

# Administrative Plan

October, 2013



**WILMINGTON**  
**HOUSING**  
**AUTHORITY**

Housing Choice Voucher Program

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## CHAPTER 1

### STATEMENT OF POLICIES AND OBJECTIVES

#### INTRODUCTION

The Housing Choice Voucher Program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the HCVP Voucher Programs, are described in and implemented through this Administrative Plan.

Administration of the Housing Choice Voucher Program and the functions and responsibilities of the Wilmington Housing Authority (WHA) staff shall be in compliance with the WHA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher Program Regulations as well as all Federal, State and local Fair Housing Laws and Regulations. The WHA policies and practices are consistent with the goals and objectives of the HUD SEMAP indicators.

#### Jurisdiction

The jurisdiction of the WHA is the city of Wilmington, NC the county of New Hanover.

#### **A. LOCAL OBJECTIVES**

In addition to HUD stated objectives of the Housing Choice Voucher Program, the WHA has the following goals for the program:

1. To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.
2. To encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
3. To create positive public awareness and expand the level of family, owner, and community support in accomplishing the WHA's mission
4. To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.
5. To administer an efficient, high-performing agency through continuous improvement of the WHA's support systems and commitment to our employees and their development.

#### **B. PURPOSE OF THE PLAN**

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a

manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan.

The WHA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The WHA will revise the Administrative Plan as needed to comply with changes in HUD regulations. The original Plan and any changes must be approved by the Board of Commissioners of the agency, the pertinent sections including in the Agency Plan, and a copy provided to HUD as requested. This Administrative Plan is a supporting document to the WHA Agency Plan, and is available for public review as required by CFR 24 Part 903.

### **C. ADMINISTRATIVE FEE RESERVE**

All expenditures from the administrative fee reserve will be approved by the WHA Board of Commissioners or Chief Executive Officer and made in accordance with the approved budget.

### **D. FAIR HOUSING POLICY**

It is the policy of the Housing Authority to comply fully with all Federal, State and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. The WHA shall not deny any family or individual the opportunity to apply for or receive assistance under the Housing Choice Voucher Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial status, handicap or disability.

To further its commitment to full compliance with applicable Civil Rights laws, the WHA will provide Federal/State/local information to Voucher holders regarding "discrimination" and any recourse available to them if they are victims of discrimination. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the briefing packet and available upon request. Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the WHA's facilities are inaccessible to or unusable by persons with disabilities.

The Housing Authority of the City of Wilmington, NC office is accessible to persons with disabilities. Posters and housing information are displayed in locations throughout the WHA's office in such a manner as to be easily readable from a wheelchair. Accessibility for the hearing impaired is provided by the TTD/TDY telephone service provider and/or interpreter.

### **E. ACCOMMODATIONS POLICY**

This policy is applicable to situations described in this Plan when a family initiates contact or when the WHA initiates contact with a family including when a family applies, and when the WHA schedules or reschedules appointments of any kind. The WHA will use as the definition of disability the Federal Americans with Disabilities Act of 1990 definitions or as amended.

## **Section 504**

No otherwise qualified individual with handicaps in the United States shall, solely by reason of her or his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

The WHA is obligated to administer the tenant-based assistance program in the most integrated setting possible that is appropriate to the needs of qualified individuals rather than to separate the individual from the general population.

In any case, a participant with a disability must ask for an accommodation of their disability before the housing agency treats them differently.

### **Verification of a Request for Accommodation**

Requests for accommodation may be verified with a reliable knowledgeable, professional. The WHA utilizes organizations to provide assistance for impaired persons as needed. All requests for access and granting of accommodations must be approved by the Director or their designee.

### **Undue Hardship**

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability and they do not create an "undue financial and administrative burden" for the WHA, meaning an action requiring "significant difficulty or expense". In determining whether accommodation would create an undue hardship, the following guidelines will apply:

- The nature and cost of the accommodation needed;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and
- The number of persons employed at such facility, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

## **F. TRANSLATION SERVICES FOR LEP INDIVIDUALS**

WHA will take reasonable steps to provide Limited English Proficient (LEP) services as needed. Periodically, WHA will analyze the need for LEP services based on the number or proportion of LEP persons eligible to be served; the frequency with which LEP persons come into contact with the program; the nature and importance of the program, activity, or service provided to people's lives; and the resources available to the WHA and costs. If analysis determines LEP services are needed and feasible, translations of documents from English into other languages will be made available. The WHA will utilize available resources to provide translation services to non-English speaking families. Families are permitted to use family or friends as interpreters at their own expense in place of or as a supplement to the free language services offered by the WHA.

## **G. RECORDS FOR MONITORING WHA PERFORMANCE**

The WHA will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the WHA's operational procedures objectively and with accuracy. Records and reports will be maintained for the purpose of demonstrating the WHA has met or exceeded all SEMAP indicators.

## **H. PRIVACY RIGHTS**

Any and all information which would lead one to determine the nature and/or severity of a person's disability will be kept in a manner to ensure there is no breach in confidentiality. After review these records will be destroyed in a manner to ensure there is no breach in confidentiality and will not be maintained in the permanent file.

WHA staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

## **I. FAMILY OUTREACH**

When the waiting list is open, the WHA will publicize and disseminate information to make known the availability of housing assistance and related services for low-income families. The WHA will publicize the availability and nature of housing assistance in a newspaper of general circulation, minority media, and by other suitable means.

The WHA will communicate the status of housing availability to service providers in the community, advise them of housing eligibility factors and guidelines in order to facilitate proper referrals for housing assistance.

## **J. OWNER OUTREACH**

The WHA encourages owners of decent, safe and sanitary housing units to lease to Housing Choice Voucher Program families. Periodically the WHA conducts meetings with participating owners to improve owner relations and to recruit new owners.

The WHA maintains a list of interested landlords/list of units available for the Housing Choice Voucher Program and updates this list at least monthly. When listings from owners are received, they will be compiled by the WHA staff by bedroom size and made available to clients at briefings and upon request. The Housing Authority will maintain lists of available housing submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low income households.

## Chapter 2

### ELIGIBILITY FOR ADMISSION [24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

#### Eligibility Factors

To be eligible for participation, an applicant must meet HUD's criteria, as well as additional criteria established by the WHA. The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

#### OTHER CRITERIA FOR ADMISSIONS

A family will not be admitted to the program if:

1. Any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past five (5) years.
2. Any member of the family fails to sign and submit consent forms for obtaining information required by the WHA, including Form HUD-9886.
3. There is not at least one member of the family that can be verified as a U. S. Citizen or who has Eligible Immigrant Status.
4. Any member of the family currently owes money to this or any Housing Authority and will not agree to pay the amount in full or agree to terms for repayment.

A family will not be denied admission to the Housing Choice Voucher Program because a member of the family is or has been a victim of domestic violence, dating violence, or stalking, provided the family is otherwise qualified for admission to the program.

#### A. FAMILY COMPOSITION

The applicant must qualify as a Family. A Family may be a single person or a group of persons. A group of persons may be:

A group of two or more persons related by blood, marriage, or operation of law including foster children or single pregnant women, who will live together as a single household.

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A single person may be an elderly person, a displaced person, a person with a disability, or any "other single" person age of 24 or over. A single person under the age of 24 cannot qualify as a Family if they are a full-time student with no dependants unless they are currently pregnant.

#### Head of Household

The head of household is the adult member of the household who is designated by the family as

head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as a head of household.

### **Spouse of Head**

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of spouse is the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

### **Co-Head**

An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

### **Live-in Attendants**

A Family may include a live-in aide provided that such live-in aide:

- Is determined by a medical professional and verified by the WHA to be essential to the care and well being of a person who is elderly, near-elderly, or disabled.
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A Live in Aide may only reside in the unit with the approval of the WHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near elderly (50-61) or disabled.

Verification must include the hours the care will be provided.

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

1. The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
2. The person commits drug-related criminal activity or violent criminal activity; or
3. The person currently owes rent or other amounts to the WHA or to another HA in connection with Housing Choice Voucher Program or public housing assistance under the 1937 Act.

### **Split Households Prior to Voucher Issuance**

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation and the new families both claim the same placement on the waiting list, and there is no court determination, the WHA will make the decision taking into consideration the following factors:

1. Which family member applied as head of household.
2. Which family unit retains the children or any disabled or elderly members.
3. Recommendations of social service agencies or qualified professionals such as children's protective services.
4. Role of domestic violence in the split

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the WHA.

In cases where domestic violence played a role, the standard used for verification will be:

1. Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family.
2. The actual or threatened violence must have occurred within the past 180 days or be of a continuing nature.
3. An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.
4. The abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the WHA gives prior approval.

### **Multiple Families in the Same Household**

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

## **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

## **B. INCOME LIMITATIONS**

In order to be eligible for assistance, an applicant must have an Annual Income at the time of admission that does not exceed the very low income limits for occupancy established by HUD except as allowable by the Quality Housing and Work Responsibility Act of 1998.

The WHA is required to ensure that at least 75% of the applicants admitted to the Housing Choice Voucher program during each fiscal year are Extremely Low-Income (ELI) households with incomes below 30% of the median income for the Wilmington area.

Per the Quality Housing and Work Responsibility Act of 1998, this targeting requirement does not apply to low income households that are continuously assisted under the 1937 Act or the low-income or moderate-income households that are displaced from eligible low-income housing as a result of the prepayment of a mortgage or voluntary termination of an insurance contract.

WHA will monitor the admissions and make any necessary adjustments to the selection process to ensure that this targeting requirement is met.

To determine if the family is income-eligible, the WHA compares the Annual Income of the family to the applicable income limit for the family's size at initial issuance of a voucher.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

For admission to the program (initial lease-up), the family must be within the very low income limit of the jurisdiction where they want to live.

Portability: For initial lease-up, families who exercise portability must be within the very low income limit for the jurisdiction of the receiving PHA in which they want to live.

Participant families who exercise portability, and request or require a change in their form of assistance, must be within the low income limit of the receiving PHA if they are to receive the alternate form of assistance.

## **C. MANDATORY SOCIAL SECURITY NUMBERS**

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program. Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

#### **D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

In order to receive assistance, at least one family member must be a U.S. citizen or eligible immigrant. Individuals who are neither, may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. 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 a hearing if they contest this determination.

All members ineligible. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. Defined by HUD in the non-citizen regulations are ineligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

#### **E. SUITABILITY OF FAMILY**

The WHA does not screen for factors which relate to the suitability of the applicant family as tenants. It is the responsibility of the owner to screen the applicants as to their suitability for tenancy. The WHA will advise families how to make a Fair Housing complaint if they have been discriminated against by an owner. The WHA could also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

#### **F. CHANGES IN ELIGIBILITY PRIOR TO THE CONTRACT EFFECTIVE DATE**

Changes that occur during the period between placement on the waiting list and issuance of a voucher may affect the family's eligibility or Total Tenant Payment.

#### **G. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status.

## Chapter 3

### APPLYING FOR ADMISSION [24 CFR 982.204]

#### **A. OVERVIEW OF THE APPLICATION TAKING PROCESS**

Families who wish to apply for of the WHA's Housing Choice Voucher program must submit a written pre-application lottery form when the Waiting List is open. Applications will be made available in an accessible format upon request from a person with a disability. Applications will be mailed to interested families upon request. When the waiting list is open, any family asking to be placed on the waiting list for HCVP rental assistance will be given the opportunity to apply.

The application process will involve three phases. The first is the "initial" application for assistance. This first phase results in the family's entry into the computer generated random lottery selection process.

The second phase results in families that were chosen in the random lottery selection process to be placed on the Waiting List in the order chosen by the computer. This will establish the date and time order for those chosen. Families will be placed in lottery order following those previously on the Waiting List.

The third phase is the "final determination of eligibility". This takes place when the family is pulled from the waiting list. At this time the WHA ensures that verification of all HUD and WHA eligibility factors is current and in order to determine the family's eligibility for the issuance of a voucher.

#### **B. OPENING AND CLOSING OF THE WAITING LIST**

When the WHA opens the waiting list, the WHA will advertise through public notice in newspapers, minority publications and media entities including but not limited to the Wilmington Star-News and Wilmington Journal.

The notice will contain:

- The dates, times, and the locations where families may apply.
- The programs for which applications will be taken.
- A brief description of the program.
- A statement that public housing residents must submit a separate application if they want to apply for HCVP.
- Limitations, if any, on who may apply.
- The date of the waiting list closing.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the WHA address and telephone number, how to

submit an application, and information on eligibility requirements.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

Through the lottery, the WHA will accept pre-applications from families. However, full applications from a family may later be denied due to failure to meet eligibility requirements or action or inaction by members of the family for the grounds stated in the “Denial or Termination of Assistance” chapter of this Administrative Plan.

### **Closing the Waiting List**

The WHA may stop applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

When the period for accepting applications is over, the WHA will add the new applicants to the list by placing new applicants on the list in lottery determined order, after applicants who were on the list previously. All applicants on the waiting list will be organized in the random order assigned by the computer. This randomly assigned order will serve as the established date and time of application.

### **Limits on Who May Apply**

When the waiting list is open, any family asking to be placed on the waiting list for HCVP rental assistance will be given the opportunity to complete an application.

When the pre-application is submitted to the WHA it is entered into the lottery to determine selection for the waiting list, and pre-applications which are not selected will be discarded.

## **C. "INITIAL" APPLICATION PROCEDURES**

The WHA will utilize an application form. The information is to be filled out by the applicant whenever possible. The purpose of the application is to permit the WHA to place the family on the waiting list in their correct order. The Waiting List must contain the following information:

- Name, Date of Birth, and Social Security of all members
- Family size
- Date and time of application (randomly assigned lottery number)
- Racial or ethnic designation of Applicant (Head of Household)
- Income of household
- Targeted program funding (Targeted funding to which the applicant claims entitlement)

Duplicate applications are not permitted. Duplicate pre-applications will be voided (e.g., a head

of household who submits more than one entry for the lottery)

The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

#### **D. APPLICANT STATUS WHILE ON WAITING LIST**

Applicants are required to inform the WHA [in writing] of changes in address. Applicants are also required to respond to requests from the WHA to update information on their application and to determine their continued interest in assistance.

If after a review of the application the family is determined to be eligible, they will be notified in writing by mail or in an accessible format upon request, as a reasonable accommodation.

If the family is determined to be ineligible, the WHA will notify the family in writing, state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation.

#### **E. TIME OF SELECTION**

When funding is available, families will be selected from the waiting list in date and time sequence, regardless of family size.

When there is insufficient funding available for the family at the top of the list, the WHA will not admit any other applicant until funding is available for the first applicant. Applicants will not be passed over on the waiting list except as necessary to maintain HUD income targeting requirements.

#### **F. ELIGIBILITY DETERMINATION**

The WHA utilizes the full application interview to clarify information the family provided on the application, to discuss the family's circumstances in greater detail which has been provided by the family, and to ensure the information is complete. The WHA provides an explanation of the Voucher program orally and/or in writing. The head of household is required to attend the interview.

Information provided by the applicant will be verified to assure appropriate eligibility and rent calculations. Verifications may not be more than 60 days old at the time of issuance of Voucher.

It is the applicant's responsibility to schedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, the WHA will reject the application.

Reasonable accommodation will be made for persons with a disability who requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with

permission of the person with a disability.

WHA will not deny admission to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for admission.

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

Applicants and all adult members will be required to sign specific verification forms for information as well as the HUD form 9886 and may be asked to provide additional information or documents as needed. Failure to do so within the given timeframe will be cause for denial of the application for assistance.

After the verification process is completed, the WHA will make a final determination of eligibility. If the family is determined to be eligible, the WHA will notify the applicant of their eligibility and issue a voucher at a scheduled program orientation.

## Chapter 4

### ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST [24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

#### **A. WAITING LIST**

Except for Special Admissions, applicants will be selected from the WHA waiting list in accordance with policies and preferences defined in this Administrative Plan.

The WHA will maintain information that permits proper selection from the waiting list.

Per HUD regulations, the waiting list contains the following information for each applicant listed:

- Applicant Name
- Family Unit Size (number of bedrooms family qualifies for under WHA subsidy standards)
- Date and time of application
- Qualification for any local preference or HUD targeted funding
- Racial or ethnic designation of the head of household
- Income for targeted program qualifications

The waiting list will be maintained in accordance with the following guidelines:

- The application will become part of the case file.
- All applicants must meet "Very Low Income" eligibility requirements as established by HUD. Exceptions to these requirements, other than those outlined in this document must have been approved previously by the HUD Field Office.

#### **Special Admissions**

Applicants who are admitted under Special Admissions, rather than from the waiting list, are identified by codes in the automated system and are not maintained on separate lists.

#### **B. WAITING LIST PREFERENCES**

The WHA will use the lottery order in order to determine placement on the Waiting List. The WHA will use the following local preference system for displaced families as a result of government action. All applicants will be treated as equal status for the processing of preferences due to being displaced through government action, for example as a result of demolition and disposition of a Public Housing development by the WHA.

## **Project Based Voucher Waiting List**

Each Project Based Voucher Development will maintain its own Waiting List and may establish preferences that best meet the needs of the Project Based Voucher Development.

### **C. EXCEPTIONS FOR SPECIAL ADMISSIONS**

If HUD awards the WHA program funding that is targeted for specifically named families, the WHA will admit these families under a Special Admission procedure. Special admissions families will be admitted outside of the regular waiting list process. They are not required to be on the program waiting list. The WHA maintains separate records for these special admissions.

### **D. FUNGIBILITY**

The WHA shall have the discretion, at least annually, to exercise the “fungibility” provision of the QHWRA. This provision allows the WHA to admit less than the minimum 40% of its extremely low-income families in a fiscal year to its public housing program to the extent that the WHA’s admission of extremely low income families in the voucher program exceeds 75% of all admissions during the fiscal year. If exercising this option, the WHA will follow the fungibility threshold limitations as set forth in QHWRA legislation. The discretion by the WHA to exercise the fungibility provision is also reflected in the WHA’s Public Housing Admissions and Continued Occupancy Policy.

### **E. TARGETED FUNDING**

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission are not maintained on separate waiting lists.

Targeted Programs may include:

- \* Disabled Veterans (VASH)
- \* Non-Elderly Disabled
- \*TBRA (HOME)
- \* Family Reunification
- \* HOPWA

### **F. REMOVAL FROM WAITING LIST AND PURGING**

The Waiting List will periodically send applicants an update inquiry to ensure the applicant(s) continued interest in, and need for, housing. An applicant who does not return the inquiry by the requested deadline date, will have his/her name removed from the Waiting List. If a letter is returned by the Post Office the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.

If the applicant did not respond to the WHA request for information or updates because of a

family member(s) disability an extension of up to 30 days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability. The WHA will reinstate the applicant in the family(s) former position on the waiting list.

If the family has refused assistance, a voucher, their name will be removed from the waiting list.

## **Chapter 5**

### **SUBSIDY STANDARDS[24 CFR 982.54(d)(9)]**

#### **A. DETERMINING VOUCHER SIZE**

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements. Generally, the WHA assigns one bedroom to two people within the following guidelines:

- Persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom.
- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship and children under 5).
- Same sex siblings more than 10 years apart in age and one or both are an adult will be allocated a separate bedroom.
- Foster children will be included in determining unit size only if they will be in the unit for more than six months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendants' family.
- Adults of different generations will be allocated separate bedrooms.
- Single person families shall be allocated one bedroom.

The WHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

For subsidy standards, an adult is a person 18 years or older.

#### **B. EXCEPTIONS TO SUBSIDY STANDARDS**

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

The WHA may grant an exception as an accommodation for persons with disabilities or a verified medical or health reason. Requests based on health related reasons must be verified by a doctor or medical service professional and may be re-verified at annual recertification.

The WHA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

**Changes for Applicants**

The voucher size is determined prior to the briefing by comparing the family composition to the WHA subsidy standards. If an applicant requires a change in the voucher size, the above referenced guidelines will apply.

**Changes for Participants**

The members of the family residing in the unit must be approved by the WHA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the WHA within 10 days.

**C. UNIT SIZE SELECTED**

The family may select a different size dwelling than that listed on the Voucher as long as it does not result in an overcrowded condition according to HQS standards and does not result in a rent burden of more than 40% of the family’s monthly adjusted gross income.

**HQS GUIDELINES FOR UNIT SIZE SELECTED**

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the WHA will issue a new voucher and assist the family in locating a suitable unit.

Maximum # of People in Household					
0 Bedroom	1	3 Bedrooms	8	6 Bedroom	14
1 Bedroom	4	4 Bedroom	10		
2 Bedrooms	6	5 Bedroom	12		

## Chapter 6

### FACTORS RELATED TO TOTAL TENANT PAYMENT DETERMINATION [24 CFR Part 5, Subparts E and F; 982.153, 982.317, 982.551]

#### A. INCOME AND ALLOWANCES

Income includes all monetary amounts and non-monetary gifts which are received on behalf of the family on a regular basis. For purposes of calculating the Total Tenant Payment HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

**Gross income** is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

**Adjusted Income** is the Annual (Gross) income minus any HUD allowable expenses and deductions.

#### **Using Enterprise Income Verification (EIV) to Project Income**

The WHA will use the Enterprise Income Verification (EIV) provided by HUD and any other upfront income verification systems available in conjunction with family provided documents to anticipate income.

WHA procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family provided documents dated consecutively within the last 60 days of the WHA interview date.

**No Substantial Difference.** If EIV information for a particular income source differs from the information provided by a family by less than \$200 per month, the WHA will use the greater of the two unless the family provides acceptable documentation of a change in circumstances to explain the discrepancy.

**Substantial Difference.** If EIV information for a particular income source differs from the information provided by a family by \$200 or more a month, the WHA will request written third-party verification from the discrepant income source. The WHA will analyze all EIV, third-party and family-provided data and attempt to resolve the discrepancy.

The WHA will use the most current verified income data, and if appropriate, historical income data to calculate anticipated annual income. When the WHA cannot readily anticipate income (e.g. in cases of seasonal employment, unstable working hours or suspected fraud), the WHA will review historical income data for periods of employment, paid benefits and receipt of other income.

## **"Minimum Rent" and Minimum Family Contribution**

Minimum family contribution in the Housing Choice Voucher Program is \$50.

## **Exceptions to Minimum Rent and Minimum Family Contributions**

The WHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The WHA will review all relevant circumstances brought to their attention regarding financial hardship as it applies to the minimum rent. HUD has defined the circumstances under which a hardship could be claimed. (24 CFR 5.630)

## **WHA Notification to Families of Right to Hardship Exception**

The WHA will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. The WHA notification will advise families that hardship exception determinations are subject to WHA grievance procedures. The WHA will review all requests for exception from the minimum rent due to financial hardships. All requests for minimum rent hardship exceptions are required to be in writing.

Requests for minimum rent exception must include a statement of the family hardship that qualify the family for an exception. The WHA will request documentation as proof of financial hardship. The WHA will not allow a minimum rent hardship exception if the hardship is determined by the WHA to be temporary. For this purpose, the WHA defines temporary as 90 days or less.

## **Suspension of Minimum Rent**

The WHA will immediately grant the minimum rent exception to all families who request it.

The Minimum Rent will be suspended until the WHA determines whether the hardship is covered by statute and whether the hardship is temporary or long term. If the WHA determines that the minimum rent is not covered by statute, the WHA will impose a minimum rent including payment for minimum rent from time of suspension.

The WHA will use its standard verification procedures to verify circumstances which have resulted in financial hardship, such as loss of employment, death in the family, etc. The family must demonstrate that the hardship is of long-term duration. If the family demonstrates that the hardship is of long-term duration, the WHA must retroactively exempt the family from the minimum rent requirement for the 90 day period.

## **Temporary Hardship**

If the WHA determines that the hardship is temporary, a minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90 days suspension period a minimum rent will be imposed retroactively to the time of suspension.

The WHA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period.

## **B. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

The WHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the WHA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease. It is the responsibility of the head of household to report changes in family composition. The WHA will evaluate absences from the unit using this policy.

Temporarily absent is defined as away from the unit for more than 30 days but less than 60 days.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

### **Absence of Any Member**

Any member of the household will be considered permanently absent if s/he is away from the unit for two consecutive months or 60 days in a 12 month period except as otherwise provided in this Chapter. If a member of the household is subject to a court order that restricts him/her from the home for more than two months, the person will be considered permanently absent.

### **Absence due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the WHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 60 consecutive days, the family member will not be considered permanently absent. If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the WHA policy.

### **Absence Due to Full-time Student Status**

#### **Determining Student Eligibility.**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the WHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

For any student who is subject to the 24 CFR 5.612 restrictions, the WHA will:

Follow its usual policies in determining whether the student individually or the student's "family" collectively are eligible for the program.

Determine whether the student is independent from his/her parents in accordance with the definition of independent student as defined by HUD.

Follow the HUD regulations, if applicable, in determining whether the student's parents are income eligible for the program

If the WHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the WHA will send a notice of denial in accordance with the policies established and the applicant family will have the right to request a review in accordance with the policies in set forth in this policy.

**Determining Parent Income Eligibility.** For any student who is subject to the 5.62 restrictions and who does not satisfy the HUD definition of an independent student, the WHA will determine the income eligibility of the student's parents as per HUD guidelines.

### **Absence due to Incarceration**

If the sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for two consecutive months or 60 days in a twelve month period. The WHA will determine if the reason for incarceration is for drug-related or violent criminal activity.

### **Absence of Children due to Placement in Foster Care**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the WHA will determine from the appropriate agency when the child/children will be returned to the home. If the time period is greater than two months from the date of removal of the child/ren, the Voucher size will be reduced in accordance with the WHA's subsidy standards.

### **Absence of Entire Family**

In cases where the family has moved out of the unit, the WHA will terminate assistance. Families are required both to notify the WHA before they move out of a unit and to give the WHA information about any family absence from the unit. If it is determined that the family is absent from the unit, the WHA will not continue housing assistance payments.

In order to determine if the family is absent from the unit, the WHA may:

- ◆ Write letters to the family at the unit
- ◆ Telephone the family at the unit
- ◆ Interview neighbors
- ◆ Verify if utilities are in service
- ◆ Check with the post office

If the absence which resulted in termination of assistance was due to a person's disability, and the WHA can verify that the person was unable to notify the WHA in accordance with the family's responsibilities, and if funding is available, the WHA may reinstate the family as an accommodation if requested by the family as long as the period was within the HUD allowed 180 consecutive calendar days.

### **Caretaker for Children**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the WHA will treat that adult as a visitor for the first 30 days. If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the WHA will review the status at 30 day intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the WHA will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time in excess of stated period, the WHA will state in writing that the transfer of the Voucher is for that limited time or as long as they have custody of the children. The WHA will use discretion as deemed appropriate in determining any further assignation of the Voucher on behalf of the children.

When the WHA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The WHA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

### **Visitors**

Any adult not included on the HUD 50058 who has been in the unit more than 14 consecutive days without WHA approval, or a total of 60 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a member of the household.

Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the WHA

will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 60 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member.

### **Reporting Additions to Owner and WHA**

The family is required to request WHA approval to add any other family member as an occupant of the unit and to inform the WHA of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing within 10 days of the move-in date. Income of the additional family member will be included in the household income as applicable under HUD regulations. An interim reexamination will be conducted for any additions to the household.

If the family does not obtain prior written approval from the WHA, any person the family has permitted to move in will be considered an unauthorized household member.

### **Reporting Absences to the WHA**

If a family member leaves the household, the family must report this change to the WHA, in writing, within 10 days of the change and certify as to whether the member is temporarily or permanently absent. The WHA will conduct an interim recertification to process these changes.

## **C. AVERAGING INCOME**

When Annual Income cannot be anticipated for a full twelve months, the WHA may annualize current income and conduct an interim reexamination if income changes. The method used depends on the regularity, source and type of income. If by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments.

If there are bonuses or overtime which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

## **D. ZERO INCOME**

Families who report zero income are required to complete a written certification every 90 days.

## **E. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES**

HUD regulations provide for an Earned Income Disallowance for qualified disabled families.

### **Initial Twelve-Month Exclusion**

During the cumulative 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the WHA will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

### **Second Twelve-Month Exclusion and Phase-in**

During the second cumulative 12-month period after the expiration of the initial cumulative 12-month period referred to above, the WHA must exclude from annual income of a qualified family 50 percent of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

### **Maximum Four Year Disallowance**

The earned income disallowance is limited to a lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum 12 months of phase-in exclusion during the 48 month period starting from the date of the initial exclusion.

If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months of each disallowance.

No earned income disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

### **Applicability to Child Care and Disability Assistance Expense Deductions**

For disabled families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care and disability assistance expense deductions.

## **F. REGULAR CONTRIBUTIONS AND GIFTS**

Regular contributions and gifts received from persons outside the household are counted as income. Any contribution or gift received every month or more frequently will be considered a

"regular" contribution or gift, unless the amount is less than \$100 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts.

#### **G. ALIMONY AND CHILD SUPPORT**

Regular alimony and child support payments are counted as income. It is the family's responsibility to supply a certified copy of the divorce decree. If the amount of child support or alimony received is less than the amount awarded by the court, the WHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and provides verification from the agency responsible for enforcement or collection or the family furnishes documentation of child support or alimony collection action filed through a child support enforcement/ collection agency, or has filed an enforcement or collection action.

#### **H. LUMP SUM RECEIPTS**

Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred period payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine amount of retroactive tenant rent that a family owes as a result of the lump sum receipt the WHA uses a calculation method, which calculates retroactively, or prospectively depending on circumstances.

#### **I. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS**

Contributions to company retirement/pension funds are handled as follows:

1. While employed, count as assets only amounts that can be withdrawn without retiring or terminating employment.
2. At employment end or retirement, count any amount received as a lump sum.

#### **J. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

The WHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The WHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy, or as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

## **K. CHILD CARE EXPENSES**

Childcare expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment.

Child care to work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

## **L. MEDICAL EXPENSES**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide. HUD regulations will be used to determine the maximum amount of medical expense deductions.

## **M. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES**

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members. Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible.

## **N. REDUCTION IN BENEFITS**

If the family's benefits, such as social security, SSI or TANF, are reduced through no fault of the family, the WHA will use the net amount of the benefit.

If the family's benefits were reduced due to family error, omission, or misrepresentations, the WHA will use the gross amount of the benefit.

## **O. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

The same Utility Allowance Schedule is used for all tenant based programs and is intended to cover the cost of utilities not included in the rent. The WHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The WHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision, the schedule will be revised to reflect the new rate. Revised utility allowance will be applied to the family's rent calculation at their next re-examination. The utility allowance is based on the actual unit size selected.

Where the calculation results in a utility assistance payment (UAP) due the family, WHA will provide a UA payment. The UAP may be paid directly to a utility company on the family's behalf. Families may request a review as to why the UAP should be paid directly to the family.

**Chapter 7**  
**VERIFICATION PROCEDURES**  
**[24 CFR Part 5, Subparts B, D, E and F; 982.108]**

The WHA, in order to maintain program integrity, will obtain proper authorization from the family before requesting information from independent sources. Applicants and participants must provide true and complete information to the WHA whenever information is requested.

**A. METHODS OF VERIFICATION AND TIME ALLOWED**

The WHA will verify information through the hierarchy of verification acceptable to HUD in the following order:

1. Enterprise Income Verification System (EIV)
2. Third-Party Written
3. Third-Party Oral
4. Review of Documents
5. Certification/Self-Declaration

The WHA will allow two weeks for return of third-party verifications before going to the next method. The WHA will document the file as to why third party written verification was not used. WHA will acquire the highest level of verification possible.

For applicants, verifications may not be more than 60 days old at the time of Voucher issuance.

**Enterprise Income Verification**

The WHA will use the Enterprise Income Verification (EIV) as the first source for determining family income. The EIV system will be accessed by Housing Counselors working with re-examinations and revisions to family income to determine and validate family income.

The EIV system may only be accessed with a signed HUD form 9886 that has not expired. The Housing Counselor will verify that a signed, valid HUD form 9886 is in the file prior to accessing the EIV system. If a family has been determined to have under-reported or failed to report income, the procedures in this Administrative Plan regarding fraud will be followed.

**Enterprise Income Verification Security Policy**

Prior to being granted access to EIV, staff members must complete security training and sign HUD required documents regarding EIV.

Files are kept secured in a locked filing room. Only authorized personnel are granted access to files and must sign out files with name, date and time accessed.

All computer screens, when not being accessed by personnel will be in a locked mode to prevent

unintentional or intentional information being accessed.

Reports of security violations will be investigated immediately by the immediate supervisor. If a violation is found to have taken place, HUD regulations will be adhered to. Disciplinary actions up to and including termination may be requested.

### **Third-Party Written Verification**

Third-party verification is used to verify information directly with the source. Third-party written verification forms with signed authorization will be sent and returned via first class mail, fax, or email. Verifications received electronically directly from the source are considered third party written verifications.

The WHA will accept verifications in the form of computerized printouts delivered by the family from the following agencies: Social Security Administration, Veterans Administration, Welfare Assistance, Unemployment Compensation Board, and City or County Courts.

### **Tax/IRS Documentation**

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income. In cases where there are questions about the validity of information provided by the family, the WHA will require the most recent federal income tax statements. Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

### **Third-Party Oral Verification**

Oral third-party verification will be used when written third party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Certification of Document Viewed or Person Contacted form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third party verification is not available, the WHA will compare the information to any documents provided by the Family. If provided by telephone, the WHA must originate the call.

### **Review of Documents**

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within four weeks, the WHA will notate the file accordingly and utilize documents provided by the family as the primary source.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a certification form for the file.

The WHA will accept the following documents from the family provided that the documents are such that tampering would be easily noted:

- \* Computer printouts from the income source
- \* Signed letters (provided that the information is confirmed by phone)
- \* Other documents noted in this Chapter as acceptable verification

The WHA will accept faxed documents but will not accept photocopies.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the WHA will utilize the third party verification.

### **Self-Certification/Self-Declaration**

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification. Self-certification means a notarized statement.

### **B. RELEASE OF INFORMATION**

The family will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice. Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature. Refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance.

### **C. ITEMS TO BE VERIFIED**

All items needed to correctly determine the proper amount of assistance must be received. These include but are not limited to:

- All income not specifically excluded by the regulations.
- Full-time student status including High School students who are 18 or over.
- Current assets including assets disposed of for less than fair market value in preceding two years.
- Child cares expense where it allows an adult family member to be employed or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family which allows an adult family member to be employed.
- Legal identity of all family members
- Disability for determination of preferences, allowances or deductions.
- U.S. citizenship/eligible immigrant status
- Social Security Numbers for all family members who have been issued a social security number.
- Familial/Marital status when needed for head or spouse definition.
- Verification of Reduction in Benefits for Noncompliance

## **D. VERIFICATION OF SPORADIC INCOME**

### **Alimony or Child Support Payments**

If payments are irregular, the family must provide:

- A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
- A notarized affidavit from the family indicating the amount(s) received.
- A welfare notice of action showing amounts received by the welfare agency for child support.
- A written statement from an attorney certifying that a collection or enforcement action has been filed.

### **Net Income from a Business**

In order to verify the net income from a business, the WHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Documents such as manifests, audited or unaudited financial statement(s) of the business, appointment books, cashbooks, credit report or loan application, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

### **Child Care Business**

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the WHA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If child care services were terminated, a third-party verification may be sent to the parent whose child was cared for.

### **Recurring Gifts**

If the family has income from recurring gifts from a non-household member, the family must complete a self-certification form detailing the information.

### **Zero Income Status**

Families claiming to have no income will be required to complete a certification to that fact and complete a Zero Income worksheet every 90 days.

The WHA may run a credit report if information is received that indicates the family has an unreported income source.

### **Full-time Student Status**

Verification of full time student status may be a written verification from the registrar's office or other school official. The WHA may also require school records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

## **E. INCOME FROM ASSETS**

Acceptable methods of verification include:

1. Account statements, passbooks, certificates of deposit, or WHA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution provided that the WHA must adjust the information to project earnings expected for the next 12 months.

### **Interest Income from Mortgages or Similar Arrangements**

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

### **Net Rental Income from Property Owned by Family**

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements,

insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

## **F. VERIFICATION OF ASSETS**

### **Family Assets**

The WHA will require the necessary information to determine the current cash value of family assets. Checking and/or savings accounts maintaining an average balance of less than \$500 will be considered as necessary for the family's daily living requirements and is not counted towards assets.

### **Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification**

1. For all Certifications and Recertifications, the WHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.
2. If the family certifies that they have disposed of assets for less than fair market value, certification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

## **G. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

### **Child Care Expenses**

1. Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.
2. Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.
3. Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

### **Medical Expenses**

1. Families who claim medical expenses or expenses to assist a person(s) with disability will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be

verified.

2. For attendant care:
  - a. A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
  - b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.
3. Receipts, canceled check, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months. WHA may use these to estimate future general medical expenses such as non-prescription drugs and regular visits to doctors but not for one time, nonrecurring expenses from the previous year.
4. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
5. The WHA will use mileage or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment. If mileage is used, a mileage chart showing each medical visit, date, physician, type of appointment and either the beginning and ending mileage for each trip or an acceptable GPS mileage data sheet.

### **Assistance to Persons with Disabilities**

1. Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
2. Verification of the expenses of disability assistance and the amount of any reimbursement received.
3. Those claiming Attendant Care expenses must provide:
  - a) Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
  - b) Certification of family and attendant and/or copies of canceled checks family used to make payments.

4. Auxiliary Apparatus:

- a) Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.
- b) In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

## **H. VERIFYING NON-FINANCIAL FACTORS**

### **Verification of Legal Identity**

In order to prevent program abuse, the WHA will require applicants/participants to furnish verification of legal identity for all family members. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

Acceptable verification of legal identity for adults:

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid Driver's license
- U.S. military discharge (DD 214)
- U.S. passport
- Department of Motor Vehicles Identification Card

Documents considered acceptable for the verification of legal identity for minors:

- Certificate of Birth
- Adoption papers
- Legal Custody agreement

### **Verification of Marital Status**

- Verification of marriage status is a marriage certificate.
- Verification of a separation may be a copy of court-ordered maintenance or other records.
- Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

### **Verification of Permanent Absence of Family Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, the WHA will consider any of the following as verification:

- Husband or wife institutes divorce action or legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, drivers license, or lease or rental agreement, if available.
- Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.

If no other proof can be provided, the WHA will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

### **Verification of Change in Family Composition**

The WHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

### **Verification of Disability**

Verification of disability must be one of the following:

- Receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))
- Certification by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

### **Verification of Citizenship/Eligible Immigrant Status**

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the WHA hearing is pending.

- (a) Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The WHA will require citizens to provide documentation of citizenship.

- (b) Eligible Immigrants who were Participants and 62 or over on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age.
- (c) Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The WHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the WHA must request within ten days that the INS conduct a manual search.
- (d) Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.
- (e) Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

#### Failure to Provide.

If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

#### Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

For participants the verification occurs prior to adding the new member to the household.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, the WHA must conduct the determination.

#### **Extensions of Time to Provide Documents**

The WHA will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

#### **Acceptable Documents of Eligible Immigration**

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)

- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If the WHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit and that individual has not already been considered in prorating the family's assistance, the family's assistance will be terminated.

### **Verification of Social Security Numbers**

Social security numbers must be provided as a condition of eligibility for all family members if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or Social Security Number from Social Security Administration

New family members will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the WHA.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the WHA. The applicant/participant or family member will have an additional 14 days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the WHA may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

### **Medical Need for Larger Unit**

A written certification that a larger unit is medically necessary must be obtained from a reliable, knowledgeable professional.

## **I. ELIGIBILITY OF FULL-TIME STUDENTS**

Effective January 30, 2006 new eligibility restrictions imposed on students enrolled at institutions of higher education and seeking HCVP assistance are set out in two parts: Section 327(a) and 327(b) of the Act. Eligibility restrictions of section 327(a) are implemented and codified in HUD's regulation at 24 CFR 5.612 and provide as follows:

No assistance shall be provided under Section 8 of the 1937 Act to any individual who:

- Is enrolled as a student at an institution of higher learning as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C.1002);
- Is under 24 years of age;
- Is not a veteran of the United States Military;
- Is unmarried;
- Does not have a dependent child and
- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

For a student under the age of 24 who is not a veteran, is unmarried, does not have a dependent child and who is seeking HCVP assistance, section 327(a) of the Act sets up a two-part income eligibility test. Both parts of this test must be affirmatively met. Both the student and the student's parents (individually or jointly) must be income eligible for the student to receive HCVP assistance. If it is determined that the parents are not income eligible, the student is ineligible to receive HCVP assistance. This portion of the law does not affect students residing in a HCVP assisted unit with his or her parents or who reside with parents who are applying to receive HCVP assistance.

As provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 10001 *et seq.*), from private sources, or from an institution of higher education as defined under the Higher Education Act of 1965 shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. Financial assistance does not include loan proceeds for the purpose of determining income.

Any financial assistance in excess of amounts received for tuition that a student who meets the criteria of the new 5.612 receives will be included as annual income. With the exception of students who are over the age of 23 with dependent children, students under the age of 24 who are seeking HCVP assistance will need to meet the income requirements for the HCVP program, taking into consideration the additional eligibility restrictions provided in 24 CFR 5.609(b)((9) AND 5.612. If the student's financial assistance in excess of tuition makes the student income ineligible for HCVP assistance, the student cannot receive HCVP assistance. The financial assistance of a student residing with his or her parents therefore would continue to be excluded and would only be counted as income only to a student applying separately from his or her parents for HCVP assistance.

An applicant who is a student and who does not meet the income eligibility requirements or who has parents who, individually or jointly, do not meet the income eligibility requirements for HCVP assistance are not eligible for HCVP assistance and will be prohibited from participating in the HCV program.

A student under the age of 24 who is currently receiving HCVP assistance and does not meet the above criteria will have his/her assistance terminated at their next recertification. Upon notification of denial or termination of assistance, the household is entitled to request an informal hearing to discuss the reasons for the denial or termination, in accordance with established program procedures and requirements.

## Chapter 8

### **VOUCHER ISSUANCE AND BRIEFINGS** **[24 CFR 982.301, 982.302]**

When eligibility has been determined, the WHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, WHA procedures, and how to lease a unit. The family will also receive a briefing packet that provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration.

#### **A. ISSUANCE OF VOUCHERS**

When funding is available, the WHA will issue Vouchers to applicants whose eligibility has been determined. The issuance of Vouchers must be within the dollar limitations set by the ACC budget. The number of Vouchers issued must ensure that the WHA stays as close as possible to 100 percent lease-up, (within any HUD requirements for a delay in reissuance). The WHA performs a monthly calculation manually to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the WHA can over-issue (issue more Vouchers than the budget allows).

The WHA may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers, which are over-issued, must be honored. If the WHA finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

#### **B. BRIEFING TYPES AND REQUIRED ATTENDANCE**

##### **Initial Applicant Briefing**

A briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups or individually. If the family includes a person with disabilities, the WHA will ensure compliance with CFR 8.6 to ensure effective communication. Briefings for the Voucher Program will be conducted in English. LEP services will be provided as needed.

The purpose of the briefing is to explain the documents in the Voucher holder's packet to families so that they are fully informed about the program. At the briefing, families are encouraged to search for housing in non-impacted areas and the WHA will provide assistance to families who wish to do so.

The WHA will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next available briefing. Applicants who fail to

attend two scheduled briefings, without prior notification and approval of the WHA, may be denied admission based on failure to supply information needed for certification. The WHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

### **Briefing Packet**

The documents and information provided in the briefing packets for the Voucher program will comply with all HUD requirements. The WHA also includes other information and/or materials, which are not required by HUD.

The family is provided with the following information and materials:

The term of the voucher, and the WHA policy for requesting extensions or suspensions of the voucher (referred to as tolling).

A description of the method used to calculate the housing assistance payment for a family, including how the WHA determines the payment standard for a family; how the WHA determines the total tenant payment for a family and information on the payment standard and utility allowance schedule. How the WHA determines the maximum allowable rent for an assisted unit.

Where the family may lease a unit. For family that qualifies to lease a unit outside the WHA jurisdiction under portability procedures, the information must include an explanation of how portability works including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability.

The HUD required tenancy addendum, which must be included in the lease.

The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.

A statement of the WHA policy on providing information about families to prospective owners.

The WHA Subsidy Standards including when and how exceptions are made.

The HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

The HUD pamphlet on lead-based paint entitled "Protect Your Family from Lead in Your Home".

Information on Federal, State, and local equal opportunity laws and a copy of the housing

discrimination complaint form.

A list of landlords or other parties willing to lease to assisted families or help in the search. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty and or minority concentration.

A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

Information regarding the WHA's outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.

If the family includes a person with disabilities, notice that the WHA will provide a list of accessible units known to the WHA.

The Family Obligations under the program.

The grounds on which the WHA may terminate assistance for a participant family because of family action or failure to act.

WHA informal hearing procedures including when the WHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

### **C. SECURITY DEPOSIT REQUIREMENTS**

Security deposits charged to families may be any amount the owner wishes to charge, but are not to exceed those charged to unassisted tenants (nor the maximum prescribed by State or local law.) For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

### **D. TERM OF VOUCHER**

During the briefing session, each household will be issued a Voucher which represents a contractual agreement between the WHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and Housing Assistance Payment (HAP) contract become effective. The voucher is valid for a period of sixty (60) calendar days from the date of issuance. The family must submit a Request for Tenancy Approval (RFTA) and Lease within the term of the voucher unless an extension has been granted by the WHA.

If the Voucher has expired, and has not been extended by the WHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the

family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

### **Suspensions/ Tolling**

The term of the voucher is not suspended when an RFTA is submitted, however processing time will be considered when determining approval or denial of a request for an extension.

### **Extensions**

The WHA may extend the term of the voucher in any time increment up to but not longer than 120 days from the date of the voucher issuance. Extensions may be granted as a reasonable accommodation to make the program accessible to and usable by a family member with a disability. Documentation of reasonable accommodation will be requested.

All requests for extensions must be received prior to the expiration date of the Voucher.

At the discretion of the WHA extensions will be considered for the following reasons upon submittal of verification:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the voucher term.
- The WHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the WHA, throughout the initial voucher period. A completed search record is required.
- The family was prevented from finding a unit due to disability accessibility requirements or large unit size requirement of four or more bedrooms. A completed search record is required.

### **Assistance to Voucher Holders**

Families who require additional assistance during their search may call the WHA Office to request assistance. Voucher holders will be notified at their briefing session that the WHA periodically updates the listing of available units and how the updated list may be obtained.

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

## **E. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

In instances when a family assisted under the HCV program becomes divided into two otherwise

eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the WHA shall consider the following factors to determine which of the families will continue to be assisted:

1. Which of the two new family units has custody of dependent children.
2. Which family member was the head of household when the Voucher was initially issued (listed on the initial application).
3. The composition of the new family units, and which unit contains elderly or disabled members.
4. Whether domestic violence was involved in the breakup.
5. Which family members remain in the unit.
6. Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the WHA will terminate assistance on the basis of failure to provide information necessary for a recertification. A reduction in family size may require a reduction in the voucher size.

Where the breakup of the family results in a reduction of the size of the Voucher, the family will be required to move to a smaller unit if the resulting rent calculation determines the rent would not meet the 40% rent burden requirement and the current landlord is unwilling to accept the rent level within that requirement.

#### **F. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER**

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

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

In order for a minor child to continue to receive assistance as a remaining family member:

1. The court has to have awarded emancipated minor status to the minor, or
2. The WHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

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

## Chapter 9

### REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

#### A. REQUEST FOR TENANCY APPROVAL

The Request for Tenancy Approval (RFTA) and a copy of the proposed Lease, including the HUD prescribed tenancy addendum must be submitted by the family during the term of the voucher. The family must submit the Request for Tenancy Approval form. The RFTA must be completely filled out and signed by both the owner and the voucher holder.

The WHA will not permit the family to submit more than one RFTA at a time.

The WHA will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they are approvable. The Request will be approved if:

1. The unit is an eligible type of housing.
2. Family share of the rent does not exceed 40% of the family monthly adjusted income when the gross rent for the unit exceeds the applicable payment standard.
3. The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
4. The rent is reasonable and approvable.
5. The Security Deposit is approvable in accordance with any limitations in this plan.
6. The proposed lease complies with HUD and WHA requirements.
7. The owner is approvable, and there are no conflicts of interest.

#### Disapproval of RFTA

If the WHA determines that the Request cannot be approved for not meeting any one of the reasons listed above, the landlord and the family will be notified in writing. The WHA will instruct the owner and family of the steps that might make approval possible.

When an RFTA is not approved and there is time on the family's voucher the WHA will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

#### B. ELIGIBLE TYPES OF HOUSING

The WHA will approve any of the following types of housing in the Voucher program:

1. All structure types can be utilized.
2. Manufactured homes where the tenant leases the mobile home and the pad.
3. Congregate facilities (only the shelter rent is assisted)
4. Single Room Occupancy
5. Units owned (but not subsidized) by the WHA (following HUD requirements).

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development. Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The WHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

The WHA may not permit a Voucher holder to lease a unit which is receiving Project-Based HCVP assistance or any duplicative rental subsidies.

### **C. LEASE REVIEW**

The WHA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State/local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the on the Request for Tenancy Approval.

The family and owner must submit a form of lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

- The names of the owner and tenant, and
- The address of the unit rented (including apartment number, if any, and
- The amount of the monthly rent to owner, and
- The utilities and appliances to be supplied by the owner, and
- The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

Effective September 15, 2000, the owners lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

### **Actions Before Lease Term**

All of the following must always be completed before the beginning of the lease for a unit:

- The WHA has inspected the unit and has determined that the unit satisfies the HQS;
- The WHA has determined that the rent charged by the owner is reasonable;
- The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum.
- The WHA has approved leasing of the unit in accordance with program requirements;
- When the gross rent exceeds the applicable payment standard for the family, the WHA must determine that the total family contribution will not be more than 40% of the family's monthly adjusted income.

#### **D. SEPARATE AGREEMENTS**

Families and owners are prohibited from entering into agreements for illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease to substitute for higher rent.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the WHA. WHA may require documentation of the practice of entering into separate agreements with recent unassisted renters to approve this practice with voucher families.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. The family must have the option of not utilizing the service, appliance or other item.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

All separate agreements must be attached to the lease approved by the WHA. If agreements are entered into at a later date, they must be approved by the WHA and attached to the lease.

#### **E. RENT REASONABLENESS**

The WHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market using all the HUD criteria in a manner that is approvable by HUD. The rent reasonableness of a unit will be determined by WHA staff prior to entering into a HAP contract and before a request by the owner for a rent increase is processed. At all times during the tenancy, the rent to owner may not exceed the most current reasonable rent determination.

If the rent is determined to not be reasonable, the WHA will contact the owner to negotiate a reasonable rent. If the owner does not agree with the reasonable rent determination the WHA will inform the family and owner that the lease is disapproved.

#### **F. DISAPPROVAL OF PROPOSED RENT**

If the rent is not affordable because the family share would be more than 40% of the family's monthly adjusted income, at the family's request the WHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to the owner. If the revised rent can be approved by taking the above steps, and involves a change in the provision of utilities, a new Request for Tenancy Approval must be submitted by the owner.

If the owner does not agree on the Contract Rent after the WHA has tried and failed to negotiate a revised rent, the WHA will inform the family and owner that the lease is disapproved.

## **G. INFORMATION TO OWNERS**

The WHA will furnish prospective owners with the family's current address in the WHA's records and, if known, the name and address of the landlord at the family's prior address.

The WHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The WHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen families for rent payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

A statement of the WHA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The WHA will not provide documented information regarding tenancy.

The WHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

## **H. OWNER DISAPPROVAL**

For purposes of this section, "owner" includes a principal or other interested party. The WHA will disapprove the owner for the following reasons:

- HUD [or other agency directly related] has informed the WHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the WHA that 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.
- HUD has informed the WHA that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- The owner has a conflict of interest as described in HUD regulation 24 CFR 982.161(a), and would therefore be unable to enter into a contract with the WHA.
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

- The owner has engaged in drug trafficking.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs 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.
- The owner has not paid State or local real estate taxes, fines or assessments.

## **I. CONTRACT EXECUTION PROCESS**

The WHA prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and the WHA will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The WHA will retain a copy of all signed documents.

The WHA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

The HCVP Director is authorized to execute a contract on behalf of the WHA.

Owners must provide an Employer Identification Number or Social Security and a business or home telephone number.

## **J. CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new HAP contract. The WHA will process a change of ownership only upon the written request of both the old and the new owner. The transfer will only be processed upon receipt of a copy of the escrow statement or other document showing the transfer of title, the Employee Identification Number or Social Security number of the new owner, and completion of the appropriate tax forms.

## **Chapter 10**

### **HOUSING QUALITY STANDARDS AND INSPECTIONS [24 CFR 982.401]**

#### **A. GUIDELINES/TYPES OF INSPECTIONS**

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards.

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RFTA) to have the utilities turned on. The owner and tenant will both certify that the utilities are on.

If the tenant is responsible for supplying the stove and/or the refrigerator, the WHA will allow the stove and refrigerator to be placed in the unit after the inspection, if after the unit has passed all other HQS, the owner and family certify that the appliances are in the unit and working according to the Housing Quality Standards. The WHA will conduct a re-inspection.

There are four types of inspections the WHA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Tenancy Approval.
2. Annual: Must be conducted within 365 days from last Annual or Initial inspection.
3. Special/Complaint: At request of owner, family, agency or other third party.
4. Quality Control: Conducted to ensure effect program controls.

#### **B. INITIAL HQS INSPECTION**

The WHA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 business days unless the Director determines that is unable to do so in the stated time frame, in which the file will be appropriately documented.

The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be given a due date for repairs up to 30 days. The length of time for repairs is at the Inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to one re-inspection for repair work to be completed.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

### **C. ANNUAL HQS INSPECTIONS**

The WHA conducts an inspection in accordance with Housing Quality Standards at least annually. HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible.

The family must allow the WHA to inspect the unit at reasonable times with reasonable notice.

Inspections will be conducted on business days only between 8:30 a.m. and 5:00 p.m.

The WHA will notify the family in writing at least five days prior to the inspection.

If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 10 days.

If the family misses two inspection appointments the WHA will consider the family to have violated a Family Obligation and their assistance will be proposed for termination.

#### **Time Standards for Repairs**

1. Emergency items which endanger the family's health or safety must be corrected within 24 hours of notification.
2. For non-emergency items, repairs must be made by the due date which may not exceed 30 days.
3. For major repairs, the Director or Assistant Director may approve an extension beyond 30 days. A written request for an extension must be received prior to the due date for repairs.

### **Rent Increases**

Contract rent increases in the Voucher program may not be given until the unit passes the HQS Inspection. Rent increase requests in the Voucher program will not be approved if the unit is in a failed condition and only be granted if determined that the rent is reasonable.

### **D. SPECIAL/COMPLAINT INSPECTIONS**

Special/Complaint Inspections can be conducted at any time if requested by the owner or family or if the WHA receives a complaint from an outside source. The WHA will inspect only the

items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

### **E. QUALITY CONTROL INSPECTIONS**

WHA HCVP management will perform Quality Control inspections as required by the Section 8 Management Assessment Program (SEMAP). The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of HQS.

### **F. EMERGENCY REPAIR ITEMS**

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

- Lack of security for the unit
- Waterlogged ceiling in imminent danger of falling
- Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem which could result in shock or fire
- No heat when outside temperature is below 50° F. and temperature inside is below 60° F
- Utilities not in service
- No running hot water
- Broken glass where someone could be injured
- Obstacle which prevents tenant's entrance or exit
- Lack of functioning toilet

The WHA HCVP management may give a short extension whenever the responsible party cannot be notified or it is impossible to effect the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the WHA.

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

If the emergency repair item(s) are not corrected in the time period required by the WHA, and it is an HQS breach which is a family obligation, the WHA will terminate the assistance to the family.

## **G. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**

### **Abatement**

When it has been determined that a unit fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the WHA, the housing assistance payment to the owner will be abated. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the due date given by the Inspector or any approved extension.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. The WHA will inspect abated units within five days of the owner's notification that the work has been completed.

### **Termination of Contract**

The owner of an abated unit will be given notice that the HAP Contract will be terminated if the WHA is not notified that the repairs are completed. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by the WHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued.

## **H. DETERMINATION OF RESPONSIBILITY**

Certain HQS deficiencies are considered the responsibility of the family and will be noted on HQS inspection reports. The owner is responsible for all other HQS violations. Determinations of responsibility are made by the inspector.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The WHA may terminate the family's assistance on that basis.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

## **I. CONSEQUENCES IF FAMILY IS RESPONSIBLE**

HQS violations determined to be the responsibility of the family must be made within the assigned timeframe. If the repair(s) or correction(s) are not made by the due date, the WHA will terminate assistance to the family. Extensions in these cases must be approved by Director or Assistant Director. The owner's rent will not be abated for items which are the family's responsibility.

## Chapter 11

### OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.501, 982.503, 982.504]

During the initial term of the lease, the owner may not raise the rent to the owner.

#### **A. MAKING PAYMENTS TO OWNERS**

Once the HAP Contract is executed, the WHA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Checks are disbursed by Finance Department to the owner each month.

Checks will be mailed to the owner and may not be picked up at WHA. Payments may also be directly deposited for owners who complete the necessary documentation.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

#### **Excess Payments**

The total of rent paid by the tenant plus the WHA housing assistance payment to the owner may not be more than the contract rent to owner. The owner must immediately return any excess payment to the WHA. WHA reserves the right to deduct excess payments kept by the owner from future WHA payments to that owner.

#### **B. RENT REASONABLENESS REDETERMINATIONS**

The WHA must redetermine the rent to the owner is reasonable:

- Before any owner request rent increase is processed
- If there is a five percent decrease in the published 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.
- If directed by HUD and based on a need identified by the WHA's auditing system.

The WHA may redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the WHA.

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

The WHA will contract for rent reasonableness services that adhere to all HUD mandated criteria and maintain an up-to date database of unassisted, comparable units.

### **C. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM**

The Payment Standard is used to calculate the housing assistance payment for a family. The Payment Standard is set by the WHA between 90 percent and 110 percent of the FMR/exception rent. The WHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the WHA will ensure that the Payment Standard is within the range of 90 percent to 110 percent of the new FMR.

### **D. ADJUSTMENTS TO PAYMENT STANDARDS**

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep families' rents affordable. The WHA will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will WHA raise Standards if the need is solely to make "high end" units available to Voucher holders.

The WHA will review the Payment Standard at least annually to determine whether an adjustment should be made for some or all unit sizes. Payment Standards may be reviewed more frequently as deemed necessary by the WHA. The Payment Standard will be reviewed according to HUD's requirements and this policy and if an increase is warranted, the payment standard will be adjusted within 90% to 110% of the FMR.

The WHA may review/consider some or all of following in making a determination whether Payment Standards should be adjusted:

- Rent Burdens - to determine the extent to which the rent burden is more than 40% of income.
- Availability of suitable units below the payment standard
- Quality of Units Selected – to determine if the payment standard is adequate for families to reach the mid-range of the market.
- Rent to Owner Increases - to determine whether owner increases are excessive in relation to the published annual adjustment factor.
- Time to Locate Housing – to determine families have difficulty finding appropriate housing due to Payment Standards
- Rent Reasonableness Data – to determine if payment standards are on par with comparable units.
- Decrease in FMR -
- Financial Feasibility – to determine the effect of budgetary concerns and viability of the program to serve as many families as possible.

### **File Documentation**

A file will be retained by the WHA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

## **E. EXCEPTION PAYMENT STANDARDS**

If the dwelling unit is located in an exception area, the WHA must use the appropriate payment standard amount established by the WHA for the exception area in accordance with regulation at 24 CFR 982.503(c).

## **F. OWNER NOTIFICATION OF RENT INCREASES**

The owner is required to notify the WHA, in writing, at least sixty (60) days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503

## **G. PAYMENT STANDARDS FOR A FAMILY**

### **Regular Reexamination**

Payment Standards are adjusted at the time of the family's annual reexamination. Payment Standards are not adjusted at interim determinations unless approved by HUD. If the payment standard decreases during the HAP Contract term, the Payment Standard for the family is the higher of (1) the Payment Standard at the beginning of the lease minus any amount by which the initial rent to owner has decreased, or (2) the Payment Standard at the current or most recent annual re-exam. If a change in family size or composition occurs affecting the voucher size, the ability to use the initial Payment Standard is lost.

### **Moves**

If the family moves into a different unit prior to their next recertification, the new payment standard will be used. The applicable payment standard will be the lower of either the voucher size issued or the unit size selected at the time of the move.

## **H. RENT ADJUSTMENTS**

Owners may not request rent adjustments in the Voucher program to be effective prior to the expiration of the first year of the lease.

Rent adjustments are effective with a sixty-day notice to the family and a copy to the WHA. The WHA will advise the family as to whether the rent is reasonable and shall approve or disapprove the rent increase.

Owners must request the rent increase in writing. Any increase will be effective the later of the anniversary date of the Contract, or at least 60 days after the owner's request is received. To be honored, requests must be received at least 60 days prior to the next anniversary date and determined to be a reasonable rent.

## Chapter 12

### RECERTIFICATIONS [24 CFR 982.516]

#### **A. ANNUAL RECERTIFICATION/REEXAMINATION**

Families are required to be recertified at least annually. When families move to another dwelling unit an annual recertification will be scheduled and the anniversary date will be changed. Income limits are not used as a test for continued eligibility at recertification unless the family is moving under portability and changing their form of assistance.

#### **Reexamination Notice to the Family**

The WHA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview in advance of the anniversary date. If requested as an accommodation by a person with a disability, the WHA will provide the notice in an accessible format. The WHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

#### **Completion of Annual Recertification**

The WHA will have recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change which result in an increase in the family's portion of the rent.

#### **Persons with Disabilities**

Persons with disabilities who are unable to come to the WHA's office will be granted an accommodation either by conducting the interview at the person's home or by completing via mail, upon verification that the accommodation requested meets the need presented by the disability.

#### **Requirements to Attend**

The written notification will state which family members are required to attend the interview. The Head of Household is required to attend the recertification. If the Head of Household is unable to attend the interview the appointment will be rescheduled.

#### **Failure to Respond to Notification to Recertify**

The family may call to request another appointment date up to five days prior to the interview.

If the family does not appear for the recertification interview, and has not rescheduled or made

prior arrangements with the WHA, the WHA will schedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the WHA will send the family a notice of termination with the right to a hearing.

Exceptions to these policies may be made by Director or Assistant Director if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

### **Documents Required From the Family**

In the notification letter to the family, the WHA will include instructions for the family to bring documents needed to determine their continued eligibility.

### **Verification of Information**

The WHA will follow the HUD verification procedures and guidelines.

### **Tenant Rent Increase**

If tenant rent increases, a thirty-day notice is mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the month following the thirty-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date.

### **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the WHA.

## **B. REPORTING INTERIM CHANGES**

### **Household Composition**

Program participants must report all changes in household composition to the WHA between annual reexaminations within 10 days of its occurrence. This includes additions due to birth, adoption and court-awarded custody. The family must obtain WHA approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The WHA will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

### **Income Changes**

Families are required to report all increases in income/assets within ten days of the increase. Participants may report a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions. The WHA must calculate the change if a decrease in income is reported and results in an adjustment to the family's portion. The WHA will conduct interim reexaminations when families have an increase in income.

### **WHA Errors**

If the WHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

### **Other Interim Reporting Issues**

An interim reexamination does not affect the date of the annual recertification.

## **C. NOTIFICATION OF RESULTS OF RECERTIFICATIONS**

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the WHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

## **D. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)**

### **Standard for Timely Reporting of Changes**

The WHA requires that families report interim changes to the WHA within 10 days of when the change occurs. Any information, document or signature needed from the family which is needed to verify the change must be provided within 30 days of the change.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

### **Procedures when the Change is Reported in a Timely Manner**

The WHA will notify the family and the owner of any change in the Housing Assistance Payment.

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice.

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported. However, no rent reductions will be processed until verified, even if a retroactive adjustment results.

### **Procedures when the Change is Not Reported by the Tenant in a Timely Manner**

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

- Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement.
- Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

### **Procedures when the Change is Not Processed by the WHA in a Timely Manner**

An increase that is not able to be processed in a timely manner will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the WHA.

A decrease that is not able to be processed in a timely manner through no fault of the family will be calculated retroactively to the date it should have been effective.

## **E. REPORTING OF CHANGES IN FAMILY COMPOSITION**

All changes in family composition must be reported within 10 days of the occurrence.

### **Increases in Family Size**

Increases other than by birth, adoption or court-awarded custody must have the prior approval of the owner and the WHA. If the addition would result in overcrowding according to HQS maximum occupancy standards:

- The WHA will not approve the addition other than birth, adoption or court-awarded custody.

- The WHA will issue a larger Voucher (if needed under the Subsidy Standards) for additions to the family in the following cases:
  - Addition by marriage/or marital-type relation.
  - Addition of an WHA-approved live-in attendant.
  - Addition of any relation of the Head or Spouse.
  - Addition due to birth, adoption or court-awarded custody.

If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to overcrowding, the change in Voucher shall be made effective immediately.

The WHA may determine whether to issue a Voucher in this instance based on funding availability.

#### **F. WELFARE INCOME CHANGES**

The WHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction", which is a reduction in benefits by the welfare agency specifically because of fraud in connection with the welfare program; or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the WHA will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or
- A situation where a family member has not complied with other welfare agency requirements.

#### **Definition of Covered Family**

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

#### **Imputed Welfare Income**

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent is imputed welfare income.

The amount of imputed welfare income is determined by the WHA, based on written information supplied to the WHA by the welfare agency, including:

- The amount of the benefit reduction
- The term of the benefit reduction
- The reason for the reduction
- Subsequent changes in the term or amount of the benefit reduction

The family's annual income will include the imputed welfare income, as determined by the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the WHA will review the calculation for accuracy. If the imputed welfare income amount is correct, the WHA will provide a written notice to the family that includes:

A brief explanation of how the amount of imputed welfare income was determined;

A statement that the family may request an informal hearing if they do not agree with the WHA determination.

### **Verification Before Denying a Request to Reduce Rent**

The WHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities before denying the family's request for rent reduction.

The WHA will rely on the welfare agency's written notice to the WHA regarding welfare sanctions.

## Chapter 13

### MOVES WITH CONTINUED ASSISTANCE/PORTABILITY [24 CFR 982.314]

#### **A. ALLOWABLE MOVES**

A family may move to a new unit if:

1. The assisted lease for the old unit has terminated because the WHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
2. The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
3. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner) for owner breach or otherwise.

#### **B. RESTRICTIONS ON MOVES**

The WHA will not permit a participant family to move under the following conditions:

- During the initial year of assisted occupancy neither within the WHA's jurisdiction nor outside the WHA's jurisdiction under portability.
- If there is insufficient funding for continued assistance.
- The family has violated a Family Obligation.
- The family owes the WHA money.
- The family has moved or been issued a Voucher within the last twelve months.

The Director or Assistant Director may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control at their discretion.

#### **C. PROCEDURE FOR MOVES**

##### **Issuance of Voucher**

If the family has not been recertified within the last 120 days, the WHA will issue the voucher to move after conducting the recertification. If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

##### **Notice Requirements**

The family must give the owner the required number of days written notice of intent to vacate specified in the lease but not less than 30 days and must give a copy to the WHA simultaneously.

## **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance. In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease midmonth. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

## **D. PORTABILITY**

Portability applies to families moving out of or into the WHA's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the WHA's jurisdiction. The unit may be located in the jurisdiction of a Housing Authority anywhere within the United States that administers a tenant based program.

## **E. OUTGOING PORTABILITY**

When a family requests to move to outside of the WHA's jurisdiction, the request must specify the area to which the family wants to move.

If the family is moving to a unit located in North Carolina or in the same Metropolitan Statistical Area, and there is not an HA in the area where the unit is located, the WHA will be responsible for the administration of the family's assistance.

## **Restrictions on Portability**

Families will not be permitted to exercise portability:

- a) During the initial 12-month period **after admission** to the program, if neither the head nor spouse had a domicile (legal residence) in the WHA's jurisdiction at the date of their initial application for assistance.
- b) If the family is in violation of a family obligation.
- c) If the family owes money to the WHA.
- d) If the receiving HA's payment standard is higher than WHA's and the receiving HA is billing, not absorbing portability clients during times of insufficient funding and as approved by HUD.

Families that request to move to a higher cost area during times of insufficient funding will be notified in writing that their move has been denied and the reason. The family will have 30 days to appeal the denial, after which time the request will be considered closed. Once it is determined that sufficient funding is available for moves to higher cost areas, those families with open requests will be notified.

The Director or Assistant Director may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

## **Outgoing Portability Procedures**

The WHA will provide counseling for those families who express an interest in portability. If the family is utilizing portability for their initial lease-up, the WHA will determine if the family is within the very low-income limit of the receiving HA.

If the family is a participant and will be changing its form of assistance, WHA will determine if the family is within the low income limit of the receiving HA, and advise the family accordingly.

The WHA will notify the Receiving HA that the family wishes to relocate into its jurisdiction.

The WHA will advise the family how to contact and request assistance from the receiving HA.

The WHA will notify the receiving HA that the family will be moving into its jurisdiction.

The WHA will provide the following documents and information to the Receiving HA:

- A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- The most recent HUD 50058 form and verifications.
- The Administrative Fee Schedule for billing purposes.

The Receiving HA must notify the WHA within 60 days of the following:

- The Receiving HA decides to absorb the family into their own program.
- The family leases up or fails to submit an RFTA by the required date.
- Assistance to a portable family is terminated by the Receiving WHA.
- The family requests to move to an area outside the Receiving HA's jurisdiction.

## **Payment to the Receiving HA**

Payments for families in other jurisdictions will be made to other HAs when billed or in accordance with other HUD approved procedures for payment.

## **Claims**

The WHA will be responsible for collecting amounts owed by the family and monitoring the repayment. The WHA will notify the Receiving HA if the family is in arrears or if the family has refused to sign a Payment Agreement, and the Receiving HA will be asked to terminate assistance to the family as allowed by this Administrative Plan.

Receiving HA's will be required to submit hearing determinations to the WHA within 30 days.

## **F. INCOMING PORTABILITY**

### **Absorption or Administration**

The WHA will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. If administering, the family will be issued a "Portability" Voucher by the WHA with the same start date. The WHA may grant extensions in accordance with this Administrative Plan.

The WHA may absorb Vouchers if such absorption does not exceed 10 percent of households assisted.

When the WHA does not absorb the incoming Voucher, it will administer the Initial HA's Voucher and the WHA's policies will prevail.

For initial lease-up, the family must be within the WHA's Very-Low Income limits. For participants, the WHA may issue a Voucher but if the form of assistance changes, the family must be within the WHA's Low-Income limits. If the family is ineligible under the WHA's low income limit because the form of assistance offered causes the family to change programs, the WHA must absorb the family without a change in the form of assistance, or administer the family without a change in the form or assistance, or administer the family's current form of assistance.

The WHA will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Voucher size, the WHA will change to the proper size based on its own Subsidy Standards.

The WHA will decide whether to extend the "Portability Voucher" and for what period of time. However, if the Family decides not to lease-up in the WHA's jurisdiction, the Family must request an extension from the Initial HA.

### **Income and TTP of Incoming Portables**

If the family's income exceeds the income limit of the WHA, the family will not be denied assistance unless the family is an applicant and over the Very-Low Income Limit.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the WHA's jurisdiction, the WHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **Requests for Approval of Tenancy**

A briefing will be mandatory for all portability families. When the Family submits a Request for Tenancy Approval, it will be processed using the WHA's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a lease, the Initial HA will be notified

within 30 days by the WHA.

If the Family leases up successfully, the WHA will notify the Initial HA within 30 days and the billing process will commence.

If the WHA denies assistance to the family, the WHA will notify the Initial HA within 30 days and the family will be offered a review or hearing.

The WHA will notify the Family of its responsibility to contact the Initial HA if the Family wishes to move outside the WHA's jurisdiction under continued portability.

### **Terminations**

The WHA will notify the Initial HA in writing of any termination of assistance within 30 days of the termination. If an Informal Hearing is required and requested by the Family, the hearing will be conducted by the WHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial HA.

The Initial HA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial HA notifies the WHA that the Family is in arrears or the Family has refused to sign a Payment Agreement, the WHA will terminate assistance to the family.

### **Required Documents**

As Receiving HA, the WHA will require the following documents from the Initial HA:

1. A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
2. The most recent HUD 50058 form and verifications.
3. The Administrative Fee Schedule for billing purposes.

### **Billing Procedures**

As Receiving HA, the WHA will bill the Initial HA monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and will be monthly unless requested otherwise by the Initial HA.

The WHA will notify the Initial HA of changes in subsidy amounts and will expect the Initial HA to notify the WHA of changes in the Administrative Fee amount to be billed.

## Chapter 14

### CONTRACT TERMINATIONS

#### **A. CONTRACT TERMINATION**

The term of the Housing Assistance Payment (HAP) Contract is the same as the term of the lease. The HAP Contract between the owner and the WHA may be terminated by the WHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the WHA to the owner after the month in which the HAP Contract is terminated. The owner must reimburse the WHA for any subsidies paid by the WHA for any period after the contract termination date.

If the family continues to occupy the unit after the HAP Contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the WHA for vacancy loss.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

#### **B. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS**

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease including the HUD Tenancy Addendum, and in accordance with North Carolina law. The owner must submit a copy of the notice to the WHA. During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations and delineated in the Housing Assistance Payment Contract Part C: Tenancy Addendum. Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105.

The WHA must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the WHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

If an eviction is not due to serious or repeated violation of the lease, and there are no grounds for termination of assistance, the WHA may issue a new voucher so that the family can move.

#### **C. TERMINATION OF THE CONTRACT BY WHA**

The term of the HAP contract terminates when the lease terminates, when the WHA terminates

program assistance for the family, and when the owner has breached the HAP contract. The WHA may also terminate the contract if:

- The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
- Funding is no longer available under the ACC.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

### **Notice of Termination**

When the WHA terminates the HAP contract under the violation of HQS space standards, the WHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the WHA gives such notice to the owner.

### **D. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS**

Families who were participants on June 19, 1995, but are ineligible for continued assistance due to the ineligible immigration status of all members of the family, or because a "mixed" family chooses not to accept pro-ration of assistance, are eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for transition to affordable housing.

Deferrals may be granted for intervals not to exceed six months, up to an aggregate maximum of 18 months for deferrals granted after 11/29/96

The family will be notified in writing at least 60 days in advance of the expiration of the deferral period that termination of assistance will not be deferred because:

- Granting another deferral will result in an aggregate deferral period of longer than the statutory maximum (three years for deferrals granted before 11/29/96; 18 months for deferrals granted after 11/29/96), or
- A determination has been made that other affordable housing is available.

## Chapter 15

### DENIAL OR TERMINATION OF ASSISTANCE

#### **A. GROUNDS FOR DENIAL/TERMINATION**

Admission must be denied to applicants and assistance must be terminated for participants if any of the following apply:

- Any household member has been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.
- The WHA determines a family member is currently engaging in the illegal use of a drug.
- There is reasonable cause to believe that a household member's drug use or a pattern of drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any member of the household is subject to a lifetime registration requirement under a sex offender registration program.
- The family was evicted from housing assisted under the program for serious violation of the lease within the past five (5) years.
- Any family member fails to sign and submit consent forms for obtaining information.
- Failure to establish citizenship/eligible immigration status when required by regulations.
- The family is under contract and 180 days have elapsed since last housing assistance payment was made by the WHA.

Additionally, the WHA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

- The family violates any family obligation under the program.
- The family currently owes money to this or any other housing authority in connection with HCVP or public housing assistance.
- The family has not reimbursed any HA for amounts paid to an owner under a HAP contract for rent, damages, or other amounts owed by the family under the lease.
- The family breaches a repayment agreement with any housing authority.
- The family has engaged in or threatened abusive or violent behavior toward WHA personnel. Threatening" refers to oral or written threats or physical gestures that

communicate intent to abuse or commit violence. Verbal or physical abuse or violence, use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. Actual physical abuse or violence will always be cause for termination.

- Crime by any family member, such as:
  - Fraud, bribery or other corrupt or criminal act in a federal housing program
  - Drug-related criminal activity (as defined in law)
  - Violent criminal activity (as defined by rule) Criminal use of physical force against person or property

WHA must find elements of covered crime by civil standards and with a preponderance of evidence. WHA is not required to show crime beyond reasonable doubt.

### **Violence Against Women Act (VAWA)**

Under the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L 109-162), referred to as VAWA, Housing Choice Voucher applicants and participants have the following specific protections which will be observed by WHA:

- A. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be considered to be a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
- B. Tenancy or assistance will not be terminated by WHA as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted household, a guest or another person under the tenant's control, and the tenant or an immediate family member is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance is subject to the following limitations:
  - a. Nothing contained in this paragraph shall limit any otherwise available authority of WHA or Housing Choice Voucher owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither WHA or a Housing Choice Voucher manager or owner may apply a more demanding standard to the victim of domestic violence, dating violence or stalking than that applied to other tenants.
  - b. Nothing contained in this paragraph shall be construed to limit the authority of WHA or a Housing Choice Voucher owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or WHA, as the case may be, can demonstrate an actual and imminent threat to other tenants or to those employed

at or providing service to the property, if the tenant is not evicted or terminated from assistance.

- C. Further, notwithstanding anything in paragraph V.A.b. or Federal, State or local law to the contrary, WHA or a Housing Choice Voucher owner or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in acts of physical violence Against family members or others. Such action against the perpetrator of such physical violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by WHA. Leases used for all Housing Choice voucher owners or manager, leases for dwelling units occupied by families assisted with Housing Choice Voucher assistance administered by WHA, shall contain provisions setting forth the substance of this paragraph.

## **B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY**

### **Purpose**

It is the intention of the Housing Authority of the City of Wilmington, NC to fully endorse and implement a policy designed to help create and maintain a safe and drug-free community and to keep our program participants free from threats to their personal and family safety.

### **Screening of Applicants**

In an effort to prevent future drug related and other 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 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the WHA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to any member of the household who is 18 years of age or older.

### **Standard for Violation**

The WHA will deny participation in the program to applicants and terminate assistance to participants in cases where the WHA determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses any substance including alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the WHA determines that there is a pattern of

illegal use of a drug or a pattern of alcohol abuse.

"Engaged in or engaging in" violent criminal activity means any act within the past five years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, which resulted in the arrest and/or conviction of the applicant, participant or household member.

### **Drug Related and Violent Criminal Activity**

Ineligibility for admission if Evicted for Drug-Related Activity: Persons evicted from federally assisted housing because of drug-related or violent criminal activity are ineligible for admission to the HCVP program for a five -year period beginning on the date of such eviction.

However, the household may be admitted if, after considering the individual circumstances of the household, the WHA determines that:

- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug-rehabilitation program approved by the WHA.
- The circumstances leading to eviction no longer exist because the criminal household member has died or is imprisoned.

### **Denial of Assistance for Sex Offenders**

The WHA will deny admission if any member of the household is subject to a lifetime registration requirement under a Federal or State sex offender registration program. In screening applicants, the WHA will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

### **Termination of Assistance for Participants**

#### **Termination of Assistance for Drug-related Criminal Activity or Violent Criminal Activity:**

Under the family obligations listed at 24 CFR 982.551, the members of the household must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. As required by HUD regulations at 24 CFR 982.553(b), The Housing Authority of the City of Wilmington, NC has established the standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity.

Assistance will be terminated for participants who have been convicted/evicted from a unit assisted under any Federally assisted housing program for drug-related or violent criminal activity during participation in the program, and within the last five (5) years prior to the date of the notice to terminate assistance.

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

The WHA will waive the requirement regarding drug-related criminal activity if:

- ◆ The person demonstrates successful completion of a credible rehabilitation program approved by the WHA, or
- ◆ The circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration.

### **Terminating Assistance for Alcohol Abuse by Household Members**

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol or any substance in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the WHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

In appropriate cases, the WHA will permit the family to continue receiving assistance provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the WHA may consider the individual circumstances with the advice of Juvenile Court Officials.

### **Notice of Termination of Assistance**

In any case where the WHA decides to terminate assistance to the family, the WHA must give the family written notice which states:

The reason(s) for the proposed termination.

The effective date of the proposed termination.

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.

The date by which a request for an informal hearing must be received by the WHA.

If the WHA proposes to terminate assistance for criminal activity as shown by a criminal record, the WHA will provide the subject of the record and the tenant with a copy of the criminal record.

The WHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

### **Family Self Sufficiency (FSS)**

Failure to fulfill the obligations and conditions of the FSS Contract of Participation is grounds for termination of participation in the FSS program. The WHA will not terminate the HCVP assistance for a participant for FSS violations unless it is also a HCVP violation.

### **Housing Authority Discretion**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the WHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The WHA will use its discretion in reviewing, the extent of participation or culpability of individual family members, and the length of time since the violation occurred. The WHA may also review the family's more recent history and record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The WHA 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 will not reside in the unit. The WHA may permit the other members of a family to continue in the program.

## **C. ENFORCING FAMILY OBLIGATIONS**

### **Explanations and Terms**

The term "Promptly" when used with the Family Obligations always means "within ten days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

### **Lease Violations**

The following criteria will be used to decide if a serious or repeated violation of the lease will result and cause a termination of assistance:

- If the owner terminates tenancy through court action for serious or repeated violation of the lease.
- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of

court action, and the WHA determines that the cause is a serious or repeated violation of the lease based on available evidence.

- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and
- If there are police reports, neighborhood complaints or other third party information, that has been verified by the WHA.

Notification of Eviction: If the family requests assistance to move and they did not notify the WHA of an eviction within 10 days of receiving the Notice of Lease Termination, the move will be denied.

### **Proposed additions to the family**

The WHA may deny a family's request to add additional family members who are:

- ◆ Persons who have been evicted from public housing.
- ◆ Persons who have previously violated a family obligation listed in 24CFR 982.51 of the HUD regulations.
- ◆ Persons who have been part of a family whose assistance has been terminated under the Certificate or Voucher program.
- ◆ Persons who commit drug-related criminal activity or violent criminal activity.
- ◆ Persons who do not meet the WHA's definition of family.
- ◆ Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- ◆ Persons who currently owe rent or other amounts to the WHA or to another WHA in connection with HCVP or public housing assistance under the 1937 Act.
- ◆ Persons who have engaged in or threatened abusive or violent behavior toward WHA personnel.

### **Family Member Moves Out**

Families are required to notify the WHA if any family member leaves the assisted household. When the family notifies the WHA, they must furnish the following information:

- The date the family member moved out.
- The new address, if known, of the family member.

### **Interest in Unit**

The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the Voucher Program.

### **Fraud**

In each case, the WHA will consider which family members were involved, the circumstances,

and any hardship that might be caused to innocent members.

### **Confidentiality of Criminal Records**

The WHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished in accordance with appropriate federal, state, and local laws.

### **Required Evidence**

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

- Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

## **D. PROCEDURES FOR NON-CITIZENS**

### **Termination due to Ineligible Immigrant Status**

Participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The WHA must offer the family an opportunity for a hearing.

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated. They must be given an opportunity for a hearing.

### **Temporary Deferral of Termination of Assistance**

Ineligible families who were participants as of June 19, 1995, may request a temporary deferral of termination of assistance in order to allow time to locate affordable housing and thereby preserve the family.

Temporary deferral of termination of assistance is also available to mixed families who were participants on June 19, 1995, who elect not to accept prorated assistance, and are not eligible for Continued Assistance. (See Chapter 14, "Contract Terminations.") The WHA must allow the

mixed family time to find housing for ineligible members or for the entire family by deferring the termination.

Mixed families who choose temporary deferral of termination of assistance may change to prorated assistance at the end of any deferral period, if they have made a good-faith effort to locate housing. (See Chapter 12, Section G.)

### **Criteria for Approving Temporary Deferral of Termination of Assistance Due to Ineligible Immigration Status**

The WHA will grant temporary deferral so long as the family makes reasonable efforts to find affordable housing and the Consolidated Plan indicates that the market lacks sufficient affordable housing.

Affordable housing is defined as housing that is standard based on HQS, of appropriate size based on HQS, and for which the rent plus utilities is no more than 30% greater than the WHA-calculated Total Tenant Payment.

### **Length of Deferral**

The initial temporary deferral is granted for an interval not to exceed six months. Additional deferrals can be made up to an aggregate total of 18 months. A notice is sent to the family at the beginning of each deferral period reminding them of their ineligibility for full assistance and their responsibility to seek other housing.

The family will be notified in writing sixty days before the end of the maximum deferral period that there cannot be another deferral, and will be offered the option of prorated assistance if they are a mixed family and have made a good-faith effort to locate affordable housing.

### **False or Incomplete Information**

An investigation will be conducted when the WHA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant. The individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the WHA may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The WHA will then verify eligible status, deny, terminate, or prorate as applicable.

The WHA will deny or terminate assistance based on the submission of false information or misrepresentations.

### **Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the INS primary and

secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the WHA either after the INS appeal or in lieu of the INS appeal.

After the WHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable) or, for participants who qualify, for Temporary Deferral of Termination of Assistance.

#### **E. \$0 ASSISTANCE TENANTS**

When a family's income results in a \$0 HAP payment, the family's voucher will remain active for 180 days after the last HAP payment. After 180 days the family's assistance will be terminated in accordance with federal regulations. If there are changes that result in a HAP payment, the 180 day timeframe is void. For a \$0 HAP family to move to another unit, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

#### **F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

If the family has misrepresented any facts that caused the WHA to overpay assistance, the WHA may choose not to terminate and may offer to continue assistance provided that the family reimburses the WHA in full in a lump sum payment or as agreed to in a Repayment Agreement.

#### **G. MISREPRESENTATION IN COLLUSION WITH OWNER**

If the family is intentionally willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, the WHA will deny or terminate assistance. In making this determination, the WHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events or vice versa.

#### **H. MISSED APPOINTMENTS AND DEADLINES**

It is a Family Obligation to supply information, documentation, and certification in a timely manner as well as to allow the inspection of their unit as needed for the WHA to fulfill its responsibilities. An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the WHA may be proposed for termination. A medical emergency is an acceptable reason for missing appointments or failing to provide information by deadlines.

## Chapter 16

### **OWNER DISAPPROVAL AND RESTRICTION** [24 CFR 982.302(a)(8), 982.306, 982.453, 982.54(d)(8)]

#### **A. DISAPPROVAL OF OWNER**

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party. The WHA will disapprove the owner for the following reasons:

- Owner has been disbarred, suspended, or subject to a limited denial of participation by HUD.
- Owner has an administrative or judicial action pending against them by the federal government for violation of the Fair Housing Act or other federal equal opportunity requirements.
- Owner had a court or administrative agency determine that they violated the Fair Housing Act or other federal equal opportunity requirement.
- Owner has violated obligations under a housing assistance payments contract.
- Owner has violated HAP contract obligations to maintain the unit to HQS, including standards the WHA has adopted in this policy or has a history or practice of non-compliance with HQS for units leased under HCVP or any other federal housing programs.
- Owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- Owner has engaged in drug trafficking.
- Owner has a history or practice of renting units that fail to meet State or local housing codes.
- Owner has not paid State or local real estate taxes, fines or assessments.
- Owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

#### **B. OWNER RESTRICTIONS AND PENALTIES**

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the WHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The WHA may also terminate some or all contracts with the owner or suspend entering into new contracts for a time. Before imposing any penalty against an owner the WHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

## Chapter 17

### OWNER OR FAMILY DEBTS TO THE WHA

[24 CFR 792.103, 982.552 (b)(6-8)]

#### **A. PAYMENT AGREEMENT FOR FAMILIES**

A Payment Agreement is entered into between the WHA and a person who owes a debt to the WHA. It contains details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the WHA upon default of the agreement. General terms of a WHA Payment Agreement are:

- The maximum amount of a payment agreement is \$2,500
- The maximum length of a payment agreement for \$500 or less is 6 months, between \$501 and \$1000 is 10 months, and between \$1001 and \$2500 is 18 months.
- The minimum monthly payment amount for any payment agreement is \$50.00.
- Initial Payment will be 30% of the total amount due.
- If a family already has a Payment Agreement in place, the WHA may not enter into additional payment agreements.
- A payment will be considered to be in arrears if the payment is not received by the close of the business day five days after the due date.
- If the family's payment agreement is in arrears, the WHA will require the family to pay the balance in full or terminate the housing assistance
- If a family owes \$5,000 or greater as a result of program fraud and/or unreported income, the case will be referred to the Inspector General for criminal prosecution.
- Payment Agreements will be executed between the WHA and the head of household and spouse.
- A Payment Agreement will be considered to be in default when it is in arrears for 30 days.
- Monthly payments may be decreased in cases of family hardship if requested with reasonable notice from the family, verification of the hardship, and the approval of the Director or Assistant Director.
- No move will be approved until the debt is paid in full unless the Payment Agreement is current and the family must move due to one of the following causes:
  - Family size exceeds the HQS maximum occupancy standards
  - The HAP contract is terminated due to owner non-compliance or opt-out
  - A natural disaster

#### **B. OWNER DEBTS TO THE WHA**

If the WHA determines that the owner has retained Housing Assistance Payments the owner is not entitled to, the WHA may reclaim the amounts from future Housing Assistance Payments owed the owner for any units under contract. If future Housing Assistance Payments are insufficient to reclaim the amounts owed, the WHA will require the owner to pay the amount in full within 30 days and restrict the owner from future participation.

## **Chapter 18**

### **COMPLAINTS AND APPEALS**

[24 CFR 982.554, 982.555]

#### **A. COMPLAINTS TO THE WHA**

The WHA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The WHA may require that complaints be put in writing. Complaints from families will be referred to the HCVP Director or their designee.

#### **B. INFORMAL REVIEW AND HEARING PROCEDURES**

It is the WHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the WHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

The WHA review and hearing procedures will be provided to families in the briefing packet. Reviews are provided for applicants who are denied assistance before the effective date of a HAP Contract. Hearings are provided for participants in the program after the effective date of a HAP Contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When applicants are denied placement on the waiting list, or the WHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

#### **Procedure for Informal Reviews**

When the WHA determines that an applicant is ineligible for the program, the WHA will notify the applicant in writing. The notice will contain the reason(s) they are ineligible, and advise the applicant that if he/she does not agree with the decision, he/she may request an informal review, in writing, within 10 business days of the notice. The review will be scheduled within 30 days from the date the request is received. The Review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The applicant will be given the option of presenting oral or written objections to the decision. Both the WHA and the family may present evidence and witnesses. The family may use an attorney or other representative for assistance at their own expense.

A Notice of the Review findings will be provided in writing to the applicant within 14 business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision. All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

## **Procedures for Informal Hearings**

The WHA must provide participants with the opportunity for an Informal Hearing for decisions related to the WHA's decision regarding continued eligibility and/or the amount of assistance. The WHA will send written notice of the reason(s) for the proposed action and advise the participant that if they do not agree with the decision, they may request an informal hearing in writing within 10 business days of the notice.

Hearings are not required for established policies, procedures, and WHA determinations such as:

1. Discretionary administrative determinations by the WHA
2. General policy issues or class grievances
3. Establishment of the WHA schedule of utility allowances for families in the program
4. Determination not to approve an extension or suspension of a voucher term
5. Determination not to approve a unit or lease
6. Determination an assisted unit is not in compliance with HQS that is not the family's responsibility.
7. Determination that the unit is not in accordance with HQS due to the family size
8. Determination to exercise or not exercise any right or remedy against the owner under a HAP contract

## **Notification of Hearing**

When the WHA receives a request for a hearing, a hearing shall be scheduled within 30 days and notify the family of the hearing's date, time, and location. The notification of hearing will also contain:

1. The family's right to bring evidence, witnesses, legal or other representation at the family's expense
2. The right to view any documents or evidence in the possession of the WHA upon which the WHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing
3. A notice to the family that the WHA will request a copy of any documents or evidence the family will use at the hearing

Families have the right to:

- Present written or oral objections to the WHA's determination.
- Examine the documents in the file which are the basis for the WHA's action, and all documents submitted to the Hearing Officer;
- Copy any relevant documents at their expense
- Present any information or witnesses pertinent to the issue of the hearing;
- Request that WHA staff be available or present at the hearing to answer questions pertinent to the case
- Be represented by legal counsel, advocate, or other designated representative at their own expense.

In addition to other rights contained in this Chapter, the WHA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;
- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing
- Have its attorney present
- Have staff persons and other witnesses familiar with the case present.

The Hearing shall be conducted by the Hearing Panel appointed by the HCVP Director, who is neither the person who made or approved the decision, nor a subordinate of that person. The WHA appoints Hearing Panel members who are WHA Management.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The Hearing Panel may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Panel, the action of the WHA shall take effect and another hearing will not be granted.

The Hearing Panel will determine whether the action, inaction or decision of the WHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to the WHA and the family that includes a clear summary of the decision and its rationale, any follow up actions needed or monies owed, and the date the decision goes into effect.

The WHA is not bound by hearing decisions which:

- Concern matters in which the WHA is not required to provide an opportunity for a hearing
- Conflict with or contradict to HUD regulations or requirements;
- Conflict with or contradict Federal, State or local laws; or
- Exceed the authority of the Hearing Panel.

The WHA shall send a letter to the participant if it determines the WHA is not bound by the Hearing Panel's determination within 10 days. The letter shall include the WHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

### **C. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal. Assistance to a family may not be terminated or denied while the WHA hearing is pending but assistance to an applicant may be delayed pending the WHA hearing.

#### **INS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the WHA notifies the applicant or participant of their right to appeal to the INS within thirty days or to request a WHA informal hearing within ten (10) days either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the WHA a copy of the appeal and proof of mailing or the WHA may proceed to deny or terminate. The time period to request an appeal may be extended by the WHA for good cause.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing panel decides that the individual is not eligible, and there are eligible members in the family, the WHA will offer to prorate assistance or give the family the option to remove the ineligible members. If there are no other eligible family members the WHA will deny the applicant family, defer termination if the family is a participant and qualifies for deferral, or terminate the participant if the family does not qualify for deferral.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

-Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

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

## **D. Special Provisions for Project Based Voucher and RAD PBV Clients.**

- 1. Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the 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, as modified by the waiver in PIH Notice 2012-32 rev 1, Section 1.6(C)(3) above, the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall not be less than:
  - a. A reasonable period of time, but not to exceed 30 days:
    - i. If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
    - ii. In the event of any drug-related or violent criminal activity or any felony conviction;
    - iii.
  - b. 14 days in the case of nonpayment of rent; and
  - c. 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.
- 2. 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 PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will waive 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, and require that:

- a. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi),<sup>31</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as 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.
  - i. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.
  - ii. For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.
- b. An informal hearing will not be required for class grievances or to disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement shall not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

- c.** The PHA (as owner) give 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).
- d.** The PHA (as owner) provide opportunity for an informal hearing before an eviction.

## Chapter 19

### SPECIAL HOUSING TYPES [24 CFR 982.601]

#### **A. SPECIAL HOUSING**

HUD has designated several special housing types that are eligible for HCV Program assistance. These include, Single Room Occupancy (SRO), Congregate Housing, Group Homes, , Shared Housing, Cooperative Housing, and Manufactured Homes. The WHA requires a separate lease and housing assistance payment contract for each assisted person residing in Special Housing. The WHA will ensure that all units under contract are in compliance with all the Housing Quality Standards.

The WHA may approve a live-in aide for Special Housing types, except for an SRO, to care for a person with a disability. The WHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. The live-in aide will be counted when determining the voucher size.

#### **B. SINGLE ROOM OCCUPANCY**

A single person may reside in an SRO housing unit. The FMR/exception rent limit for SRO housing is 75 percent of the zero bedroom FMR/exception rent limit. For a Regular Tenancy in the Voucher Program, the initial gross rent may not exceed the FMR/exception rent limit for SRO housing. The WHA SRO payment standard will not exceed the FMR/exception rent limit for SRO housing. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment. The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

#### **C. CONGREGATE HOUSING**

An elderly person or a person with disabilities may reside in a congregate housing unit. Unless there is a live-in aide, the FMR/exception rent limit for a family that resides in a congregate housing unit is the zero-bedroom FMR/exception rent limit. However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the FMR/exception rent limit for a family that resides in a congregate housing unit is the one bedroom FMR/exception rent limit.

#### **D. GROUP HOMES**

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department. An elderly person or a person with disabilities may reside in a State-approved group home. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities. The WHA will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care. No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home. For a Group Home, the "pro-rata portion" is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any WHA-approved live-in Aide.

Unless there is a live-in aide, the family unit size is zero. If there is a live-in aide, the live-in aide will be counted in determining the family unit size. The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard for the group home size. The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

#### **E. SHARED HOUSING**

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment. Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit.

The owner of a shared housing unit may reside in the unit. A resident owner may enter into a HAP contract with the WHA. However, housing assistance may not be paid on behalf of an owner. The WHA will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit.

The payment standard is the lower of the payment standard for the family unit size or the pro-rata portion of the payment standard for the shared housing unit size. The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

#### **F. COOPERATIVE HOUSING**

The WHA will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The WHA will not approve assistance for a family in cooperative housing until the WHA has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with this Plan. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperatives debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in this Plan.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to HCVP limitations on rent to owner. The housing assistance payment will be determined in accordance with the HUD guidelines.

## **G. MANUFACTURED HOMES**

The WHA will permit a family to lease a manufactured home and space with assistance under the program. The WHA will not provide assistance for a family that owns the manufactured home and leases only the space.

The WHA may approve a live-in aide to reside with a family to care for a person with disabilities. The WHA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the WHA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

### **Housing Quality Standards**

A manufactured home must meet all the HQS requirements. In addition the manufactured home also must meet the following requirements:

- A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.
- A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

The space rent is the sum of the following as determined by the WHA:

- Rent to owner for the manufactured home space;
- Owner maintenance and management charges for the space;
- The utility allowance for tenant paid utilities.

## CHAPTER 20

### HCVP HOME OWNERSHIP PLAN

#### 1. GENERAL PROVISIONS

The HCVP Home Ownership Program of the Wilmington Housing Authority ("WHA") permits eligible participants in the housing choice voucher program the option of purchasing a home with their HCVP assistance rather than renting.

Eligible applicants for the HCVP home ownership program must have completed an initial HCVP lease term, may not owe WHA and must meet the eligibility criteria set forth herein.

HCVP home ownership may be used to purchase the following type of homes within the County of New Hanover: new or existing single-family, condominium, or manufactured homes.

#### 2. FAMILY ELIGIBILITY REQUIREMENTS

Participation in the HCVP home ownership program is voluntary. Each HCVP home ownership participant must meet the general requirements for admission to the HCVP housing choice voucher program as set forth in WHA's Administrative Plan. Such HCVP family also must be "eligible" to participate in the home ownership program. The additional eligibility requirements for participation in WHA's HCVP home ownership program include that the family must: (A) be a first-time homeowner or have a member who is a person with disabilities; (B) with the exception of elderly and disabled households, meet a minimum income requirement without counting income from "welfare assistance" sources; (C) with the exception of elderly and disabled households, meet the requisite employment criteria; (D) have completed an initial lease term in the housing choice voucher program; (E) have fully repaid any outstanding debt owed to WHA; (F) not defaulted on a mortgage securing debt to purchase a home under the home ownership option; and (G) not have any member who has a present interest in a residence at the commencement of home ownership assistance.

##### A. First-Time Homeowner.

Each HCVP family, except families with a disabled member, must be a first-time homeowner. A "first-time homeowner" means that no member of the household has had an ownership interest in any residence during the three years preceding commencement of home ownership assistance. However, a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a "first-time homeowner" for the purposes of the HCVP homeownership option; and the right to purchase title to a residence under a lease-purchase agreement is not considered an "ownership interest."

B. Minimum Income Requirement

(1) Amount of Income

At the time the family begins receiving homeownership assistance, the head of household, spouse, and/or other adult household members who will own the home, must have a gross annual income of at least equal to the Federal minimum hourly wage multiplied by 2000 hours.

(2) Exclusion of Welfare Assistance Income

With the exception of elderly and disabled families, WHA will disregard any "welfare assistance" income in determining whether the family meets the minimum income requirement. Welfare assistance includes assistance from Temporary Assistance for Needy Families ("TANF"); Supplemental Security Income ("SSI") that is subject to an income eligibility test; food stamps; general assistance; or other welfare assistance specified by HUD. The disregard of welfare assistance income under this section affects the determination of minimum monthly income in determining initial qualification for the home ownership program. It does not affect the determination of income eligibility for admission to the housing choice voucher program, calculation of the family's total tenant payment, or calculation of the amount of home ownership assistance payments.

C. Employment History

With the exception of disabled and elderly households, each family must demonstrate that one or more adult members of the family who will own the home at commencement of home ownership assistance is employed full-time (an average of 30 hours per week) and has been so continuously employed for one year prior to execution of the sales agreement. In order to reasonably accommodate a family's participation in the program, WHA will exempt families that include a person with disabilities from this requirement.

D. Completion of Initial Lease Term

Applicants for and new participants in the housing choice voucher program shall be ineligible for participation in the HCVP home ownership program until completion of an initial HCVP lease term and the participant's first annual recertification in the HCVP housing choice voucher program. Nothing in this provision will preclude HCVP participants that have completed an initial lease term in another jurisdiction from participating in the HCVP home ownership program.

E. Repayment of Any Housing Authority Debts

Participants in the housing choice voucher program shall be ineligible for participation in the HCVP home ownership program in the event any debt or portion of a debt remains owed to WHA. Nothing in this provision will preclude HCVP participants that have fully repaid such debt(s) from participating in the HCVP home ownership program.

F. Minimum Down Payment Requirements

- (1) Three (3) percent of sales price
- (2) At least one (1) percent of sale price comes from family's personal resources.

G. Additional Eligibility Factors

(1) Elderly and Disabled Households

Elderly and disabled families are exempt from the employment requirements set forth in Section 2.C. above. In the case of an elderly or disabled family WHA will consider income from all sources, including welfare assistance in evaluating whether the household meets the minimum income required to purchase a home through the HCVP home ownership program.

(2) Preference for Participation in FSS Program

Applicants for the home ownership program are not required to participate in WHA's Family Self Sufficiency ("FSS") program in order to participate in the home ownership program. However, FSS participants shall have a preference for participation in the home ownership program.

(3) Prior Mortgage Defaults

If a head of household, spouse, or other adult household member who will execute the contract of sale, mortgage and loan documents has previously defaulted on a mortgage obtained through the HCVP home ownership program, the family will be ineligible to participate in the home ownership program.

**3. FAMILY PARTICIPATION REQUIREMENTS**

Once a family is determined to be eligible to participate in the program, it must comply with the following additional requirements: (A) complete a home ownership counseling program approved by WHA prior to commencement of home ownership assistance; (B)

within a specified time, locate the home it proposes to purchase; (c) submit a sales agreement containing specific components to WHA for approval; (D) allow WHA to inspect the proposed home ownership dwelling to assure that the dwelling meets appropriate housing quality standards; (E) obtain an independent inspection covering major building systems.

A. Home Ownership Counseling Program

A family's participation in the home ownership program is conditioned on the family attending and successfully completing a home ownership and housing counseling program provided or approved by WHA prior to commencement of home ownership assistance. The home ownership and counseling program will cover home maintenance; budgeting and money management; credit counseling; negotiating purchase price; securing mortgage financing; finding a home; and the advantages of purchasing and locating homes in areas that do not have a high concentration of low-income families.

The counseling agency providing the counseling program shall either be approved by HUD or the program shall be consistent with the home ownership counseling provided under HUD's Housing Counseling program. WHA may require families to participate in a WHA-approved home ownership counseling program on a continuing basis.

B. Locating and Purchasing a Home

(1) Locating a Home

Upon approval for the HCVP home ownership program, a family shall have one hundred twenty (120) days to locate a home to purchase. A home shall be considered located if the family submits a proposed sales agreement with the requisite components to WHA. For good cause, WHA may extend a HCVP family's time to locate a home for additional thirty (30) day increments. During a HCVP participant's search for a home to purchase, their HCVP rental assistance shall continue pursuant to the Administrative Plan. If a HCVP participant family is unable to locate a home within the time approved by WHA, their HCVP rental assistance through the housing choice voucher program shall continue.

(2) Type of Home

A family approved for HCVP home ownership assistance may purchase the following types of homes within the County of New Hanover: a new or existing home, a single-family home, a condominium, a home in a planned use development, or a manufactured home to be titled as real estate. The home must be already existing or under construction at the time WHA determines the family is eligible for home ownership

assistance. The family may purchase a home only in the jurisdiction of the County of New Hanover.

(3) Purchasing a Home

Once a home is located and a sales agreement approved by WHA is signed by the family, the family shall have up to three (3) months, or such other time as is approved or set forth in the WHA approved sales agreement, to purchase the home.

(4) Failure to Complete Purchase

If a HCVP participant is unable to purchase the home within the maximum time permitted by WHA, but is not the fault of the tenant, the WHA has the discretion to extend the time as is considered reasonable, WHA shall continue the family's participation in the housing choice voucher program. The family may not re-apply for the HCVP home ownership program until they have completed an additional year of participation in the housing choice voucher program following the initial determination of their eligibility for the home ownership option.

(5) Lease-Purchase

Families may enter into lease-purchase agreements while receiving HCVP rental assistance. All requirements of the housing choice voucher program apply to lease-purchase agreements, except that families are permitted to pay an extra amount out-of-pocket to the owner for purchase related expenses -- a "home ownership premium." Any "home ownership premium," defined as an increment of value attributable to the value of the lease-purchase right or agreement, is excluded from WHA's rent reasonableness determination and subsidy calculation, and must be absorbed by the family. When a lease-purchase participant family is ready to exercise their option, they must notify the Home Ownership Counselor at WHA and apply for the home ownership option. If determined eligible for home ownership assistance, the family may be admitted to the home ownership program and must meet all requirements of these policies.

C. Sales Agreement

Prior to execution of the offer to purchase or sales agreement, the financing terms must be provided by the family to WHA for approval. The sales agreement must provide for inspection by WHA and the independent inspection referred to in Section 3(E) and must state that the purchaser is not obligated to purchase unless such inspections are satisfactory to WHA. The contract also must provide that the purchaser is not obligated to pay for any necessary repairs without approval by WHA. The sales agreement must also contain a seller certification that the seller

is not debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

D. Independent Initial Inspection Conducted

To assure the home complies with the housing quality standards of the HCVP program, home ownership assistance payments may not commence until WHA first inspects the home. An independent inspection of existing homes covering major building systems also must be completed by an inspector, licensed by the state of North Carolina, selected by the family and approved by WHA. WHA will not pay for the independent inspection; however, the inspection may be paid for by the Seller. The independent inspection report must be provided to WHA. WHA may disapprove the unit due to information contained in the report or for failure to meet federal housing quality standards.

E. Financing Requirements

The proposed financing terms must be submitted to and approved by WHA prior to close of escrow, WHA shall determine the affordability of the family's proposed financing. In making such determination, WHA may take into account other family expenses, including but not limited to child care, unreimbursed medical expenses, education and training expenses and the like. Seller-financing mortgages shall be considered by WHA on a case by case basis.

F. Compliance with Family Obligations

A family must agree, in writing, to comply with all family obligations under the HCVP program and WHA's home ownership policies. These obligations include (1) attending ongoing home ownership counseling, if required by WHA; (2) complying with the mortgage terms; (3) not selling or transferring the home to anyone other than a member of the assisted family who resides in the home while receiving home ownership assistance; (4) not refinancing or adding debt secured by the home without prior approval by WHA; (5) not obtaining a present ownership interest in another residence while receiving home ownership assistance; and (6) supplying all required information to WHA, including but not limited to annual verification of household income, notice of change in home ownership expenses, notice of move-out, and notice of mortgage default. WHA's Home Ownership Family Obligation policies are set forth in Appendix A hereto.

G. Compliance Lien

Upon purchase of a home, the family must execute documentation as required by HUD and WHA, consistent with State and local law, securing WHA's right to recapture the home ownership assistance in accordance with Section 5.C. below. The lien securing the recapture of home ownership subsidy may be subordinated to a refinanced mortgage.

#### 4. AMOUNT OF ASSISTANCE

The amount of the monthly assistance payment will be based on three factors: the voucher payment standard for which the family is eligible; the monthly home ownership expense; and the family's household income. WHA will pay the lower of either the payment standard minus the total family contribution ("TFC") or the family's monthly home ownership expenses minus the TFC. The HCVP family will pay the difference.

##### A. Determining the Payment Standard

The voucher payment standard is the fixed amount the WHA annually establishes as the "fair market" rent for a unit of a particular size located within the WHA jurisdiction. In the home ownership program, the initial payment standard will be the lower of either (1) the payment standard for which the family is eligible based on family size; or (2) the payment standard which is applicable to the size of the home the family decides to purchase. The payment standard for subsequent years will be based on the higher of: (1) the payment standard in effect at commencement of the home ownership assistance; or (2) the payment standard in effect at the most recent regular reexamination of the family's income and size. The initial payment standard, for purposes of this comparison, shall not be adjusted even if there is a subsequent decrease in family size. WHA will request HUD approval of a higher payment standard, up to 120% of the published Fair Market Rent limit, where warranted as a reasonable accommodation for a family that includes a person with disabilities.

##### B. Determining the Monthly Home Ownership Expense

Monthly home ownership expense includes all of the following: principal and interest on the initial mortgage and any mortgage insurance premium (MIP) incurred to finance the purchase and any refinancing of such debt; real estate taxes and public assessments; homeowner's insurance; maintenance expenses per WHA allowance; costs of major repairs and replacements per WHA allowance (replacement reserves); utility allowance per WHA's schedule of utility allowances; principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home including changes needed to make the home accessible; and homeowner association dues, fees or regular charges assessed, if any.

##### C. Determining the Total Family Contribution

The TFC is that portion of the home ownership expense that the family must pay. It is generally at 30% of the family's adjusted income, plus any gap between the payment standard and the actual housing cost. All family income (including public assistance), will be counted to determine the family's adjusted monthly income for purposes of determining the amount of assistance.

D. Payment to Family or Lender

WHA will provide the lender with notice of the amount of housing assistance payment prior to close of escrow and will pay WHA's contribution towards the family's homeowner expense directly to the lender.

**5. TERMINATION OF HCVP HOME OWNERSHIP ASSISTANCE**

A. Grounds for Termination of Home Ownership Assistance

(1) Failure to Comply with Family Obligations Under HCVP Program or WHA's Home Ownership Policies.

A family's home ownership assistance may be terminated if the family fails to comply with its obligations under the HCVP program, WHA home ownership policies, or if the family defaults on the mortgage. If required, the family must attend and complete ongoing home ownership and housing counseling classes. The family must comply with the terms of any mortgage incurred to purchase and/or refinance the home. The family must provide WHA with written notice of any sale or transfer of any interest in the home; any plan to move out of the home prior to the move; the family's household income and home ownership expenses on an annual basis; any notice of mortgage default received by the family; and any other notices which may be required pursuant to WHA home ownership policies. Except as otherwise provided in this Section, the family may not convey or transfer the home to any entity or person other than a member of the assisted family while receiving home ownership assistance.

(2) Occupancy of Home

Home ownership assistance will only be provided while the family resides in the home. If the family moves out of the home, WHA will not continue home ownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse the WHA for home ownership assistance paid for the month the family moves out.

(3) Changes in Income Eligibility

A family's home ownership assistance may be changed in the month following annual recertification of the household income, but participation in the HCVP Home Ownership program shall continue until such time as the assistance payment amounts to \$0 for a period of six consecutive months.

(4) Maximum Term of Home Ownership Assistance

Notwithstanding the provisions of Section 5(A), subparagraphs 1 through 3, except for disabled and elderly families, a family may receive HCVP home ownership assistance for not longer than ten (10) years from the date of close of escrow unless the initial mortgage incurred to finance purchase of the home has a term that is 20 years or longer, in which case the maximum term is 15 years. Families that qualify as elderly at the commencement of home ownership assistance are not subject to a maximum term limitation. Families that qualify as disabled families at the commencement of home ownership assistance or at any time during the provision of home ownership assistance are not subject to a maximum term limitation. If a disabled family or elderly family ceases to qualify as disabled or elderly, the appropriate maximum term becomes applicable from the date home ownership assistance commenced; provided, however that such family shall be eligible for at least six additional months of home ownership assistance after the maximum term becomes applicable. The time limit applies to any member of the household who has an ownership interest in the unit during any time that home ownership payments are made, or is a spouse of any member of the household who has an ownership interest.

B. Procedure for Termination of Home Ownership Assistance

A participant in the HCVP Home Ownership program shall be entitled to the same termination notice and informal hearing procedures as set forth in the Administrative Plan of the WHA for the housing choice voucher program.

C. Recapture of Home Ownership Assistance

In certain circumstances the home ownership assistance provided to the family is subject to total or partial recapture upon the sale or refinancing of the home. Sales proceeds that are used by the family to purchase a new home with HCVP home ownership assistance are not subject to recapture. Further, a family may refinance to take advantage of better terms without any recapture penalty, provided that no proceeds are realized ("cash-out"). Only "cash-out" proceeds from refinancing and sales proceeds not used to purchase a new home with HCVP assistance are subject to recapture. Further, the amount of home ownership assistance subject to recapture shall automatically be reduced in annual increments of 10% beginning one year from the purchase date. At the end of 10 years, the amount of home ownership assistance subject to recapture will be zero.

**6. CONTINUED PARTICIPATION IN HCVP HOUSING CHOICE VOUCHER PROGRAM**

**A. Default on FHA-Insured Mortgage**

If the family defaults on an FHA-insured mortgage, WHA may permit the family to move with continued housing choice voucher rental assistance if the family demonstrates that it has (a) conveyed title to the home to HUD or its designee, as required by HUD; and (b) moved from the home within the period established or approved by HUD.

**B. Default on non-FHA-Insured Mortgage**

If the family defaults on a mortgage that is not FHA-insured, WHA may permit the family to move with continued housing choice voucher rental assistance if the family demonstrates that it has (a) conveyed title to the home to the lender, to WHA or to its designee, as may be permitted or required by the lender; and (b) moved from the home within the period established or approved by the lender and/or WHA.

**7. WHA ADMINISTRATIVE FEE**

For each month that home ownership assistance is paid by WHA on behalf of the family, WHA shall be paid the ongoing administrative fee described in 24 C.F.R. 982.152(b).

## CHAPTER 21

### AFFIRMATIVELY FURTHERING FAIR HOUSING STATEMENT

The Wilmington Housing Authority (WHA) is dedicated to the objective of promoting fair housing in an affirmative manner. WHA has established a series of goals and objectives to affirmatively promote fair housing compliance in the following areas.

- Overcome the effects of impediments to fair housing choice that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice;
- Remedy discrimination in housing; or
- Promote fair housing rights and fair housing choice.

A comprehensive analysis revealed the following impediments to fair housing:

- **Education:** Many individuals and families often lack information on fair housing regarding their rights and their responsibilities on housing issues.
- **Affordability & Availability of Real Estate:** The cost to construct affordable housing has risen dramatically in our housing market. Many of the population we serve are being priced out of the market. In addition, the contractors that develop affordable housing is confronted with high impact and connection fees, availability of affordable land; thereby limiting the number of affordable housing stock.
- **Section 8 Housing:** The demand for Section 8 housing vouchers far exceeds the supply provided by HUD. Families are often not prepared to pay high utility costs when moving from public housing to Section 8 units. This may cause long-term problems for those families who cannot maintain payments and drop out of the program.
- **Lending Institutions:** Restriction on most products disqualifies low-and moderate-income families. There is a lack of experience with banks and lending institutions in the low-and moderate-income community. Information is not readily available on products for the population we serve.
- **Transportation:** The majority of individuals and families do not own private cars that will allow them access to neighborhoods that may offer affordable housing. Public policy decisions on routes and time schedules make it difficult, sometimes impossible for people to live in neighborhoods where housing is available.
- **Patterns of Segregation and Isolation:** There are self-imposed barriers that limit the development of mixed neighborhoods. These appear to be based on cultural priorities and desires. There is a perception by the public of "high crime" (right or wrong) in some neighborhoods, making it difficult for developers to sell affordable housing in those areas.

WHA will take the following steps to overcome the effects of impediments to fair housing choices identified in its Analysis of Impediments (AI) to Fair Housing Choice:

Education: WHA will continue to distribute the "Fair Housing Is the Law Brochure" and other literature to its population that is designed primarily to educate the public of their rights under the Fair Housing Law. We will also inform participants of how to file a fair

housing complaint, including providing the toll-free number for the Housing Discrimination Hotline: 1-800-669-9777 and the Federal Information Relay Service at 1-800-887-8339. In addition, we will publish articles in our monthly community newsletters, display posters in our Section 8 & public housing waiting areas that address Fair Housing issues along with available affordable housing opportunities. We will host housing summits, provide quarterly home tours and teach quarterly Homebuyer's Education courses for our residents. The program will be marketed to all eligible persons, including but not limited to persons with disabilities, non-elderly disabled individuals, and persons with limited English proficiency. WHA has an in-house staff member that speaks Spanish to communicate with the non-English speaking population.

**Affordability and Availability of Real Estate:** WHA has developed over 250 affordable apartments and for sale single-family homes and duplexes for our residents and other citizens in the Wilmington area during the past five years. We have plans to construct over 56 more similar housing opportunities for low to moderate-income families, including families with disabilities. We have met with City Officials to discuss the possibility of reducing the impact and connection fees for Developers that are building homes and apartments for low to moderate-income families.

**Section 8 Housing:** We have plans to request additional vouchers from HUD as we continue with our development, demolition and revitalization plans to build additional affordable housing. The request for additional vouchers from HUD will include but not limited to, the Non-Elderly Disabled Program and the Family Unification Program. By means of our partnership with New Hanover County Department of Social Services (DSS), we will be able to take the following reasonable steps:

1. Identify and ensure certification of FUP eligible families and youth that may be on our waiting list and ensure that the family or youth maintain their original position;
2. Appropriately place all FUP eligible families and youth referred from DSS on the HCS waiting list in order of first come, first served; and
3. Inform all applicants on how to file a fair housing complaint including the provision of the toll free number for the Housing Discrimination Hotline: 1-800-669-9777. By continuing to strengthen our relationships with our partnering agencies and landlords, this will provide us the opportunity to expand our available housing inventory.

**Lending Institutions:** Our outreach efforts involve scheduling periodic meetings with the local lending institutions personnel to enlighten them on the needs of the population we serve. The information we obtain from these institutions is shared with our families by means of mailings, monthly meetings, housing summits and newsletters. The Lenders conduct homebuyer's educational sessions with our residents through our Homeownership Institute classes that our conducted monthly at the local Community College for our participants.

**Transportation:** We have met with the local Transit Authority to request additional bus routes to various neighborhoods in the Wilmington area. In addition, by means of our Operations Staff and Local Partners, we will continue to offer transportation, employment opportunities, higher education scholarships, and life skills training, for our residents.

These services will afford them the opportunity to increase their income and obtain better employment, thereby becoming self-sufficient.

**Patterns of Segregation and Spatial Isolation:** The Authority has developed two tax credit communities with a total of 144 units. The intake, review and approval or denial of applications for affordable housing assistance is not and will not be based on a person's race, color or national origin. Information will be provided to all applicants that will encourage them to refer all issues of discriminations based on race, color or national origin to the attention of the Human Relations Commission. WHA continues to work on building creative partnerships with the Wilmington Police Department and the New Hanover County Sheriff's Department to develop and implement effective crime-fighting efforts that will have positive impacts within our communities.

WHA has implemented the following initiatives to affirmatively further fair housing:

- Conduct outreach to Section 8 and public housing residents to equip them with the tools necessary to overcome barriers to fair housing and housing discrimination;
  - Continue to recruit landlords and service providers in areas that expand housing choices to program participants;
  - Provide affordable rental housing to low-and moderate-income families, elderly, disabled person, homeless and victims of domestic violence;
  - Conduct Homebuyer's Education Workshops to enlighten residents regarding the home buying process, consumer laws and protection and fair housing laws;
  - Inform public housing and Section 8 residents regarding the various down payment assistance opportunities, Section 8 homeownership, and mortgage loan programs available to low-to moderate-income households;
  - Partner with local banks and mortgage companies to ensure potential homebuyers are informed about affordable mortgage programs and the availability of the surrounding area home loan programs;
  - Provide information about opportunities for all persons to reside in any housing development of their choice, regardless of race, color, religion, sex, disability, familial status or national origin;
  - Maintain accurate records and files on all participants including, but is not limited to, the race, ethnicity, familial status, and disability status of program participants;
  - Advertise the availability of homes in our HOPE VI development and other affordable housing communities in our area;
  - Continue to strengthen our relationships with the following partners: City of Wilmington, Community Development Division, New Hanover County Human Relations, Affordable Housing Coalition, Cape Fear Regional Community Development Corporation and Wilmington Housing Finance and Development Corporation; and
  - Collaborate with private developers and realtors to encourage the development of more affordable housing in Wilmington and the surrounding areas.
- WHA will comply with the affirmatively furthering fair housing requirements of 24 CFR Section 903.7(o) by:
- Continue to examine our fair housing program to meet the FUP and NED requirements;
  - Identify any impediments to fair housing choice within the FUP and NED program;
  - Address those impediments in a reasonable fashion in view of the resources available;

Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the WHA's involvement; and  
Maintain records reflecting these analyses and actions.

In regards to addressing accessibility problems for persons with disabilities, including but not limited to individuals who are non-elderly disabled, WHA will take the following proactive steps:

1. Where requested by an individual, assist program applicants and participants to gain access to supportive services available within the community, but not require eligible applicants or participants to accept supportive services as a condition of continued participation in the program; except as required to participate in NED, Category 2 program regarding the Money Follows the Person (MFP) program requirements.

Identify public and private funding sources to assist participants with disabilities in covering the costs of structural alterations and other accessibility features that are needed as accommodations for their disabilities;

Not deny persons who qualify for a HCV under this program other housing opportunities, or otherwise restrict access to PHA programs to eligible applicants who chose not to participate;

Provide housing search assistance;

In accordance with rent reasonableness requirements approve higher rents to owners that provide accessible units with structural modifications for persons with disabilities; and

Provide technical assistance, through referral to local fair housing and equal opportunity offices, to owners interested in making reasonable accommodations or units accessible to persons with disabilities.

## CHAPTER 22

### **PROJECT-BASED VOUCHER (PBV) PROGRAM [24 CFR 983]**

Project-based vouchers are a component of the Wilmington Housing Authority's (WHA) Housing Choice Voucher Program. Under the PBV program WHA may attach up to 20% of its voucher assistance to specific housing units for which a housing assistance payment contract has been executed. This Addendum provides WHA's policies and procedures for its PBV program in accord with the HUD regulations.

WHA's PBV program is subject to the regulations at 24 CFR part 983, which includes regulations governing policies and procedures that are not specified in this Administrative Plan. At the end of each section below, a reference to the relevant portion of Part 983 is given. This citation has been included for the convenience of readers and is not intended as an authoritative or comprehensive citation.

In addition to the policies and procedures stated below, and other PBV regulations stated at 24 CFR part 983, WHA's PBV program is subject to most of the requirements of the Housing Choice Voucher Program, as specified in this Administrative Plan, in 24 CFR 983, and in other HUD regulations.

#### **A. JURISDICTION**

The jurisdiction for WHA's PBV program is as set out in Chapter 1 of this Administrative Plan.

#### **B. WHA'S PBV COMMITMENTS AND PRIORITIES**

WHA'S PBV program is designed to ensure that PBV assistance is used to support goals that could not be equally achieved through the use of tenant-based voucher assistance. WHA's PBV program has committed to the following priorities:

1. Expand the supply of affordable housing and increase the affordable housing choices of residents within the jurisdiction.
2. Support projects which further revitalize neighborhoods, promote the deconcentration of poverty and generally provide increased housing and economic opportunities.
3. Work with the community to identify and serve populations with particular housing needs, including but limited to the provision of supportive services to promote self-sufficiency, supportive housing for families with disabilities and supportive services that are geared towards aiding the homeless or those at risk of being homeless.

#### **C. PROPOSAL SUBMISSION AND SELECTION**

##### **Request for Proposals Process**

WHA will select PBV proposals through a public Request for Proposals (RFP) process.

WHA's PBV RFP will be advertised in a manner to provide broad public notice of the opportunity to offer PBV proposals for consideration by WHA. The public notice procedures will include publication of the general notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

The public notice of the PBV RFP will specify the submission deadline. The public notice will inform owners or developers seeking project-based assistance of the availability of the full RFP document at WHA's main offices at 1524 South 16<sup>th</sup> Street, Wilmington, NC.

The full RFP document will provide detailed information about proposal submission and selection procedures and will be available upon request of interested parties at WHA's main offices.

Property owners may submit PBV proposals in accord with the proposal submission guidelines stated in the full RFP document. Proposals will be selected according to explicit criteria specified in the full RFP document, following the selection criteria stated below. Under no circumstances will WHA's RFP selection criteria limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

### **Alternative Competitive Processes**

In lieu of the above RFP process, HUD regulations permit WHA to select a PBV proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals, where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Proposals for PBV assistance which have been independently selected for housing assistance as described above may be submitted to WHA on a rolling basis. WHA's selection of proposals under the alternative competitive processes may be contingent upon the owner providing additional information required according to WHA's selection requirements and HUD and WHA requirements for PBV assistance. WHA will inform owners of any additional requirements at the time their proposals are submitted.

### **Selection Criteria**

Proposals will be selected according to the following selection criteria:

- The housing must promote one of WHA's priorities for its PBV program;
- The proposal must comply with all HUD program regulations and requirements;
- The property must be eligible housing as determined under 24 CFR 983.52 - 983.54;
- The proposal must comply with the applicable HUD limitations on the number of PBV units per building;

- The housing site must meet the site selection standards detailed at 24 CFR 983.57;
- Proposals for new construction or rehabilitation projects must demonstrate capacity, experience, and successful outcomes in prior projects that indicate their ability to complete the construction work effectively and within the proposed schedule;
- Proposals for all housing must demonstrate capacity, experience, and successful outcomes in property management, particularly management of housing targeted to low income persons and families;
- Proposals for supportive housing must demonstrate the capacity, experience, and successful outcomes of the supportive services provider that indicate its ability to effectively provide sufficient supportive services. More detailed information about minimum supportive services guidelines is provided later in this addendum.
- Proposals must provide evidence of sufficient financing commitments (for construction, operations, and supportive services if applicable) to demonstrate the project's long-term viability.

### **Public Notice and Review of WHA Proposal Selection (24 CFR 983.51)**

WHA will provide public notice of PBV proposal selections, including publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

WHA will make documentation available for public inspection regarding the basis for WHA's selection of a PBV proposal.

### **D. SITE SELECTION STANDARDS**

WHA will only select proposals which demonstrate consideration of and compliance with the below site selection standards, which ensure that selected proposals will meet the above program goals of de-concentrating poverty, expanding housing and economic opportunities, and otherwise providing needed housing support:

#### **General Site Selection Standards**

- De-concentrating poverty and expanding housing and economic opportunities;
- Civil rights laws and regulations;
- Providing equal housing opportunity and minimizing minority concentration;
- The site and housing units comply with Section 504 of the Rehabilitation Act and other fair housing and civil rights laws and requirements for effectively serving persons with disabilities.
- The site meets the HQS standards at 24 CFR 982.401(1).
- The site is adequate in size, exposure and contour to accommodate the number and type of units proposed; adequate utilities and streets must be available to service the site.
- The site promotes greater choice of housing opportunities and avoids undue concentration of assisted persons in areas containing a high proportion of low-income persons

- The site is accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted standard housing of similar market rents.
- The site is located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower income workers is not excessive. While it is important that housing for the elderly not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for elderly housing.

In addition, the following site requirements are applicable to all new construction projects:

- The neighborhood must not be -one which is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesired conditions.
- The site must not be located in an area of minority concentration.

### **Deconcentrating Poverty and Expanding Opportunities**

Beyond the basic site selection standards above, WHA will assess each proposal for its likelihood to deconcentrate poverty and expand housing and economic opportunities based on the following HUD-mandated factors:

- HUD Designated Zone-whether the census tract in which the proposed development will be located is in a HUD-designated Enterprise Zone, Economic Community or Renewal Community
- Public Housing Demolition-whether the proposed development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition
- Revitalization-whether the proposed development will be located in a census tract undergoing significant revitalization
- Public Investment-whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement
- Market Rate Development-whether new market rate units are being developed in the same census tract where the proposed development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area
- Poverty Rate-if the poverty rate in the area where the proposed development will be located is greater than 20%, then WHA will consider whether there has been a decline in the overall poverty rate in the past 5 years
- Educational and Economic Opportunities-whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed development will be located

### **Site Standards Related to Minority Concentration**

Proposed sites for project-based assistance must not be located in an area of minority concentration or in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area unless:

- Sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside of areas of minority concentration; or
- The project is necessary to meet overriding housing needs that cannot be met in that housing market.

Each exception is detailed more fully below.

Sufficient, Comparable Opportunities (24 CFR 983.57(e)(3)(iii)-(v)).

The requirement of "sufficient" comparable opportunities does not require that, in every locality, there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this "sufficient" standard should produce a reasonable distribution of assisted units each year that, over a period of several years, will approach an appropriate balance of housing choices within and outside of areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality's population.

Units may be considered "comparable opportunities" if they have the same household type (elderly, disabled, family, large family) and tenure type (owner/renter); require roughly the same tenant contribution toward rent; serve the same income group; are located in the same housing market; and are in standard condition.

Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice:

- A significant number of assisted housing units are available outside areas of minority concentration.
- There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.
- There are racially integrated neighborhoods in the locality.
- Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration, and comparable housing opportunities have been made available outside areas of minority concentration through other programs.
- Minority families have benefited from local activities (e-g., acquisition and write downs of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.
- A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs.

Overriding Housing Needs (24 CFR 983.57)

Application of the "overriding housing needs" criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private

investment that is demonstrably improving the economic character of the area (a "revitalizing area").

However, an "overriding housing need" may not serve as the basis for determining that a site is acceptable if the only reason that the housing need cannot otherwise be feasibly met, in other areas, is that discrimination on the basis of protected categories, including race, renders sites outside areas of minority concentration unavailable, or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

## **E. SUPPORTIVE SERVICES GUIDELINES AND REQUIREMENTS**

- Educational Services or Counseling
- Employment or vocational training, counseling or referrals
- Life skills training or counseling
- Credit counseling
- Personal Finance training and counseling
- Healthcare prevention and/or Community Outreach
- Supportive housing for persons with developmental disabilities or mental illness
- Supportive housing for persons with legal custody of grandchildren
- Referrals to or provision of day care, after school programs or other youth services

Pursuant to HUD regulations, project-based assistance will ordinarily be limited to 25% of the units contained within the proposed project. However, for projects providing supportive services, each unit that is occupied by families receiving qualified supportive services shall be an "excepted unit" and shall not apply towards the 25% cap.

### **Qualifying Supportive Services**

Qualifying Supportive Services include:

- Job training
- Counseling
- Case management services with extended day hours availability and on-call availability
- Coordination with vocational services, including coordination with job training and employment services

It is not necessary that the above services be provided by or at the project. However, to qualify for as an "excepted unit" a family must have at least one member receiving at least one qualifying supportive service. Proposals that include supportive services should identify the particular services that will be provided and the service provider(s). WHA will evaluate proposals including supportive housing units on the basis of the specific services provided, the intensity of the services and the target population to be served. WHA will also evaluate supportive housing proposals based on the history and track record of the proposed service providers and the need for the supportive housing at the proposed site.

## **Family Responsibility**

At the time of the initial lease execution between the family and the owner, the family and WHA must sign a Statement of Family Responsibility. The Statement of Family Responsibility must contain all family obligations including the family's participation in a service program as contemplated within this Administrative Plan. A form Statement of Family Responsibility is attached to this chapter.

At the family's annual income recertification, WHA will require written documentation from the service provider indicating the family's continued compliance with the terms of the supportive services plans. Project owners will also be expected to provide some level of monitoring of the services provided. This monitoring should be detailed in the proposal, and will be evaluated as part of the section process. At WHA's discretion, WHA may request additional documentation of compliance with supportive service obligations.

The unit is eligible for status as an "excepted unit" so long as at the time of the occupying family's initial tenancy at least one member of the family is receiving a qualifying supportive service. If the family completes an FSS contract of participation or the supportive services requirement, the unit will continue to count as an "excepted unit" for as long as the family resides in that unit.

## **Family Failure to Comply with Supportive Service Requirements (24 CFR 983.56 )**

Failure without good cause by a family to complete or comply with its supportive service participation requirements will result in termination of the project based assistance for that unit and may result in the termination of the lease by the project owner.

## **F. WAITING LISTS** [24 CFR 983.251(c)]

The PBV program waiting list will be maintained separately from the tenant-based waiting list. WHA may establish individual site-based waiting lists for each PBV project selected.

WHA will offer to place applicants who are listed on the waiting list for tenant-based assistance on the waiting list(s) for PBV assistance.

WHA will open and close the site-based waiting lists pursuant to the procedures outlined in the Administrative Plan.

## **G. PREFERENCES**

WHA may establish separate preferences for each PBV project. These preferences may include those for elderly or disabled families, or preferences related to supportive housing programs. Preferences may include those outlined in the Administrative Plan.

Any preferences that would be necessary to the operation of the project, or required by a funding source must be disclosed in the proposal.

### **Local Preference System**

Subject to the Supportive Services Preference below, the following preference system will apply to any PHA-wide PBV waiting list and, unless otherwise specified in the proposal or other project documents, shall apply to site-based waiting lists.

- Date and time of receipt of a completed application.

### **Supportive Housing Related Preferences [24 CFR 983.251(d)]**

If PBV units include special accessibility features for persons with disabilities, WHA will first refer families who require such accessibility features to the owner. For other units that are designated to receive supportive services, WHA may give preference to disabled families who need services offered at a particular project. Project owners may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project.

Only families that meet the following limits will be eligible for any supportive housing preference:

- Families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain themselves in housing
- Families that without appropriate supportive services will not be able to obtain or maintain themselves in housing
- Families for whom such services cannot be provided in a nonsegregated setting.

Disabled residents shall not be required to accept the particular services offered at the project.

WHA is prohibited from granting preferences to persons with specific disabilities (see 24 CFR 982.207(b)(3)), but may grant preferences in accordance with the criteria set forth above.

### **H. APPLYING FOR ADMISSION [24 CFR 983.251]**

The process for applying for admission to the PBV program is when the Waiting List is opened, notification will occur as provided in the WHA's Administrative Plan. Applications will be placed on the Waiting List by date and time order.

At the time of the application, WHA will provide applicants with the opportunity to be placed on the tenant-based waiting list if open, or any open site-based or other PBV waiting lists.

### **I. TENANT SELECTION[24 CFR 983.251]**

When notified of a vacancy in a PBV unit, WHA will refer tenants according to the following procedures:

First-come, first-served among applicants on the specific PBV waiting list.

For PBV waiting lists that include preferences, WHA will select applicants from the waiting list on a first-come, first-based-basis who:

- Qualified for preference at the time of application; and
- Continue to qualify for preference at the time of admission.

#### **J. TENANT SCREENING**[24 CFR 983.255]

WHA's procedures for tenant screening for the PBV program are not different than procedures for screening tenant-based applicants, which are provided in WHA's Administrative Plan.

WHA's policy for providing information to owners about families referred to PBV units is not different than WHA's policies for tenant-based applicants, which are provided in WHA's Administrative Plan.

#### **K. PROCEDURES FOR FAMILIES OCCUPYING A UNIT OF THE WRONG SIZE OR AN ACCESSIBLE UNIT WHOSE ACCESSIBILITY FEATURES ARE NOT REQUIRED BY THE FAMILY**[24 CFR 983.259]

If a family is determined by WHA to occupy a wrong-sized unit, or a unit with accessibility features that the family does not require (and such unit is needed by a family that requires the accessibility features) then WHA must promptly notify the family and the project owner of this determination and must offer continued assistance in another appropriately sized or accessible unit.

Continued assistance after unit, which may include, but is not limited to the following options:

- PBV assistance in an appropriate-sized unit (in the same building or in another building);
- Other project-based housing assistance (including occupancy of a public housing unit

For families who have been notified that they occupy a wrong-size unit, and offered continued assistance:

- If the PHA offers the family the opportunity to receive tenant-based rental assistance under the voucher program, the PHA must terminate the HAP payments for a wrongsized unit at expiration of the term of the family's voucher (including any extensions granted by the PHA).
- If the PHA offers the family the opportunity for another form of continued housing assistance (as provided above), and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the HAP payments for the wrong-sized unit, at the expiration of a reasonable period as determined by the PHA.

**L. FAMILY'S RIGHT TO MOVE** [24 CFR 983.260]

A family residing in a PBV unit may terminate the assisted lease any time after the first year of occupancy and request comparable tenant-based assistance from WHA. Any family interested in transferring to the tenant-based program may submit a written request after the initial lease term has expired.

Should a family terminate its PBV lease and request alternate assistance, WHA shall offer the family the opportunity for continued tenant-based rental assistance, or if such assistance is not immediately available upon termination of the lease, WHA will give the family priority to receive the next available opportunity for continued rental assistance.

If the family terminates the assisted lease before the end of one year of occupancy, the family will not be entitled to continued tenant-based assistance or priority for such assistance under this section. However, the family may reapply for tenant-based assistance or other project based assistance pursuant to the policies outlined in Section H above and in WHA's Administrative Plan.