistance for any member of the family.
- Any member of the family on the HCVP application was evicted from federally-assisted housing in the last five years.
- A HUD EIV search for an existing participant indicates that a participant or a member of the participant’s household is receiving a subsidy in another housing program.
- The family or a guest of the family has engaged in or threatened abusive or violent behavior toward NYCHA personnel.
- Any family member owes a debt to NYCHA or another PHA.
- A family member has been evicted from federally assisted housing for drug-related criminal activity. -Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The head of household violates a repayment agreement with NYCHA.

**C. Screening**

**1. Screening for Eligibility and Suitability as a Tenant**

Listing a family on NYCHA’s waiting list, or selecting a family for participation in the HCVP, is not a representation by NYCHA to the owner about the family’s suitability for tenancy. Owners are encouraged to screen families on the basis of their tenant applications standards.

In an effort to prevent future criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by federal regulations, NYCHA will perform the required criminal background check and sex offender check for all heads of household and family members who are 16 years of age or older.

Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the HCVP for a three-year period beginning on the date of such eviction. -However, NYCHA may admit the family if, after considering the individual circumstances of the household, NYCHA determines:

- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program, the documentation of which has been approved by NYCHA; or
- The circumstances leading to eviction no longer exist because the evicted household member is no longer a member of the family (e.g., death, or other permanent situation).



## **2. Notice of Denial of Assistance**

If an applicant is denied HCVP housing assistance, NYCHA will ~~send~~give the applicant an Ineligible notice at the time of the eligibility interview, which states the basis of that ineligibility determination. The Ineligibility Notice will explain the applicant's right to an informal review and how to obtain the review, and NYCHA will enclose copies of its procedure and the Request for an Informal Review form with the Ineligibility Notice.

## **3. Where and When such Informal Reviews are Available**

If an applicant has an informal review, NYCHA will ~~send~~give the written notification of the determination to the applicant ~~at the time of the informal review~~. If the applicant claims a disability, NYCHA will supply a copy of the Housing Authority ADA/Section 504 Grievance Procedure.

### **D. NYCHA Discretion**

In deciding whether to deny program admission (or terminate assistance as described below) because of criminal activity by members of the family, NYCHA has discretion to consider all of the circumstances in each case, including the seriousness of the activity, the extent of participation or culpability of individual family members, the length of time since the criminal activity occurred, the family's more recent history, the family's record of compliance with program requirements, and the effects that denial of program admission (or termination of assistance) may have on other family members who were not involved in the action or failure to act.

## **VIII. PAYMENT STANDARDS**

### **A. Establishing Payment Standards**

In general, the payment standard will be between 90% and 110% of the most recently published HUD fair market rent (FMR) for the assisted unit.

### **B. Modifying Payment Standards**

NYCHA will review its payment standard annually upon HUD's publication of FMR. ~~NYCHA~~ may request HUD approval of payment standard adjustments outside the basic 90-110% range when circumstances warrant.

NYCHA's annual review of its payment standard will consider:

- Percentage of annual income families pay for rent under the voucher program (rent burdens);
- Program utilization rates;
- Rents for units currently leased;
- Size and quality of units leased under the program;

- Rental vacancy rates and rents in the market area;
- Success rates of voucher holders in finding units; and
- Annual federal appropriations.

If NYCHA determines that the existing payment standard presents an obstacle to finding an affordable rental unit or that families are generally renting low-quality units, NYCHA may adopt a revised payment standard within the 90-110% basic range. —NYCHA may approve an exception payment standard up to 120% of the applicable fair market rent without HUD approval if requested by a qualifying family as a reasonable accommodation.

NYCHA may also reduce a payment standard for a specific bedroom size or for all bedroom sizes if a significant percentage of leased units, of moderate to high quality, have rents substantially below NYCHA's existing payment standard.

Before revising the payment standard, NYCHA will conduct a financial feasibility analysis to ensure that adequate funds will be available to assist families in the program utilizing the proposed payment standard.

## IX. FAMILY SHARE

### A. Calculating Family Share

Families will pay the highest of the following amounts:

- 30% of the family's monthly adjusted income;
- 10% of the family's monthly income;
- If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs (including tenant-paid utilities), the portion of those payments which is so designated;
- NYCHA's minimum rent for the HCVP (\$50.00); or
- Enhanced voucher minimum rent (see description below).

For participants who are responsible for paying for their own utilities, their share is first applied to the utility expense, up to the amount of the utility allowance in effect, and the remainder goes to the owner as rent. If the utility allowance exceeds the family share, NYCHA will pay the difference in the form of a monthly or annual utility reimbursement payment.

The payment standard that applies to a household when their initial lease is approved will be the payment standard in effect when the lease is approved and executed by the participant and owner. The payment standard that applies for a household when a scheduled recertification occurs will be the payment standard in effect on the effective date of their annual review. - The payment standard that applies to a household during an interim recertification will be the payment standard which

was in effect at the last regular recertification or transfer.

NYCHA will grant an exception to the minimum rent requirement if the family is unable to pay the amount because of financial hardship as defined below:

- When the family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- When the family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death of an income earner in the family has occurred; or
- Other circumstances determined by NYCHA or HUD on a case-by-case basis.

**Note:** Families receiving enhanced voucher HCVP assistance have a special statutory minimum rent requirement, providing that they pay for rent no less than the rent the family was paying on the date of the conversion event for the project in question.

#### **B. Increase in Payment Standard Amount During Contract Term**

If the payment standard amount is increased during the term of the housing assistance payments (HAP) contract the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's first regular recertification on or after the effective date of the increase in the payment standard, or if the participant moves to a new unit.

#### **C. Change in Family Voucher Size**

Irrespective of any increase or decrease in the payment standard amount, if the family voucher size increases or decreases during the HAP contract term, the new family voucher size must be used to determine the payment standard amount for the family beginning at the family's first annual reexamination following verification of the change in the family voucher size. -If the family is residing in a unit larger than that approved according to their family size, the family will be required to pay any additional cost in excess of their payment standard.

#### **D. Contract Rent over the Payment Standards**

There are instances where a rent increase results in the participant's gross contract rent being over the payment standard. In such instances, a participant may pay more than 30 percent of their income on rent. There is no restriction on percentage of rent contribution after the initial rental. A participant may request a transfer if their rent share becomes burdensome as a result of their gross contract rent going over the payment standard.

### **E. Applying Utility Allowance**

The utility allowance that applies to a household when their initial lease is approved will be the utility allowance in effect when the lease is executed by the tenant and owner. -As per 24 CFR § 5.982, “the utility allowance for a family shall be the lower of: (1) the utility allowance amount for the family unit size; or (2) the utility allowance amount for the size of the unit rented by the family.” The utility allowance that applies to a household when a scheduled recertification occurs will be -the utility allowance in effect at completion of the annual recertification.- When utility allowances have been changed, the new allowances will be applied to the family’s rent and subsidy calculations at the first regular recertification, after the allowance is adopted. -For example, during an interim recertification, if the utility allowance was revised since the last regular recertification, NYCHA will not apply the new utility allowance until the next regular recertification.

## **X. VOUCHER ISSUANCE**

### **A. Voucher Issuance**

When funding is available, NYCHA issues a voucher to the family after the family has been determined eligible and briefed on program requirements. -The voucher represents an agreement between NYCHA and the family, specifying the rights and responsibilities of each party, and is the family’s authorization to search for an eligible unit. -A voucher does not constitute admission to the program, and a voucher-holder is not considered a program participant until a lease and HAP contract are executed .

### **B. Occupancy Standards**

Voucher bedroom sizes are based on NYCHA’s occupancy standards below.

**HCVP OCCUPANCY STANDARDS CHART**

<b>Family Composition</b>	<b>Certified Voucher Bedroom Size</b>
Single Occupant	0
Head of Household & Spouse	1
Two (2) Males	1
Two (2) Females	1
One Male (1) and One (1) Female	2
Any 3 person combination	2
Two (2) Males and Two (2) Females	2
Four (4) Males	2
Four (4) Females	2
Head of Household & Spouse, and Two (2) Females	2
Head of Household & Spouse, and Two (2) Males	2
One (1) Male and Three (3) Females	3
Three (3) Males and One (1) Female	3
Head of Household & Spouse, One (1) Male, and One (1) Female	3
Any 5 person combination	3

Any 6 person combination	3
Any 7 person combination	4
Any 8 person combination	4

Applicants and participants with pregnant household members may be subject to an increased voucher size dependent upon total family composition as stated in the HCVP Occupancy Chart.

Applicants and participants may rent a unit with more bedrooms if the apartment’s rent is equal to or lower than the payment standard for their voucher size issued. Applicants and participants may also rent an apartment with fewer bedrooms than their voucher size indicates, provided that the occupancy standards meet the requirements of 24 C.F.R. § 982.401(d)(2)(ii). -If an applicant or participant rents an apartment smaller than his/her voucher size, NYCHA will pay subsidy based on the payment standard for the smaller apartment size.

**C. Voucher Term**

In accordance with 24 CFR § 982.303, NYCHA has established an initial voucher term of 120 days for applicants.

If a voucher has expired and the family has not submitted a rental package for NYCHA’s approval, the family will be removed from the waiting list and required to reapply when NYCHA is accepting applications.

**D. Suspension of the Term of the Voucher**

During the initial or extended term of the voucher, the family is required to submit a Request for Tenancy Approval (Form HUD-52517). The term of the voucher is suspended starting when the Request for Tenancy Approval is submitted to the PHA until the PHA notifies the family in writing whether the assisted tenancy has been approved or denied. This provision applies to all families who are leasing a unit (not just to families under portability). Suspension applies even if a family that submits a Request for Tenancy Approval decides to cancel such request. In such cases, the suspension ends when the PHA learns of the cancellation. Under portability procedures, the requirement to suspend the term of the voucher applies to the receiving PHA only.

**D-E. Good Cause Extensions**

NYCHA, at its discretion, may extend a voucher beyond 120 days for good cause.- Good cause may include, but is not limited to, approving a request for a reasonable accommodation to make the program accessible to a family member with a disability.

**XI. Description of Housing Quality Standards**

Housing Quality Standards (HQS) are minimum standards established by HUD for all units receiving assistance under HCVP. -NYCHA is required by federal regulations to ensure that each unit occupied

by a subsidized household is “decent, safe and sanitary.” To meet this requirement, NYCHA conducts an HQS inspection prior to providing assistance on behalf of a participant and biennially throughout the term of assisted tenancy. However, if the unit fails its biennial inspection, it will be automatically scheduled the following year for a regular HQS inspection, until a satisfactory inspection is recorded in HUD’s -PIC Information -system.- NYCHA also reserves the right to schedule an HQS inspection at any time for quality assurance purposes.

#### **F.A. Standards**

##### **1. Life Threatening -Violations**

NYCHA, at its discretion, -may determine certain HQS violations -to be life threatening conditions. -The owner must repair these violations -within 24 hours to avoid suspension of subsidy.

The following are examples of life-threatening conditions requiring owner correction within 24 hours. Depending on their severity, other conditions may be cited as emergency HQS failures requiring a 24 hour correction period including:

- Gas Leaks
- Smoking/Sparking/Exposed Electrical Outlets or Wiring
- Building in imminent danger of collapse
- Fire Damage

##### **2. Window Guard Violations**

All Section 8 property owners with buildings that have three or more units must correct missing, loose, or improperly installed window guards within 21 days -from the date of failed inspection to avoid suspension of subsidy.

##### **3. All Other Non-Life Threatening Violations**

All non-life threatening HQS violations must be corrected by the owner within 30 days from the date of failed inspection to avoid suspension of subsidy.

A smoke and carbon monoxide detector is required in every unit.- Building owners are responsible for installing the detectors in accordance with the law, while participants are responsible for maintaining them in working order. -The detectors are to be located in the hall of the unit near the bedrooms and on every floor, if the dwelling has multiple floors. -The detectors may be battery or hard-wire operated.

If the detectors are present but are inoperable (due to the need for a battery or if the participant has removed or damaged them), the failure will be considered a tenant-caused violation. If the violation -is not corrected within 30 days, NYCHA will commence termination action against tenant.

If a hearing-impaired person is occupying the dwelling unit, the detectors must have an alarm system designed for hearing-impaired persons, as specified in the National Fire Protection Association Standards 74.

### **G.B. Inspection Types**

- *Initial* : This inspection is conducted after NYCHA receives a Request for Tenancy Approval form for new admissions and transfers to ensure the unit passes HQS before rental assistance can begin;
- *Biennial*: This inspection must be conducted within 24 months of the last completed inspection to determine that the unit continues to meet HQS; Units that fail HQS must be scheduled for inspection on an annual basis until a satisfactory inspection result is recorded in PIC.
- *Special*: An inspection requested by a participant or a third party, for any reason, before their next regularly scheduled -inspection;
- *Restoration*: This is an inspection requested by a former HCVP participant seeking ~~reinstatement~~restoration of subsidy; and
- *Quality Control*: Inspections required for file sampling by the Section Eight Management Assessment Program (SEMAP).

**NYCHA reserves the right to accept inspection results from alternate inspections as allowed by HUD. -Alternate inspections that NYCHA may accept include inspections conducted by other agencies for HOME, Low Income Housing Tax Credit (LIHTC) or by HUD's Real Estate Assessment Center (REAC).**

### **H.C. No Access**

Participants are required, to allow access to their apartments for a NYCHA inspector to conduct an HQS inspection. -If a participant fails to provide access either to a specific room or the entire unit, on two separate attempts, the family has breached its program obligations and may be terminated from the program.

If the participant fails to provide access to a NYCHA inspector to verify that HQS violations have been corrected, or if the participant fails to provide access for the owner to make the required repairs, -NYCHA may terminate the participant's Section 8 subsidy.

### **H.D. Participant's Cancellation of HQS Inspection**

A participant may only reschedule a regularly scheduled -inspection one time.- NYCHA will not approve a tenant's request to cancel an inspection with less than 48 hours notice and will deem it a missed appointment. -A participant will not be allowed more than one opportunity to reschedule an inspection without documentation of good cause.

## 4.E. Suspension of Housing Assistance Payments & HAP Contract/Program Termination for HQS Failure

For owner-caused, non-life threatening HQS violations, owners ~~must~~may certify in writing that the defects have been corrected ~~or have the unit re-inspected~~. A NYCHA form, Certification of Completed HQS Repairs ~~form~~ (NE-2 Certification), must be completed, signed by both tenant and owner, and submitted in its entirety to NYCHA by mail or by on-line submissions via the Owner Extranet, within 30 days of the failed inspection (21 days for window guards) to avoid suspension of subsidy.

If the owner has made repairs but is unable to obtain the signature of the participant on the NE-2 Certification, the owner may submit other documentation to support proof of repair of the violation. -Acceptable documentation includes a completed work order that matches all the HQS violations on the Certification. -A re-inspection can also be requested in lieu of a Certification. NYCHA will make reasonable attempts to re-inspect the unit within ~~21~~ days.

If the owner does not correct HQS violations within 30 days, NYCHA will suspend the subsidy. -The suspension will take effect the first of the month following the 30-day correction period and will continue until the owner corrects and NYCHA verifies the repairs. -The owner will be ~~notified~~notified that their tenant will be eligible to move if their unit remains suspended for 60 consecutive days.

For an initial inspection of a vacant unit, it is the owner's responsibility to notify NYCHA that all the corrections have been made and to request a second inspection.

For units with owner-caused 24-hour life threatening failures, the owner must notify NYCHA that the failed items have been corrected. -Failure to correct outstanding violations ~~within 24 hours~~ will cause the subsidy to be suspended. -The owner must notify NYCHA in order for a re-inspection to occur. - If the unit passes re-inspection at a later date, payments will be made to the date the repairs were documented as repaired. -At no time will ~~an~~ an NE-2 Certification ~~be~~ accepted for any 24 hour HQS violation. - All 24 hour violations must be ~~re~~re-inspected by a NYCHA Section 8 inspector before the subsidy can be reinstated.

If a unit is suspended for failed inspection for 60 consecutive days, NYCHA will automatically issue a transfer voucher and rental packet to the participant, which will allow the participant to move to a new unit. If the apartment comes into compliance before the transfer voucher expires, the participant can remain in the unit and NYCHA will resume making subsidy payments to the owner.

For quality assurance purposes, NYCHA will randomly re-inspect units. If a random quality assurance re-inspection reveals that HQS violations were not corrected, the unit will fail inspection and the owner will be required to make the repairs to avoid suspension of subsidy. -If the owner submitted a Certification that was approved by NYCHA and the unit subsequently fails a quality assurance inspection for the same HQS violations, NYCHA reserves the right to suspend the subsidy ~~and~~, recoup the HAP payments and charge a nominal fee.



Certifications will not be accepted under the following circumstances:

- If the unit contains 24 hour life threatening violations;
- If the unit failed an initial inspection;
- If a participant disputes that the defect has been corrected;
- If the Certification is missing signatures, unless the owner submits additional proof of repairs; and
- If the owner fraudulently signed for the tenant.

**-i. Tenant-Caused Failures**

NYCHA distinguishes between tenant-caused and owner-caused HQS violations on the inspection failure report provided to both the tenant and owner. -Unless provided for in the lease agreement, owners are not responsible for the correction of HQS violations that NYCHA determines were tenant-caused. -Damages to the apartment in excess of normal wear and tear by a household member will be considered a tenant-caused violation . NYCHA reserves the right to make a determination of the cause of any HQS violations.

Examples of tenant-caused violations -include but is not limited to:

- No electricity or gas when the tenant is responsible for paying utilities;
- No heat in the unit, in conformance with local code, when the tenant is responsible for this utility per the lease agreement;
- A fire escape or exit blocked by the tenant;
- Evidence of poor housekeeping, including heavy accumulation of refuse or debris in the unit;
- No battery in the smoke/carbon monoxide detector or the smoke/carbon monoxide detector is missing or damaged.

**-ii. No Access for Owner to Repair HQS Violations**

If the participant fails to allow access to an owner -to make repairs to violations, the -owner must document -at least two (2) attempts to gain access.- NYCHA requires that owners send written notices via certified mail to the participant in order to document attempts to gain access to the unit. -NYCHA will require written proof of such attempts prior to commencement of termination action against the participant.

Once an owner submits valid documentation that attempts were made to make repairs, NYCHA will send the participant a warning letter regarding his/her failure to fulfill family obligations. -Once the repairs are made and verified by NYCHA, a determination will be made by NYCHA when payments to the owner will resume, including retroactive payments, if any.

## **XII. RENT REASONABLENESS**

NYCHA determines whether rent is reasonable to ensure that subsidized rents do not exceed rental values in the private market for similar unassisted units. -NYCHA determines whether rent is reasonable by comparing the proposed rent to rent charged for other comparable unassisted units. Among the factors used in determining reasonable rent are the location, unit size and amenities in accordance with 24 CFR § 982.507. NYCHA utilizes an independent third party vendor to collect data for rent comparables.

NYCHA will not approve or execute a HAP contract until it determines that the initial rent to the owner is reasonable as compared with similar unassisted units in the area. -During the initial term of the lease, the owner may not raise the rent. The term “reasonable” means the owner’s proposed rent is consistent with that for unassisted units. -In all cases, the rent to owner may not exceed the rent charged by the owner for similar unassisted units on the premises, or in the surrounding area.

### **A. Rent Reasonableness Determinations**

Rent reasonableness determinations are made:

- When units are placed under HAP contract for the first time;
- When owners request annual or special contract rent adjustments;
- When there is a 5% decrease in the FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary; or
- When directed by HUD.

Each participant file will contain documentation that a rent reasonableness review has been conducted for the assisted tenancy, except in cases such as project based and conversion projects where rent reasonableness studies are conducted for entire developments and documentation is kept separately.

### **B. Annual Adjustments to Rent**

After the initial term of the lease, an owner may request an increase in the approved rent at least once per year. -The owner must provide NYCHA with a copy of the new lease agreement executed by both parties at least 60 calendar days before the proposed effective date of the rent increase. All rent increases are subject to funding availability.

For all requested annual adjustments, NYCHA will perform a rent reasonableness analysis using the same methodology as for approving initial rents. -The adjusted rent to the owner will equal the lesser of:

- The reasonable rent as determined by NYCHA; or
- The amount requested by the owner.

NYCHA will notify both the owner and the participant in writing when NYCHA has reached a final decision on a rent increase request.

### **C. Other Contract Rent Changes**

In addition to the standard annual adjustments in rent, landlords are permitted to apply for other specialized types of contract rent changes through the Division of Housing and Community Renewal (DHCR), the Department of Housing Preservation and Development (HPD), and HUD. -The owner must provide NYCHA with a copy of the approval letter at least 30 days after issuance. -NYCHA will receive the contract rent change and determine if the new contract rent is reasonable.- All rent increases are subject to funding availability.

Note:- There are instances where an owner will be mandated to reduce their contract rent by HCR or HPD.- NYCHA will receive and process these reductions in contract rent as stipulated.

## **~~XII~~. XIII. GENERAL LEASING POLICIES AND HOUSING ASSISTANCE PAYMENT CONTRACT**

### **A. Initial Screening**

NYCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. -Screening and selection of a family are the owner's responsibility.

NYCHA does not screen applicants for suitability for tenancy. -NYCHA will provide the owner with the family's current and prior addresses, as shown in NYCHA's records, and with the name and address of the owner at the family's current and prior addresses, if known.

Under N.Y. Public Housing Law § 159, NYCHA may not disclose to owners other information provided by a HCVP applicant or participant, or by a third party regarding the applicant or participant, except under the limited circumstances described in § 159.

### **B. Housing Types**

NYCHA participates in the HCVP program with respect to the following special housing types enumerated in 24 CFR § 982.601(a): Single Room Occupancy, Shared Housing, and Cooperative Housing.

### **C. Lease and Tenancy Addendum**

All private leases submitted for HCVP assistance must comply with state and local law, and must be reviewed and approved by NYCHA staff.

### **D. HAP Contract Renewal**

Once an owner has accepted a participant's voucher and signed a HAP contract that establishes a HCVP tenancy in a rent regulated unit, NYCHA considers that the owner has agreed to the acceptance of the participant's voucher for subsequent lease renewals, -or month to month tenancy, so long as the participant is a participant in the HCVP.---

#### **E. Overcrowded Unit**

If the addition of an approved family member creates an overcrowded situation, the head of household will be required to submit a transfer request to move and will be issued a voucher for the appropriate bedroom size.

#### **F. Absence from Unit**

In accordance with 24 CFR § 982.312 (a), the family may not be absent from the unit for a period of more than 180 consecutive calendar days, in any circumstance or for any reason.

#### **G. Continuously Assisted Family**

A family is “continuously assisted” if it enters NYCHA’s HCVP immediately after having received any other form of assistance under the United States Housing Act of 1937 (the 1937 Act), such as public housing, project-based HCVP housing or assistance under the former Section 236 housing program.

#### **H. Changes in Lease Agreement**

If a tenant and owner agree to alter the current lease agreement, changes must be in writing, dated, and signed by both parties. -The owner must provide a copy of the updated lease to NYCHA. NYCHA will approve any mutually agreed-upon modifications to the lease agreement, as long as the lease still complies with HUD requirements.

A new lease and HAP contract are required for changes in tenant/owner supplied utilities.

A new lease and HAP contract are not required when the family composition changes or the amount of rent to the owner changes.

#### **I. Separate Agreements**

Owners and tenants may execute separate agreements for services, appliances, and other items or amenities outside those that are provided under the lease, if the agreement is in writing and approved by NYCHA. -If the tenant and owner agree on charges for an additional item, as long as those charges are reasonable and not a substitute for a higher rent, NYCHA will permit them. -All agreements for special items or services must be attached to the lease approved by NYCHA. -If agreements are executed at a later date, they must be approved by NYCHA and attached to the lease.

Any appliance, service or other item that is routinely provided to unassisted tenants on the premises or permanently installed in the unit may not be placed under a separate agreement and must be included in the lease. -To qualify for a separate agreement, the service, appliance or item must be an optional amenity. -A tenant’s failure to perform under a separate agreement has no effect on the tenant’s rights under the lease, and cannot be a cause for eviction.

#### **J. Security Deposits**

The owner is not required, but is encouraged, to collect a full security deposit from the tenant.

Security deposits charged by owners may not exceed those charged to unassisted tenants or the maximum amount indicated on the lease. -NYCHA does not pay or provide assistance for security deposits and/or moving fees except as a reasonable accommodation for a disability.

#### **K. Request for Tenancy Approval for Initial Rental or Transfer**

##### **-i. Approval of the Request for Tenancy Approval (RFTA)**

During the term of the voucher, the family must submit the RFTA signed by owner and tenant and a copy of the proposed lease, including the HUD-mandated tenancy addendum. -The family must submit the RFTA in the form and manner required by NYCHA.- NYCHA will not permit the family to submit more than one RFTA at a time.

NYCHA will not approve a unit if the owner is the parent, child, grandchild, sister, or brother of any member of the family, unless NYCHA determines approving the unit would provide a reasonable accommodation for a family member who is a person with disabilities.

Owners must provide an employer identification number or social security number with the W-9. -Ownership will be verified through assessor's office records or a review of the grant deed. NYCHA will request a copy of the management agreement for owners represented by a management company.- NYCHA may request documentation of ownership such as a grant deed, copy of the current tax bill, or other documentation.

NYCHA will review the proposed lease and the RFTA documents and will approve the RFTA if:

- i. The unit is an eligible type of housing;
- ii. The unit meets HUD's HQS, and any additional inspection criteria identified in this Plan;
- iii. The rent is reasonable (NYCHA will certify the rent charged to the housing choice voucher participant is not more than the rent charged for other unassisted comparable units);
- iv. The proposed lease complies with HUD requirements;
- v. There is no owner conflict of interest;
- vi. The owner has not been debarred by HUD or the PHA;
- vii. There are no shared utilities, with the exception of some special housing types, "flat rate" apartment complexes, and mobile home parks;
- viii. The family is not leasing a unit owned by a parent, child, grandparent, grandchild, sister or brother of any family member, except if NYCHA waives this restriction as a reasonable accommodation for a family member with disabilities under appropriate circumstances; and
- ix. The owner's address is not the same as the assisted unit.

##### **-ii. Disapproval of the RFTA**

If NYCHA does not approve the RFTA, it will (1) notify the owner and the family; and (2) provide the family with another RFTA form to permit the family to continue to locate eligible housing. During the initial lease term, the family share of the rent must not exceed 40% of the family's adjusted income.

#### **L. HAP Contracts**

The HAP contract must be in the form required by HUD. -The terms of the HAP contract are described in 24 CFR § 982.451-455.- A copy of the HUD-mandated HAP contract may be found at HUD's website.

##### **i. Termination of Contract and Payment**

Housing assistance payments terminate if:

- The lease is terminated by the owner in accordance with the terms of the lease;
- The lease terminates and is not renewed;
- The HAP contract terminates;
- NYCHA terminates assistance for the family;
- If the PHA determines, in accordance with HUD requirements, that the available program funding is not sufficient to support continued assistance for families in the program; or
- Owner breaches terms of the HAP contract.

If an owner has commenced the process to evict the tenant and the family continues to reside in the unit, NYCHA must continue to make housing assistance payments to the owner in accordance with the HAP contract until the owner has obtained a judicial determination allowing the owner to evict the tenant. -NYCHA will continue such payments until the family is evicted from the unit or moves out.

##### **ii. Family Move-out**

NYCHA will end the housing assistance payments to the owner at the end of the month in which the family moves out of the unit or after a tenant has died and no eligible remaining family members are in the unit. -Any overpayments of HAP will be recouped on the last day of the month after a tenant has vacated the unit, with or without notice to the landlord.

### **~~XIII~~.XIV. OWNERS**

#### **A. Definition of Owner**

Any person or entity with the legal right to lease or sublease a unit to a participant.

## **B. Disapproval of Owner**

Pursuant to 24 CFR § 982.306(a), NYCHA must not approve a unit if it has been informed by HUD or other government agency with relevant jurisdiction, that the owner is debarred, suspended, or subject to a limited denial of participation under 24 CFR § 24.

Pursuant to 24 CFR § 982.306(b), when directed by HUD, NYCHA will not approve a unit if:

- 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; or
- A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

NYCHA will also disapprove a unit if NYCHA determines:

- The owner has engaged in drug-trafficking, as defined in 24 CFR § 982.4; or
- There exists a conflict of interest due to the owner's status as:
  - A NYCHA employee or a member of the household of any such employee, unless the owner obtains NYCHA's written approval; or
  - A relative of the prospective assisted family, as defined in 24 CFR § 982.306(d), unless such tenancy is expressly permitted by that subsection.
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act;
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has a history or practice of non-compliance with HQS for units leased under the tenant-based HCVP, or with applicable housing standards for units leased with project-based HCVP assistance, or leased under any other federal housing program;
- The owner has a history or practice of renting units that fail to meet state, or local housing codes;
- NYCHA has been advised by another government agency that the prospective owner has outstanding arrears in the payment of a state or local real estate tax, fine or assessment; or
- In accordance with 42 U.S.C. § 1437f(o)(6)(C), the owner refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the participant, any member of the participant's household, any guest, or any other person under the control of any member of the household that:
  - i. Threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or NYCHA employees;

- ii. Threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or
- iii. Engages in drug related or violent criminal activity.

**C. Change in Ownership**

Where ownership is to be transferred, NYCHA may approve the assignment of a HAP contract to the new owner at the prior owner's request. -NYCHA may also disapprove the assignment of the contract for any of the reasons listed above. -Prior owners must -request assignment of their HAP contract(s) in writing- and receive NYCHA's written consent before the HAP contract can be assigned and subsidies can be paid to the new owner.

NYCHA will process a change in ownership only if the request is accompanied by the executed documents required -necessary for change in ownership. A list of the required documents can be found on NYCHA's website.

**D. New Owners to the Section 8 Program**

New owners will have 60 days to submit documents before NYCHA cancels the request for change in ownership and issues a transfer voucher to the Section 8 participant to enable him/her to move to another unit. NYCHA will begin making payments prospectively to the new owner once it has reviewed and approved the documents submitted. NYCHA must receive a separate written request from the new owner in order to change the payee and/or the address to which payment is to be sent.

**E. Payment Method**

NYCHA will make all HAP payments via electronic fund transfer (EFT) or debit card. Each owner will be required to enroll online in NYCHA's Owner Extranet portal to complete the EFT enrollment registration. Failure to enroll in direct deposit will result in a delay of your Housing Assistance Payments.

**XIV-XV. ANNUAL AND INTERIM RECERTIFICATIONS**

**A. Annual Recertifications**

NYCHA conducts recertifications of income and family composition annually.- At least 150 days in advance of the scheduled annual recertification date, NYCHA will notify the family of their requirement to submit income and household information. -The family may submit the annual recertification by mail, by bringing it to one of NYCHA's walk in centers, or on-line, if available to the family.

NYCHA may opt to conduct a streamlined reexamination of income for ~~elderly families and disabled families when 100 percent of the family's income consists of fixed income.~~ fixed sources of income.



In a streamlined reexamination, NYCHA will recalculate family incomes by applying any published cost of living adjustments to the previously verified or adjusted income amount.

Fixed income includes income from Social Security benefits, Supplemental Security Income (SSI), and Supplemental Security Disability Insurance (SSDI); federal, state, local and private pension plans; and other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

NYCHA may adopt guidelines established by HUD Notice PIH ~~2013-03~~2016-05 related to ~~determining a participant's annual income. Documentation requirements for annual recertifications have not changed; however, the method~~family declaration of ~~verifying and calculating income has changed. assets under \$5,000.~~ The PHA may, in order to simplify requirements for determining a program participant's ~~income and improve timely completion~~assets obtain third-party verification of ~~annual reviews, use information available in EIV for past actual income received or earned within~~all family assets upon admitting a family and then again at least every three years thereafter. During the intervening annual reexaminations, the last 12 months.PHA has the discretion under this provision to accept a family's declaration that it has a total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration.

The participant must submit his/her completed recertification, including all required third-party verifications, to NYCHA on or before the return date printed in Section A.4 of the Affidavit of Income. -If NYCHA has not received the recertification within this time frame, it will commence termination of subsidy proceedings against the participant.

NYCHA will analyze and verify all information included in the recertification, recalculate the family share of the rent and notify the participant and the owner in writing of the new rent amount to be paid by the participant and new housing assistance payment to be paid by NYCHA. -The notices will include effective dates of the new housing assistance payment amount, family share, and new rent to owner.

## **B. Interim Recertifications**

### **i. Changes to be Reported to NYCHA**

A participant must report the following within 30 days of a change:

- A family member is added by birth, adoption or court-awarded custody, with or without increased income;
- The family wants to add a member to the household by any method other than birth, adoption or court-awarded custody (i.e., marriage); or
- The family loses a member either through relocation or death.

Other changes and increases, including cost of living adjustments to recipients of Social Security, TANF, and Veterans Assistance, and new or increased amounts of unearned income, need not be reported until the next annual recertification. -NYCHA will not reduce the family share of rent when the family reports a loss of welfare benefits due to fraud or a failure to participate in self-sufficiency or work activity.

## ii. Requested Changes

In addition to regular annual reporting requirements, participants may request an interim recertification. -NYCHA will initiate an interim recertification upon verbal or written notification of a change in household income or family composition, or when NYCHA otherwise deems it appropriate.

NYCHA may adopt guidelines established by HUD Notice PIH 2016-05 related to conducting an interim reexamination of income whenever a new family member above the age of six (6) is added. If the new member added is six (6) years of age or younger, an interim reexamination of income will be performed to assure that the required dependent deduction is provided. Note: All new members will be subject to other aspects of program eligibility (e.g., SSNs, criminal history, etc.).

Families with income are not required to report increases in income in between regular re-examinations.

Families without income will be required to report all increases in income within 30 days of the date the change takes effect. NYCHA will conduct an interim re-examination based on the increased income.

NYCHA will notify the participant and the owner of any changes in the family share of the rent and the housing assistance payment.

## iii. Decreases in Tenant Share of Rent

Decreases in the tenant share of rent will become effective the first day of the month following the date the change occurred, provided the participant reported the change within 30 days of the change. -If the family causes a delay, the rent change will be effective the first day of the following month after receipt of supporting documentation of the change.

## C. General Requirements for Adding Persons to the HCVP Household

Participants must request ~~permanent or conditional~~ permission to add individuals to the household except for children born to or adopted by the participant and the authorized occupants of the household during the subsidized tenancy. -All of the requirements below must be met for NYCHA to approve the addition of any person to a HCVP-subsidized unit:

- The request must be made by the Head of Household (HOH);
- The HOH must reside in the unit on the date of the request;
- The request must be made in writing;

- The family must be in good standing when the request is made, meaning there is no administrative action pending against the family to terminate the subsidy;
- The proposed additional person must meet the standards for admission as stated in the Application and Tenancy Administration Department Manual; and
- The proposed additional person must fall within familial relationship categories specified by NYCHA at its discretion.

Note:- NYCHA will make the determination if a family member will be added permanently or conditionally. Permanent permission will allow for the succession of the voucher to a remaining family member. -Conditional permission does not allow for the succession of the voucher to a remaining family member.

## ~~XV~~.XVI. TRANSFERS AND PORTABILITY

### A. Portability

Portability is a feature of the HCVP under which voucher holders may use their vouchers in jurisdictions other than the jurisdiction issuing the voucher. -Voucher holders may live anywhere in the U.S., Puerto Rico, or the U.S. Virgin Islands as long as there is a HCVP administered in that area. Voucher holders may request a transfer to another jurisdiction by submitting a signed transfer request form by mail or personally to any NYCHA walk in center. NYCHA is currently absorbing all incoming portability cases and will automatically add 30 days to the initial PHA's voucher expiration date. NYCHA has the discretion to extend the voucher beyond the HUD required 30 days for the participant.

NYCHA reserves the right to complete criminal background and sex offender checks for incoming portability applicants in line with screening policies.

### B. Emergency and Non-Emergency Transfers within New York City

The HCVP participant must submit a completed and signed transfer request form. -NYCHA then determines if the participant is eligible to receive a transfer voucher.- Transfer requests are reviewed and prioritized as an “emergency” or “non-emergency”.

The following are considered emergencies:

Victim of Domestic Violence (VDV)	Participant suffers or suffered serious or repeated abuse from a family member or person with whom she or he had, or continues to have, an intimate relationship and, as a result of that abuse, has suffered actual physical injury or the threat of injury and will continue to suffer by continuing to live in current residence.
Intimidated Victim (IV)	Participant is the victim of a violent crime or a threat of a violent crime and such crime was committed in a non-random manner as a result of a relationship between the victim and the perpetrator and the participant has suffered actual physical injury or threat of injury against himself or immediate family and will continue to suffer by continuing to live in current residence.

Intimidated Witness (IW)	Person cooperates with a law enforcement agency in the arrest and prosecution of an individual who committed a crime and then suffered actual physical injury or threat of injury against himself or family.
Child Sexual Victim (CSV)	Child victim of a sexual crime.
24 hr Failed HQS inspection	Life threatening reason including: <ul style="list-style-type: none"> <li>o Gas leak</li> <li>o Fire</li> <li>o Dangerous structural hazards</li> <li>o Sparking or exposed or smoking wires</li> </ul>
Natural Disaster	For example: -Hurricane or earthquake.
Court Action	Holdover proceeding in Housing Court based on a landlord 's choice not to renew a lease
Foreclosure action and order to vacate	Owner fails to be financially responsible for the property.
Reasonable accommodation	Participant or household member qualifies as disabled, and the disability requires a change in housing. -A reasonable accommodation form and a letter from a health provider are needed.

**C. Non-Emergency Transfers**

A participant will receive a non-emergency transfer for any voluntary move.

**~~XVI~~XVII. TERMINATION OF ASSISTANCE**

**A. General Procedures**

If NYCHA decides to terminate assistance, NYCHA must give the participant written notice of the intent to terminate, with reasons, and must notify the family of his or her right to an informal conference or an impartial hearing prior to the proposed date of termination in accordance with federal regulations, the Williams consent judgment, and the Section 8 Existing Housing Program – Termination of Subsidy Procedures.

In addition, a participant may decide to stop receiving HCVP assistance at any time by notifying NYCHA. In the event a participant chooses to stop receiving assistance, there is no need for NYCHA to terminate the subsidy as set forth in this section.

NYCHA must terminate program assistance or the HAP contract under any of the following circumstances:

- The family is under a HAP contract and 180 days have elapsed since NYCHA’s last housing assistance payment. NYCHA reserves the right to terminate the HAP contract prior to this timeframe.
- The family (1) fails to submit required documentation concerning any family member’s citizenship or immigration status; (2) submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration

Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

- The family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number (SSN). -For families otherwise eligible for continued program assistance, NYCHA will determine if the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control. -The termination of these families will be deferred to provide an opportunity to comply with the requirement within a period not to exceed 90 days from the date of the notice of noncompliance.
- The family fails to meet ongoing eligibility requirements for students.
- The family is evicted from the assisted unit for serious or repeated violation of the lease.
- Any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR § 5.
- Any family member has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.
- Any member of a household is subject to a lifetime registration requirement under a state sex offender registration program.

NYCHA may terminate program assistance for a participant under any of the following circumstances:

- The violations discovered during annual inspection are tenant-caused and corrections are not made by the re-inspection date.
- Any household member or guest engages in illegal use of a drug in the assisted unit.
- Any member of the family commits drug-related criminal activity, -violent criminal activity, or other criminal activity.
- NYCHA has reasonable cause to believe that a household member's alcohol or illegal drug use, or a pattern of alcohol or illegal drug, use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- The family currently owes rent or other amounts to NYCHA or another PHA in connection with the HCVP or public housing assistance under the Housing Act of 1937.
- The family has breached a repayment agreement with NYCHA or another PHA.
- The family, or a guest of the family, has engaged in or threatened abusive or violent behavior toward NYCHA personnel.
- The family has misrepresented income, household members, or any other reported information on, or accompanying, the HCVP application or annual recertification.

- The family has violated one of the family obligations listed on the voucher, NYCHA’s briefing booklet, or NYCHA’s Administrative Plan.
- The family has failed to provide information requested by NYCHA or keep an appointment.
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to a unit, or any other amounts owed under the lease.
- A family member has engaged in activity that may threaten the health or safety of the owner, property management staff, or persons performing the contract administration function or responsibility on behalf of NYCHA, including a NYCHA employee, contractor or agent.
- The family fails to occupy the unit.
- The family leaves the assisted unit without prior written approval to move by NYCHA.
- Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The owner may terminate the lease with the tenant, however, non-payment of the housing assistance payments by NYCHA is not grounds for termination of the lease because the family is not responsible for the subsidy portion under the HAP contract.

If the owner intends not to renew a lease or not to accept a renewal HAP contract, the owner must give NYCHA 60 days notice prior to the end of the current lease term, in order that NYCHA can offer the participant a voucher to move. -However, under rent stabilization, owners must offer tenants in good standing a renewal lease that includes the material terms of the previous lease.- The acceptance of HCVP subsidies is a material term of the lease; therefore, owners of rent-stabilized units are obligated to accept HCVP in their renewal leases. -In addition, Local Law 10 of 2008 prohibits owners from discriminating against participants based on “lawful sources” of income. Lawful sources of income include social security, and any federal, state or local public assistance or housing assistance such as HCVP subsidy.

#### **B. NYCHA Discretion**

In deciding whether to terminate assistance because of criminal activity by members of the family, NYCHA has discretion to consider all of the circumstances in each case. -NYCHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. NYCHA may permit the other members of a family to continue in the program.

#### **C. Informal Conferences and Impartial Hearings for Participants**

NYCHA will afford an informal conference and an impartial hearing to a participant who may be terminated from the HCVP based on his or her failure or refusal to meet program obligations or requirements, and who makes a timely request for a conference or a hearing. -NYCHA will also afford an informal conference and/or an impartial hearing to a participant who makes a timely request to dispute NYCHA’s determination regarding the family’s share of the rent. -Refer to 24 CFR § 982.555 for circumstances under which a participant is not entitled to a hearing.

If the participant requests an ~~informal conference~~ impartial hearing in order to resolve a termination or rent grievance issue, a conference will be scheduled. If the participant is not satisfied after the informal conference, NYCHA will schedule an impartial hearing. If the informal conference resolves the issue, NYCHA will not schedule an impartial hearing.

NYCHA will send written notice to the participant of the hearing date, along with a copy of the hearing procedures.

NYCHA will continue to make housing assistance payments during the pendency of the hearing if the participant makes a timely request for a hearing.

The Hearing Officer may make the following dispositions:

- Termination of subsidy;
- Termination of subsidy on a certain date unless specified conditions have been corrected or fulfilled; or
- Continuation of subsidy.

NYCHA will notify the participant and his/her representative if the NYCHA Board conducts a review. The Board will issue a written statement if its determination is less favorable to the participant than the Hearing Officer's determination.

## ~~XVII.~~ XVIII. **PROGRAM INTEGRITY**

### **A. Preventing, Detecting, and Investigating Errors and Program Abuse**

NYCHA seeks to ensure the integrity of its HCVP program by taking action against applicants, participants, and owners who commit fraud, bribery, or other corrupt or criminal acts. -In appropriate circumstances, NYCHA may work in conjunction with the New York City Department of Investigation, Office of the Inspector General (OIG) with respect to these matters, or may refer these matters to the OIG for further action.

### **B. Corrective Measures and Penalties**

If an error has been made in determining family income, family share of the rent or family composition, NYCHA will correct the tenant record -and notify the family and the owner.

For subsidy corrections, the notice will include an amendment to the HAP contract via a Voucher Change Notice (VCN). -For changes in family size, the correction may require the family to move to a new unit. -Unless the owner requires a new lease, execution of a new HAP contract is not required.- The specific corrective action NYCHA takes depends upon the fault of the party in causing the error.

## ~~XVIII~~.XIX. REPAYMENT AGREEMENTS

Pursuant to 24 CFR § 982.552(c)(1)(v), if the family owes any amount to NYCHA or to another housing agency in connection with any program administered pursuant to the 1937 Housing Act, NYCHA may deny eligibility or terminate participation. -If a current participant in NYCHA's HCVP owes less than \$10,000, NYCHA may permit the family to enter into a written agreement to repay the debt, either in whole or in 12 monthly installments.

However, in no event will NYCHA enter into a repayment agreement if the debtor is also an employee of any federal, state, county or local government department or agency. These cases will be referred to NYCHA's Office of Inspector General to investigate the feasibility of criminal prosecution.

A payment schedule exceeding 12 months may be authorized only by a Deputy Director or by a NYCHA official in the line of authority above Deputy Director. -Pursuant to 24 CFR § 982.552(c)(1)(vii), the failure to make payments under the agreement will result in proceedings against the family to terminate its participation in the HCVP.

If a family leaves the program without having satisfied a debt, NYCHA will refer the matter for collection. -NYCHA will also maintain a record of unsatisfied debt to NYCHA's public housing or HCVP, so that if the family reapplies to NYCHA for public housing or HCVP assistance, NYCHA will require payment of any unsatisfied balance before considering the family's eligibility for readmission to assisted housing. -Debts owed will also be reported to HUD as required.

## ~~XIX~~.XX. CONVERSION PROGRAMS

As per 24 CFR § 972.103, conversion programs cover "the removal of public housing units from the inventory of a PHA, and the provision of tenant-based or project-based assistance for the residents of the public housing units that are being removed." Two common types of conversion programs at NYCHA are Enhanced Vouchers and Rental Assistance Demonstration (RAD) Program, described below.

### **A. Enhanced Vouchers**

NYCHA receives enhanced vouchers to preserve housing units that might otherwise be lost due to housing conversion actions such as mortgage prepayments or owner opt-outs. -In a housing conversion action, HUD provides vouchers to assist those families affected by a housing conversion or "decoupling," as set forth in section 236(e)(2) of the National Housing Act. Only families residing in the project at the time of conversion are eligible for enhanced voucher assistance. -For eligibility purposes, the time of conversion or decoupling is the effective date of prepayment or voluntary termination of mortgage or refinancing insurance. For eligible families remaining in the conversion project, the enhanced voucher payment standard equals the approved gross rent of the occupied unit (subject to rent reasonableness determinations). -The gross rent is equal to the rent the tenant



pays to the owner plus any tenant-paid utility allowance where tenants are responsible for payment of utilities. -The regular NYCHA payment standard does not apply.

Enhanced assistance only applies if the family remains in the conversion project. -According to federal law, "a family that receives an enhanced voucher has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for housing choice voucher assistance. -The owner may not terminate the tenancy of a family that exercises its right to remain, except for a serious or repeated lease violation or other good cause. -If an owner refuses to honor the family's right to remain, the family may exercise any judicial remedy that is available under state and/or local law." -If the family moves outside the project, the voucher reverts to a regular tenant-based voucher and the regular program rules and payment standards apply.

## **B. Rental Assistance Demonstration (RAD) PBV Units**

~~The Rental Assistance Demonstration is a HUD tool, created for housing authorities to make necessary improvements and ensure the long term affordability of their housing. Under this program, major repairs are made to a specific development, and the federal subsidy supporting the development shifts from the public housing program to HCVP. In an effort to improve its properties, NYCHA will pursue available federally assisted housing opportunities, such as the Rental Assistance Demonstration (RAD) program. NYCHA will also seek other public and private resources.~~

### RAD Resident Rights, Participation, Waiting List and Grievance Procedures :

#### **1. No Re-screening of Tenants upon Conversion**

Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.

#### **2. Right to Return**

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept an offer to permanently relocate to another assisted unit, and thereby waive their right to return to the

development after rehabilitation or construction is completed. Permanent involuntary displacement of residents may not occur as a result of a project's conversion of assistance.

### **3. Renewal of Lease**

Under RAD, the owner must renew all leases upon lease expiration, unless cause exists. This provision must be incorporated into the tenant lease or tenancy addendum, as appropriate.

### **4. Phase-in of Tenant Rent Increases**

If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 5 years. For purposes of this section "standard TTP" refers to the Total Tenant Payment (TTP) calculated in accordance with regulations at 24 CFR §5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058. If a family in a development was paying a flat rent immediately prior to conversion, NYCHA shall use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below. Families will not pay more than 30% of their adjusted gross household income for rent.

Five Year Phase in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the standard TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 40% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 60% of difference between most recently paid TTP and the standard TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 80% of difference between most recently paid TTP and the standard TTP
- Year 5 AR and all subsequent recertifications – Full standard TTP

### **5. Public Housing Family Self Sufficiency (PH-FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs**

NYCHA does not have PH-FSS participants but residents will be able to enter into the Housing Choice Voucher (HCV) FSS program after conversion. Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS-SC grants, nor will its residents be eligible to be served by future public housing ROSS-SC grants.

Supportive services will be offered to families. Property Management (PM) must provide a plan for assessing and responding to resident social service needs, including employment training and job opportunities. The PM must maintain community centers and the provisions of services when the community center is part of the converting development. PM must consult with residents and the Resident Organization about their preferences in the choice of service providers and activities.

## **6. Resident Participation and Funding**

Residents will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding in accordance with the Notice. The owner must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to a legitimate tenant organization at the covered property. These funds must be used for resident education, organizing around tenancy issues and training activities.

## **7. Resident Procedural Rights**

At a minimum, residents will have the following procedural rights, which NYCHA may expand for the benefit of residents.

- a. Termination Notification. HUD has incorporated additional termination notification requirements to comply with section 6 of the U.S. Housing Act of 1937 as may be amended (Act) for public housing projects that convert assistance under RAD. In addition to the regulations at 24 CFR § 983.257, related to owner termination of tenancy and eviction, the termination procedure at a minimum for RAD conversions to PBV will require that the owner provide adequate written notice of termination of the lease which shall not be less than:
  - i. A reasonable period of time, but not to exceed 30 days:
    - If the health or safety of other tenants, the owner's employees, or persons residing in the immediate vicinity of the premises is threatened; or
    - In the event of any drug-related or violent criminal activity or any felony conviction;
  - ii. 14 days in the case of nonpayment of rent; and
  - ii. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
- b. Grievance Process. HUD is incorporating additional procedural rights to comply with the requirements of section 6 of the Act.

For issues related to tenancy and termination of assistance, PBV program rules require the owner to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, and require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  - For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), NYCHA as the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
  - For any additional hearings required under RAD, the owner will perform the hearing.
- ii. An informal hearing will not be required for class grievances or for disputes between residents not involving the owner or contract administrator.
- iii. The owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- iv. The owner provides opportunity for an informal hearing before an eviction.

## **8. Earned Income Disregard (EID)**

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4 of the Notice; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited to only persons with disabilities (24 CFR §5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in §5.617(b) limiting EID to only disabled persons is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants who at one

time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment); tenants that move into the property following conversion, etc.) is covered by this waiver.

## **9. Jobs Plus**

Jobs Plus grantees awarded FY 2014 and future funds that convert the Jobs Plus target project(s) under RAD will be able to finish out their Jobs Plus period of performance at that site unless significant re-location and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the HUD Secretary's discretion, choose to end the Jobs Plus program at that project.

## **10. When Total Tenant Payment Exceeds Gross Rent**

Under normal PBV rules, NYCHA may only select an occupied unit to be included under the PBV HAP contract if the unit's occupants are eligible for housing assistance payments (24 CFR §983.53(d)). Also, NYCHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's total tenant payment (TTP) has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent) (24 CFR §983.258). Since the rent limitation under the Notice may often result in a family's TTP equaling or exceeding the Gross Rent for the unit, for current residents (i.e. residents living in the public housing property prior to conversion), HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP contract when TTP equals or exceeds than the Gross Rent. Further, HUD is establishing the alternative requirement that the rent to owner for the unit equal the family's TTP until such time that the family is eligible for a housing assistance payment. HUD is waiving as necessary to implement this alternative provision, the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR §983.301 as modified by Section 1.6.B.5 of the Notice. In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Assistance may subsequently be reinstated if the tenant becomes eligible for assistance.

Following conversion, 24 CFR §983.53(d) applies and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the Gross Rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the Gross Rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that NYCHA must reinstate the unit after the family has vacated the property.

## **11. Under-Occupied Unit**

Under 24 CFR §983.259, if a family is in an under-occupied unit at the time of conversion the family may remain in this unit until an appropriate-sized unit becomes available in the development. When an appropriate sized unit becomes available, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time.

## **12. Other Miscellaneous Provisions:**

### **a. Access to Records, Including Requests for Information Related to Evaluation of Demonstration**

NYCHA agrees to provide to HUD, upon a reasonable request, data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility Voucher utilization, and rehabilitation work.

### **b. Additional Monitoring Requirement**

NYCHA's Members must approve the operating budget for the covered project annually in accordance with HUD requirements.

### **c. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3)**

The Davis-Bacon Act prevailing wage requirements apply to all initial repairs and new construction that are identified in the financing plan to the extent that such repairs or construction qualify as development. "Development" encompasses work that constitutes remodeling that alters the nature of housing units in the project, reconstruction, or a substantial improvement in the quality or kind of original equipment and materials, and is initiated within 18 months of the HAP contract. Development activity does not include replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind. Section 3 applies to all initial repairs and new construction that are identified in the financing plan to the extent that such repairs qualify as construction or rehabilitation. In addition, Section 3 may apply to the project after conversion based on the receipt of the use of federal assistance for rehabilitation assistance.

### **d. Establishment of Waiting List**

In establishing the waiting list for the converted project, NYCHA will utilize the project-specific waiting list that exists at the time of conversion. The waiting list must be established and maintained in accordance with PBV program requirements.

If a project-specific waiting list for the project does not exist, NYCHA will establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on NYCHA's public housing community-wide waiting list have been offered placement on the converted project's initial waiting list. For the purpose of establishing the initial waiting list, NYCHA will

determine the most appropriate means of informing applicants on the public housing waiting list given the number of applicants, NYCHA's resources, and community characteristics of the proposed conversion under RAD. Such activities should be pursuant to NYCHA's policies for waiting list management, including the obligation to affirmatively further fair housing.

NYCHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Applicants on NYCHA's centralized public housing waiting list who wish to be placed onto the newly-established waiting list are listed in accordance with the date and time of their original application to the centralized public housing waiting list. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and the obligation to provide meaningful access for persons with limited English proficiency (LEP).

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, NYCHA shall administer its waiting list for the converted project in accordance with 24 CFR § 983.251(c).

**e. Mandatory Insurance Coverage**

The project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project.

**f. Agreement Waiver**

For public housing conversions to PBV, there will be no Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D are waived. Instead, NYCHA and the owner will enter into a HAP contract before construction begins.

**g. Future Refinancing**

Owners must receive HUD approval for any refinancing or restructuring of permanent debt within the HAP contract term to ensure the financing is consistent with long-term preservation. (Current lenders and investors are also likely to require review and approval of refinancing of the primary permanent debt.)

## **h. Administrative Fees for Public Housing Conversions**

For the initial Calendar Year in which a project's assistance has been converted, RAD PBV projects will be funded with public housing money. For example, if the project's assistance converts effective July 1, 2015, the public housing Annual Contributions Contract (ACC) between the PHA and HUD will be amended to reflect the number of units under HAP contract, but will be for zero dollars, and the RAD PBV contract will be funded with public housing money for July through December 2015. For this transition period, the ACC will primarily serve as the basis for covering the units and requiring PHA compliance with HUD requirements, but it will not be (as it is in the regular PBV program) the funding vehicle for the PBV RAD vouchers. Given this, and given the fact that PHAs will be receiving full public housing funding for the PBV units during this transition period, PHAs will not receive ongoing Section 8 administrative fee funding during this time.

Generally, PHAs receive ongoing administrative fees for units under a HAP contract, consistent with recent appropriation act references to "section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Responsibility Act of 1998" and 24 CFR 982.152(b). During the transition period mentioned in the preceding paragraph, these provisions are waived, and PHAs will not receive section 8 ongoing administrative fees for PBV RAD units.

After this transition period, the section 8 ACC will be amended to include section 8 funding that corresponds to the units covered by the section 8 ACC. At that time, the regular section 8 administrative fee funding provisions will apply.

## **i. Choice-Mobility**

One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, NYCHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of NYCHA's HCV program becomes PBV assistance, it is possible for most or all of NYCHA's turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for NYCHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing an alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP contract administered by NYCHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD.



The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in NYCHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) and 24 CFR part 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD.

#### **j. Reserve for Replacement**

The owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account covered under a General Depository Agreement (HUD-51999) or similar instrument, as approved by HUD, where funds will be held by the owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines and as directed by HUD.

### **13. Relocation Plans**

NYCHA is pursuing a plan that will allow for tenant in place rehabilitation, which will require no relocation. If a resident must be temporarily relocated, it will be at no expense to the resident. The relocation options will be to a vacant unit in the same development, a vacant unit in another NYCHA development or a vacant unit in the selected developer's housing stock. This will be finalized after a development partner is selected. NYCHA will submit an Accessibility and Relocation Checklist to HUD with its financing plan as required by PIH Notice 2012-32 (HA), REV-2 and will comply with the relocation requirements under the RAD program as stated in PIH Notice 2014-17.

### **14. Site Selection and Neighborhood Standards**

This RAD conversion complies with all applicable site selection and neighborhood review standards as required by the Notice.

## ~~XX~~XXI. PROJECT BASED VOUCHERS

This section of the Administrative Plan describes NYCHA's policies related to implementation of the Project Based Voucher (PBV) program pursuant HUD ~~regs~~regulation 24 CFR § 983.

### **A. Applicability of Tenant-Based Voucher Program Policies to Project Based Voucher Program**

Except as otherwise noted in this section, or unless specifically prohibited by PBV program regulations, NYCHA's policies for the tenant-based voucher program described in the HCV Administrative Plan will also apply to the PBV program administered by NYCHA.

### **B. Program Size**

The total number of PBV units will not exceed twenty percent of NYCHA's tenant-based budget allocation.

### **C. Eligible Unit Types**

PBV assistance may be attached to existing housing, newly constructed or rehabilitated housing. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of NYCHA selection, the units substantially comply with HQS.

### **D. Limits on Number of PBV Units in a Project**

Pursuant to HUD regulations, NYCHA will not provide PBV assistance for units in a project if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than 25% of the number of dwelling units (assisted or unassisted) in the building except where:

- The units are in a single-family building (with four or fewer units);
- The units qualify as "excepted units" as defined below.

### **E. Exceptions to PBV 25% Unit Cap**

Multifamily buildings that have units specifically designated for elderly or disabled families; or families receiving supportive services, are not subject to the 25% unit cap.

### **F. Selection of Project Based Owner Proposals**

NYCHA may advertise the release of a competitive application soliciting proposals from owners/developers of affordable rental housing developments who are interested in receiving project-based voucher program assistance. -This application will be announced via NYCHA's website and in publications of general circulation.

In accordance with HUD regulations at 24 CFR § 983, NYCHA may also engage in non-competitive

selection of proposals for project-based vouchers for projects selected to receive assistance under a competitively-awarded federal, state, or local government housing assistance, community development, or supportive services program within three years of NYCHA's project-based voucher proposal selection date. -In addition, the project will be ineligible for NYCHA's project-based program if the prior competitive selection proposal included any consideration that the project would receive a project-based voucher allocation.

NYCHA's criteria in reviewing project-based applications will be included in public notices or applications. -Project-based vouchers will be allocated in accordance with all current and applicable guidelines and program regulations.

#### **G. Notification of Owner Selection**

NYCHA will notify selected owners within 60 days of its final decision to select the owner's proposal for PBV. NYCHA will maintain records of its evaluation and selection process which will be available upon request to the public. Such records will be maintained for a one year period.

NYCHA will perform a site inspection prior to owner selection to confirm site selection standards.

#### **H. Subsidy Layering**

NYCHA will only provide PBV assistance in accordance with HUD's subsidy layering requirements under 24 CFR 4.13 in accordance with PIH Notice 2013-11. NYCHA will submit the necessary documentation to HUD or an independent entity approved by HUD, -for a subsidy layering review. NYCHA will not enter into an Agreement to enter into a Housing Assistance Payment Contract (AHAP) or a HAP Contract until HUD (or an independent entity approved by HUD) has conducted the subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

#### **I. Site and Neighborhood Standards**

NYCHA will select units or sites for PBV assistance only where NYCHA has determined that housing on the site:

1. is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities consistent with regulations and NYCHA's Administrative Plan; will facilitate and further comply with the applicable provisions of Title VI of the Civil Rights Act and other relevant provisions as cited at 24 CFR 983.57;
2. meets the site selection requirements described in 24 CFR 8.4(b)(5); and
3. meets the HQS site standards at 24 CFR 982.401(l). NYCHA will limit approval of sites for PBV assistance to census tracts that have poverty concentrations over 20% less, except where NYCHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20%.

## **J. Existing Housing**

NYCHA will not provide PBV assistance for existing housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons; and
- Be accessible to social, recreational, educational, commercial, health facilities and services, and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

## **K. New Construction / Rehabilitated Housing**

In order to be selected for PBV assistance, a site for newly constructed housing or rehabilitated housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless NYCHA determines that 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 that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

## **L. Environmental Review**

NYCHA activities under the PBV program will be conducted in conformance with HUD environmental regulations at 24 CFR § 50, 24 CFR § 58, and 24 CFR 983.58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969.

## **M. HQS Inspections**

### **1. Pre Lease-Up Inspections**

NYCHA will inspect each contract unit and public space areas before execution of the HAP contract. NYCHA will not enter into a HAP contract until all the units ~~and~~ public space areas fully complies with HQS.

### **2. Biennial Inspections**

NYCHA will inspect units biennially consisting of at least 20% of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Units that fail HQS will be inspected annually until the unit passes inspection. Turnover inspections are not counted toward meeting this annual inspection requirement. - If more than 20% of the annual sample of inspected contract units in a building fails the initial inspection, NYCHA will reinspect 100% of the contract units in the building.

## **N. Special Requirements for Newly Constructed or Rehabilitated Housing**

This section describes specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing.

### **1. Agreement to enter into HAP (AHAP):**

NYCHA will enter into an Agreement to enter into a HAP (AHAP) contract with the owner/developer after receiving confirmation from HUD or a Housing Credit Agency (HCA) approved by HUD that subsidy layering review and environmental review requirements have been met, and before construction or rehabilitation work has started. The AHAP contract will be in the form required by HUD.

### **2. Labor Standards**

If an AHAP contract covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the AHAP will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates. The owner, contractors, and subcontractors must

also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR § 5, and other applicable federal labor relations laws and regulations.

### **3. Section 3 Requirements**

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR § 135. The owner must also comply with federal equal employment opportunity requirements.

### **4. Owner Disclosure**

The AHAP and the HAP contract will include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs. The owner must also disclose any possible conflict of interest that would be a violation of the AHAP, the HAP contract, or HUD regulations.

### **O. Housing Assistance Payment (HAP) Contract**

NYCHA will enter into a HAP contract for each PBV project for a maximum initial term of 15 years. NYCHA may extend the term of the contract for an additional term of up to 15 years if NYCHA determines an extension is appropriate to continue providing affordable housing for low-income families.

Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

The HAP contract must provide that the contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by NYCHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, NYCHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

If, in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to NYCHA. In this case, families living in the contract units will be offered tenant-based assistance.

NYCHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the HCV voucher program. The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract

term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under HAP contract.

**P. Changes to HAP Contract to Substitute, Add or Subtract PBV Units**

At NYCHA's discretion and subject to all PBV requirements, 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. Before any such substitution can take place, NYCHA must inspect the proposed unit/public space areas. At NYCHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required. If any PBV units have been vacant for 120 days, NYCHA may give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The amendment to the HAP contract will be effective the first day of the month following the date of NYCHA's notice.

**Q. Vacancy Payments**

Project-based voucher contracts have vacancy loss provisions.

**1. Payment for Move-Out Month:**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out. However, the owner may not keep the payment if NYCHA determines the vacancy is the owner's fault.

**2. Vacancy Payment:**

At its discretion, NYCHA will make vacancy payments of the monthly rent not to exceed two full months following the move-out month. Any vacancy payment may cover only the period the unit remains vacant.

In order to claim vacancy loss, the unit must be available for lease and the owner must:

- Notify NYCHA within 48 hours, excluding weekends and holidays, upon learning of the vacancy, or prospective vacancy; and
- Pursue activities to fill the vacancy, including:
  - Seeking eligible applicants by listing the unit with NYCHA;

- Notifying NYCHA of the availability of the unit; and
- Not rejecting potentially eligible applicants except for good cause.

In the event that a unit becomes vacant because of the death of the participant, NYCHA will permit the owner to keep the housing assistance payment for the month in which the participant died.

#### **R. Waiting List and Occupancy of PBV Housing**

NYCHA may utilize separate site-based waiting lists for admission to projects selected to receive project-based voucher (PBV) assistance.

Once a project is selected for PBV assistance, all applicants listed on NYCHA's waiting list for tenant-based assistance will be offered the opportunity to apply for placement on the NYCHA site-based PBV waiting list. Placement on a site-based PBV waiting list has no effect on the applicant's standing on the tenant-based waiting list. -NYCHA will also accept referrals from the owner to populate site-based waiting lists in the event there are no eligible applicants from NYCHA's tenant-based waiting list. -All applicants who wish to be placed on site-based PBV waiting lists must meet income and eligibility criteria for the project.

Subject to NYCHA's approval, owners may request to establish preferences for supportive housing different than those listed in NYCHA's priority code list. -All requests for preferences outside NYCHA must meet federal and local Fair Housing standards.

Applicants on NYCHA's tenant-based waiting list will be placed on the PBV site-based waiting list according to their original certification date and time of application, to the tenant-based waiting list. -Referrals from the owner will be placed on a site-based waiting list according to the date and time NYCHA receives the Section 8 application from the owner.

A preference may be given to applicants with a demonstrated need for particular projects offering specialized services.

The owner must promptly fill vacancies utilizing the NYCHA PBV site-based waiting list.- The owner must lease vacant units in a development to eligible families on NYCHA's PBV site-based waiting list for that development. A preference may be given to applicants with a demonstrated need for particular projects offering specialized services. For Existing and Rehab units, the current resident has absolute preference on the PBV site-based waiting list- as long as they meet PBV eligibility criteria. Selection from the PBV site-based waiting list will be based on date and time of application submission, particular eligibility requirements (for example, senior only), and available unit size.

In determining family unit size, NYCHA may grant an exception to its established subsidy standards if -determined that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. For a single person other than a disabled or elderly person or a remaining family member, such exception may not override the requirement of providing only a zero (studio) or one bedroom unit to a single person.



#### **S. Leasing of Project-Based unit**

NYCHA will make housing assistance payments to the owner in accordance with the HAP contract for contract units leased and occupied by eligible project-based voucher families during the HAP contract term. Per HUD regulations, payments will not begin on behalf of a PBV participant until after the following events:

- Participant has attended a briefing
- Unit and public space areas -Pass HQS Inspection
- Participant submitted all necessary documents to confirm income and program eligibility
- Owner has submitted a lease with the rent breakdown and effective date determined by NYCHA.

The owner will have 60 calendar days to submit an executed lease agreement to NYCHA. If the owner fails to do so by the deadline given, NYCHA will void the lease effective date and will set a new future effective date.

#### **T. Contract Rent to Owner**

The contract rent to owner must not exceed the lowest of the following amounts:

- An amount determined by NYCHA, not to exceed 110% of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent determined by NYCHA, and
- The rent requested by the owner.

#### **U. Rent Reasonableness**

NYCHA will redetermine rent reasonableness:

- Whenever there is a 5% or greater decrease in the published FMR in effect 60 days before the contract anniversary for the unit sizes specified in the HAP contract as compared with the FMR in effect one year before the contract anniversary.
- Whenever NYCHA approves a change in the allocation of responsibility for utilities between the owner and the participant.

The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. -At any time, NYCHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

#### **V. Contract Rent Increases**

Requests for a rent increase for PBV assisted units must be made in writing by the owner at least 60 days in advance of the HAP anniversary date. The contract rent to owner must not exceed 110% of FMR. -In accordance with HUD guidance, NYCHA has elected to adopt the policy that the maximum rent permitted for the unit shall not be less than the initial contract rent for the under a PBV HAP contact.

### ~~XXI~~ **XXII. LLC DEVELOPMENTS**

In March 2010, NYCHA entered into a mixed-finance transaction with NYCHA Public Housing Preservation I, LLC (LLC I) and NYCHA Public Housing Preservation II (LLC II), transferring ownership of 13 of its 21 city or state-built developments to LLC I, and transferring ownership of the remaining eight of its city or state-built developments to LLC II. -NYCHA, as the managing partner of LLC I and LLC II, continues to manage the 21 LLC developments. -The 21 LLC developments contain public housing units as well as units assisted under the Section 8 program.

On an ongoing basis, NYCHA is converting units in the 21 LLC developments to HCVP up to a maximum of 8,400 units. -Upon turnover, vacant units can be filled from the waiting list and will be assisted under the project-based voucher program or tenant based vouchers. -All HCVP assisted tenancies in the 21 LLC developments must meet applicable income and other requirements under the HCVP.

HPD performs HQS inspections of assisted units in the LLC developments.

### ~~XXII~~ **XXIII. FAMILY SELF-SUFFICIENCY PROGRAM**

The Family Self-Sufficiency (FSS) program enables families assisted through HCVP, Public Housing residents, and residents of Native American Housing Assistance and Self-Determination Act-assisted housing to increase their earned income and reduce their dependency on welfare assistance and rental subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling and other forms of social service assistance, while living in assisted housing, so they can obtain skills necessary to achieve self-sufficiency. In accordance with HUD 24 CFR § 5.603, NYCHA facilitates its FSS program from HCVP and Public Housing residents through the Office of Resident Economic Empowerment and Sustainability (REES). -REES offers a variety of job-training, workforce development, and financial management programs designed to encourage, assist, train, and facilitate the economic independence of NYCHA families.

## Glossary

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

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

**Disabled Person.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.

**Elderly Person.** An individual who is at least 62 years of age.

**Eligible Family (Family).** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

**Extremely Under Occupied.** Families in apartments with two or more extra bedrooms.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR § 888.

**HAP ~~contract~~Contract.** Housing ~~assistance payments contract~~[Assistance Payments Contract](#) (HAP ~~contract~~Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) a payment to the owner for rent to the owner under the family's lease; and (2) an additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing Agency (HA).** A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (PHA" and "HA" mean the same thing.)

**[Housing Authority ADA/Section 504 Grievance Procedure.](#)**[The procedure outlined in the Referral to PHRAC or SERAC Reasonable Accommodation Coordinator section of the NYCHA Standard Procedure Manual SP040:12:1](#)

**Housing Quality Standards (HQS).** The HUD minimum quality standards a unit must meet to be housing assisted under the voucher program.

**HUD.** The Department of Housing and Urban Development.

**Owner/Property Manager.** The agent assigned to manage the unit or property. -This may be either the owner of the property or the owner's representative or managing agent or the management agent's representative, as designated by the owner.

**Lease.** A written agreement between an owner or an owner's agent and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Participant (Participant Family).** A family that is currently receiving assistance under HVCP.

**Payment standard.** An amount established by the PHA that represents the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family). -Payment standards are based on the HUD published established Fair Market Rents (FMR) for the voucher program.

**Portability.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Public Assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Reasonable rent.** A rent to owner that is not more than rent charged for: (1) comparable units in the private unassisted market; and (2) comparable unassisted units in the premises.

**Recertification.** Sometimes called reexamination. -The process of securing documentation of total family income used to determine the rent the participant will pay for the next 12 months.

**Security Deposit.** A dollar amount (maximum set according to the regulations) which can be used by the owner or the owner's agent for unpaid rent or damages to the owner upon termination of the lease.

**Social Security Number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. -The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Occupancy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant share.** The portion of rent and utilities paid by the family. -For calculation of family share, see 24 CFR § 982.515(a).

**Third Party Verification – Consent to Release form.** -Consent form, approved by HUD, to be signed by assistance applicants and participants to obtain income information from employers and State Wage Information Collection Agencies (SWICAs); return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. -Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Unit.** Residential space for the private use of a family. -The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements: the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (Housing Choice Voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. -This document describes the program and the procedures for PHA approval of a unit selected by the family. -The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time) but is not yet a participant in the program.

***Voucher program.*** The Housing Choice Voucher Program.