



**VILLAGE OF NYACK HOUSING AUTHORITY  
SECTION 8 VOUCHER PROGRAM**

**SECTION 8 ADMINISTRATIVE PLAN**

Effective date upon board approval 12/18/12

**Section 8 Housing Program**

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# SECTION 8 ADMINISTRATIVE PLAN

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## INTRODUCTION

The overall mission of The Village of Nyack Housing Authority (NHA) is to continuously work to provide and increase opportunities for affordable, decent, and safe housing opportunities for the residents of the Village of Nyack and surrounding areas. The Section 8 Housing Voucher Program complements other Village Housing efforts and addresses the needs of extremely, very and low income residents by enabling them to move into or remain in place in decent affordable housing in the private sector.

This Administrative Plan serves as the operational handbook for which the Village of Nyack Housing Authority will use to implement the US Department of Housing and Urban Development's (HUD) Section 8 Housing Choice Voucher Program. This plan was developed to ensure compliance with all requirements set forth in 24 CFR §982.54.

## Charges against Section 8 Administrative Fee Reserve

All proposed expenditures to the Administrative Fee Reserve for housing purposes other than the administration of the Section 8 Program must be reviewed and approved by The Board of the Village of Nyack Housing Authority Board of Commissioners.

## **Section 1 SELECTION AND ADMISSION POLICIES**

It is the policy of NHA to provide an equal opportunity for all families interested in applying for Section 8 Housing Assistance.

This section will describe the policies and procedures for selecting and admitting families to the NHA Section 8 Housing Voucher Program including completion of a pre-application for assistance, placement and/or denial of placement on the waiting list and limitation on who may apply.

The operating jurisdiction of the NHA is limited to New York State, although it is expected that its operation will take place within Rockland County, where its objectives can be addressed.

### **PREFERENCES**

NHA has adopted the following preferences, no preference outweighs the other:

- a. Applicant must be a resident in the 10960 zip-code, which covers the Village of Nyack, New York and several other surrounding areas.
- b. Elderly, disabled and handicapped singles will be selected before other singles.

### **OPENING THE WAITING LIST**

When NHA determines that there are an insufficient number of applicants on the waiting list, NHA will advertise through public notice in local newspaper. The Public Notice will state any limitations on who may apply. The notice will also include the date, time and location where families may apply, the program for which application are being accepted, the specific period (if any) for which applications will be received, and a brief description of the program.

### **CLOSING THE WAITING LIST**

NHA will stop taking applications if there are enough applicants to fill anticipated openings for the next 24 months. Notification of closing the waiting list will be advertised in the local newspaper.

### **PURGING THE WAITING LIST**

NHA will purge the waiting list on an annual basis, during the month of August each year. Every applicant on waiting list will receive a purge letter. Any applicant that does not comply with the requirements of the letter (respond to the letter within 20 days) will be removed from the waiting list. Any letters that are returned due to an address change, the applicant will be removed from the waiting list. All letters will be marked "Do Not Forward", since all applicants are required to notify NHA of any address changes.

Details of the waiting list purge and the importance of contacting NHA with any address change will be attached to the application for the applicant to keep for their own records.

The number of applicants on the waiting list should be equal to 50% of the current program size.

Contact letters returned by the Post Office as undeliverable will result in removal from the waiting list.

### **REMOVAL OF APPLICANTS FROM THE WAITING LIST**

NHA will remove applicants from the waiting list if:

- Applicant request that their name be removed
- Applicant doesn't respond to a written request for information
- Any letter sent to the applicant is returned by the Post Office undeliverable
- Applicant misses two or more scheduled appointments
- The applicant doesn't meet program eligibility or screening criteria

Any applicant whose name will be removed from the waiting list will be notified in writing giving the applicant ten (10) days to request an informal review. The letter will also explain that the applicant's name will be removed from the waiting list if they fail to respond within the time limit specified.

### **DENIAL OF ASSISTANCE**

An applicant may be denied assistance under the housing choice voucher program only for program violations that are identified as grounds for denial of assistance. Denial of assistance includes:

- Denial of listing on the PHA waiting list;
- Denial or withdrawal of a voucher;
- Refusal to enter into a HAP contract or approve a unit; and
- Refusal to process or provide assistance through portability.

### **GROUNDINGS FOR DENIAL**

NHA will deny assistance to any applicant that

- Does not meet eligibility requirements
- Does not provide information or documentation required for the application process
- Does not complete any aspect of the application or lease up process
- Has a history of violent or drug related criminal activity
- Owes rent or any other obligation to any housing authority in connection with the public housing or section 8 programs
- Has committed fraud, bribery, or any other corruption in connection with any federal housing assistance program, including the



intentional misrepresentation of information related to their housing application or benefits derived there from

- Has a family member who was evicted from federally assisted housing within NHA the past five years
- Has a family member who was evicted from assisted housing within five years of the projected date of admission because of drug related or criminal activity involving illegal manufacture, sale, distribution or possession with the intent to manufacture, sell or distribute a controlled substance as defined in section 102 of the controlled substances act, 21 USC 802
- Have a family member who is illegally using controlled substance or abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. NHA may waive requirement if one of the following is true:
  - the person demonstrates that they are no longer engaging in drug related criminal activity or abuse of alcohol
  - the person has successfully completed a supervised drug or alcohol rehabilitation program
  - the person has otherwise been rehabilitated successfully
  - the person is participating in a supervised drug or alcohol rehabilitation program
- Have engaged in or threatened abusive or violent behavior towards any NHA staff member
- Has a family member who has been convicted of manufacturing or producing methamphetamine
- Has a family member with a lifetime registration under a state sex offender registration program
- Are a welfare to work family that fails to fulfill its obligations under the welfare-to-work voucher program

The above circumstances governing denial of assistance shall also be applicable to any request by the family to admit an additional family member.

### **FAMILY OBLIGATIONS**

While the PHA is required to deny assistance to applicants for the reasons listed above, NHA will deny assistance to applicants or participants for violating any of the following family obligations below:

Family obligations under the housing choice voucher program include:

- Supplying required information deemed necessary by HUD or the PHA to administer the program. This includes information related to the calculation of income, family composition, signatures on consent forms, submission of documents related to eligible immigration status, and disclosure and verification of social security numbers.
- Responsibility for any breach of HQS caused by the family.
- Permitting HQS inspections.

- Complying with the lease.
- Submitting notices to the PHA and owner before moving out of unit or terminating the lease.
- Supplying the PHA with any eviction notice received from the owner.
- Using the assisted unit as the family's only residence and providing notification of any changes in household composition including the departure of a household member.
- May not sublet or assign the lease.
- May not be absent in violation of the PHA policy on absences from the unit and must provide PHA-requested information on the purposes of family absences.
- Must not own or have any interest in the unit
- Must not be receiving any other form of tenant-based or duplicative assistance.
- Must not engage in drug-related criminal or violent criminal activity.
- Must not commit fraud, bribery or any other corrupt or criminal act in connection with the program

Families will lose their assistance if there is any violation of any of the family obligations by any family member or if any family member exhibits abusive behavior toward any NHA personnel or Board Member. Abusive behavior is defined as, but not limited to verbal harassment by either volume or unacceptable choice of words or threatening NHA personnel with bodily harm.

### **PRE-APPLICATION PROCEDURES**

The applicant will be responsible for completing all sections of the pre-application. Other than such assistance that may be necessary to reasonably accommodate a disabled or handicapped person, applications will not be mailed out; applications will only be available in the office located at 15 Highview Court, Nyack NY.

All applications hand delivered to the office will be reviewed for completeness. If the application is incomplete it will be given back to the individual to complete. Upon receipt of the completed application, the date and time of the application will be documented on the pre-application. The application will then be numbered and recorded in the log book. Any application received in the mail that is not complete, will be returned with a letter stating what information is necessary to complete the application. Completed applications received in the mail will be treated same as hand delivered complete application.

Each person submitting a pre-application will receive a written acknowledgement of receipt of the application indicating eligibility status.

Any applicant that is determined ineligible will be notified in writing with the reason they were deemed ineligible. It will also inform the family of their right to request an informal review.

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

All applicants who are placed on the waiting list will be informed of their responsibility to report changes in their address, income, family composition and/or other items potentially affecting applicant eligibility. Applicants will also be informed that, if the PHA is unable to contact the family due to its failure to promptly submit a change of address notification, it will result in their name being removed from the waiting list. Applicants who do not respond to the annual update letter within specified time frame will also be removed from the waiting list. Exceptions will be granted for applicants with disabilities, as defined in 24 CFR §5.403 who were not able to respond within the time frame due to their disability. Exceptions may also be granted for applicants hospitalized for sufficient duration to be the cause of the lack of response. Extenuating circumstances may include but are not limited to: hospitalization of participant, household member(s) or immediate family member; death or illness of family member, et al.

### **TIME OF SELECTION**

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

### **SPECIAL PROVISIONS FOR THE USE OF TARGETED VOUCHERS**

When our enhanced vouchers turnover and can be used for applicants on our regular waiting list, they will be selected in the same order as would select participants from our regular waiting list. Including our preferences and income targeting requirements.

### **SELECTION OF FAMILIES FROM THE WAITING LIST**

The selection of participants will be according to the following local selection order:

- Participants that live within the 10960 zip code will be selected before other participants
- Elderly, disabled and handicapped singles will be selected before other singles.

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

### **FIRST-YEAR LIMITATION ON WHERE FAMILY CAN LEASE A UNIT**

Although there is a residency preference to be used for determining the order of selection, NHA has established a policy governing where a "non-resident" applicant may live during the first 12 months after he/she is initially admitted, for those participants admitted to the program without a residency preference. This policy has been established per the provisions of Section 982.353 of Program regulations. For the purposes of this section and its applicability, a "nonresident" applicant are one in which neither the head of household or spouse had a legal residence in the 10960, our local preference when the family first submitted the pre-application for participation in the program. Under these circumstances, families will be advised that, if contacted for admission to the local program wherein they were a non-resident at the time of

application, they must utilize their assistance for 12 consecutive months in the 10960 area. All non-resident applicants will be advised of this when receipt of their pre-application is acknowledged, and when the family is contacted to establish an eligibility certification interview.

## **INITIAL ELIGIBILITY CERTIFICATION**

At the point of selection from the waiting list, applicants will be required to participate in an initial eligibility certification group interview. Information used to verify an applicant's eligibility at initial certification for the HCV program must be current, that is within 90 days of the issue date of a voucher. Any preference must be verified.

## **REQUIREMENT TO ATTEND INTERVIEW**

All adult family members are required to attend the interview and sign the eligibility certification. Exceptions may be made for students attending school out of state or for members for whom attendance would be a hard ship. The head of household or the head and spouse are required to attend the interview. If the head of household cannot attend the interview, the spouse may attend to complete the certification and certify for the family. However, the head of household will be required to attend an interview within three days to review the information and to certify by signature that all of the information is complete and accurate. If an applicant misses a scheduled appointment, does not contact us to reschedule, cannot be contacted by us to reschedule or misses two scheduled meetings, we will reject the pre-application and the applicant will be removed from the waiting list. If an application is denied due to failure to attend the full certification interview, the applicant will be notified in writing and offered an opportunity to request an informal review. Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability. The head of household and spouse will be required to sign the certification form and/or a supplemental form/worksheet containing the family composition, income, asset and allowance information for the family. **All** adult members must sign:

- HUD Form 9886 (Release of Information);
- declarations and consents related to citizenship/immigration status; and
- a consent form to release criminal conviction records and to allow us to receive records and use them in accordance with HUD regulations.
- Family Obligations form

Failure to do so when required will be cause for denial of the application for Section 8 assistance. If it is determined during or after the interview that additional information is needed directly from the applicant, it will specified in writing what information is required and what kind of documentation must be provided by the applicant to verify it. The family will be given 10 business days to supply requested information. If the information is not supplied in this time period, assistance will be denied.

## **VERIFICATION**

All income and asset information provided by the applicant will be verified via third-party contact unless repeated attempts to provide such verification fail. If we are unable to obtain third-party verification, we will specify what other form of verification may be acceptable within the guidelines specified by HUD. Any verification requested directly from the applicant must be provided within the time specified.

## **FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY**

After verification is completed, NHA will make a final determination of eligibility. This decision will be based on information provided by the family and verification activities undertaken by NHA and current eligibility criteria in effect. If the family is determined to be eligible, eligibility will be confirmed by written notification to the family, and a final interview will be scheduled to coincide with issuance of the Housing Choice Voucher.

## SECTION 2 ISSUING VOUCHERS

After all family information has been verified, eligibility has been determined and the family has been briefed regarding general program rights and obligations, the Housing Choice Voucher will be issued so the family can begin to search for a unit.

### VOUCHER TERM

The initial term of the voucher will be 60 days and will be stated on the voucher. One or more extensions may be granted; however, Initial term plus any extensions will not exceed 180 calendar days from the initial date of issuance.

### VOUCHER EXPIRATIONS

Upon expiration of the voucher the applicant will be notified in writing that the voucher has expired and that if the applicant is still interested in the program they must reapply.

### SUSPENSIONS

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

### EXTENSIONS

Extensions will be granted on a 30 days per extension basis if the family can prove they have been actively looking for suitable housing by providing at least two requests for lease approvals or a list of potential landlords that they have notified within the 60 day period, at least 15. All requests for an extension must be received in writing at least 10 days before the expiration date of the voucher along with verification of apartment search. As allowed by program regulations, a decision not to extend a voucher is not subject to an informal hearing

An extension for a term up to 180 days from the beginning of the initial term if the family needs and requests an extension as a reasonable accommodation to make the program accessible to and usable by a family member with a disability.

Extensions will be given for the following reasons:

- If 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 initial term or previously extended term, occur. Verification is required.
- If the family has made a reasonable effort to locate a unit, including seeking the assistance of NHA, throughout the initial 60 day period. A completed search record is required and at least two request for tenancy approvals.
- The family was prevented from finding a unit due to disability accessibility requirements or large size (4+ bedrooms) unit requirement. The search record is a part of the required verification.

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

## SECTION 3 OCCUPANCY POLICIES

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

1. A participant with or without children. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that lives together in a stable family relationship.
  - Children temporarily absent from the home due to placement in foster care are considered participant members.
  - A first unborn child and children in the process of being adopted are considered participant members for purposes of determining bedroom size, but are not considered participant members for determining income limit.
  - In cases where a parent has joint custody where the child/children reside with the parent at least 50% of the time, NHA will consider such child/children in determining the voucher (unit) size for the participant. The 50% custody arrangement must be verified and documented. If both parents are participants in the Housing Choice Voucher Program, only one of the parents is allowed to claim the child/children as a dependent.
2. An elderly family, which is:
  - a family whose head, spouse, or sole member is a person who is at least 62 years of age;
  - two or more persons who are at least 62 years of age living together; or
  - one or more persons who are at least 62 years of age living with one or more live-in aides.
3. A disabled family, which is:
  - a participant whose head, spouse, or sole member is a person with disabilities;
  - two or more persons with disabilities living together; or
  - one or more persons with disabilities living with one or more live-in aides.
4. A displaced family is a family in which each member or sole member has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
5. A remaining member of a tenant family may qualify as a family.
6. A single person, who is not an elderly or displaced person, a person with disabilities or the remaining member of a tenant family, may qualify as a family.

## **"CONTINUOUSLY ASSISTED" FAMILY**

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

*HUD establishes income limits by family size for the area in which the PHA is located. The income limits are published annually in a HUD Notice and are generally effective on the date of publication. The income limits are available on the Internet at [www.huduser.com](http://www.huduser.com) at the "datasets" portal.*

*There are two income limits that are used to determine eligibility for the housing choice voucher program and a third that is used to ensure that the PHA has met its target for assisting the neediest families in the community.*

*The very low-income limit, which is set at 50 percent of the area median income, is the income limit generally used to determine initial program eligibility.*

*The low income-limit, set at 80 percent of the area median income, is used for families whose incomes fall above the very low-income limits but who are considered to be eligible for assistance because they are:*

- *Continuously assisted under the public housing or Section 8 programs*

Therefore, NHA will also consider a family continuously assisted if they have temporary residence in a shelter because of domestic abuse, or displacement. Not to exceed 180 days.

## **FAMILY GUESTS**

Participants in the Housing Choice Voucher program are permitted to have a guest or guests in the household. If the guest resides in the unit for more than a total of 30 days in a calendar year, the guest(s) will be considered unauthorized household member(s). When this occurs, NHA will enforce HUD and local policies addressing this matter.



## **SECTION 4 ENCOURAGING PARTICIPATION IN AREAS OF NON CONCENTRATION**

Where there are significant concentrations of low income and/or minority families, additional efforts will be taken to recruit and retain owners in non-impacted areas. We will clearly delineate areas of concentration and neighboring areas outside these areas of concentration. These efforts will include establishing maps that show various areas and information about facilities and services in neighboring areas such as schools, transportation and supportive and social services. NHA will do the following to attempt to increase owner participation in areas outside of minority or poverty concentration:

1. making direct contact with landlords;
2. providing written information promoting the benefits of owner participation in the Section 8 Housing Choice Voucher Program;
3. holding formal and/or informal discussions and meetings with landlord groups;
4. meeting with rental referral companies or agencies; and
5. meeting with fair housing groups or agencies.

## **SECTION 5 ASSISTANCE TO FAMILIES CLAIMING DISCRIMINATION**

It is the policy of NHA to ensure that participating or prospective owners fully comply with all Federal, State, and local nondiscrimination laws; the Americans with Disabilities Act; and the U.S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in Section 8 Program.

We will provide Federal/State/local information to applicants for and participants in the Section 8 Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application. All applicable Fair Housing Information and Discrimination Complaint Forms will be made available at our office. All appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo.

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

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

## **SECTION 6 PROVIDING PARTICIPANT INFORMATION TO PROSPECTIVE OWNERS**

Upon request by the owner, NHA will provide the owner with:

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

The same information will be supplied to all owners upon the owner's request.

## SECTION 7 DISAPPROVAL OF OWNER

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

- The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract;
- The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- The owner has engaged in drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;
- The owner has a history or practice of renting units that fail State or local codes;
- The owner has not paid State or local real estate taxes, fines, or assessments;
- The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the premises by tenants, NHA employees or owner employees, or neighboring residents;
- The owner is the parent, child, grandparent, grandchild, sister, brother or any member of the family of an applicant seeking the initial use of a voucher (currently shopping), unless the NHA determines that approving the unit would provide reasonable accommodation for a participant member who is a person with disabilities; or

There exist other conflicts of interest under Federal, State, or local

## SECTION 8 DENYING ADMISSION OR TERMINATING ASSISTANCE FOR CRIMINAL ACTIVITY

Family members of an applicant or participant household must not engage in any drug related or violent criminal activity.

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

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

NHA may waive the decision to deny or terminate assistance if:

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

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

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

## **SECTION 9 SUBSIDY STANDARDS - Determination of Family Unit (Voucher) Size**

### **Exceptions to Subsidy Standards**

NHA may grant exceptions from the subsidy standards if the family requests and NHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances. NHA will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than subsidy standards permit when persons cannot share a bedroom because of a need such as a verified medical or health reason or elderly persons or persons with disabilities who may require a live-in attendant.

### **Request for Exceptions to Subsidy Standards**

The family may request a larger voucher. Any request must be made in writing within 30 days of the determination of voucher size. The request must explain the need for a larger voucher. Documentation verifying the need will be required. NHA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage or court-awarded custody. Requests based on health-related reasons must be verified by a licensed medical doctor.

### **Changes for Participants**

The members of the family residing in the unit must be approved by NHA. Therefore, the family must get written approval from NHA for any additional family member(s) before the new member moves into the unit, except for additions by birth, adoption, or court-awarded custody, in which case the family must inform NHA within 15 days of occurrence. NHA will not approve any additions to the family without written approval from the landlord.

### **Under housed and Over housed Families**

If a unit does not meet Housing Quality Standards (HQS) space standards due to an increase in family size, NHA will issue a new voucher of the appropriate size. NHA will also notify the family of the circumstances under which an exception will be granted, such as:

- if a family with a disability is under housed in an accessible unit;
- if a family requires the additional bedroom because of a health problem, which has been verified, or
- the family has not been able to locate a unit within 180 days.

## SECTION 10 FAMILY ABSENCES FROM THE DWELLING UNIT

The family must supply any information or certification requested by NHA to verify that all household members listed in the family is living in the unit or, if the family is absent from the unit, the family must provide any requested information or certification on the purposes of family absences. The family must notify NHA of any family absence from the unit or if any household member is absent from the unit, promptly. Absence means that no member of the family has resided or plans not to reside in the unit for 30 or more days or any member of the household has not resided or plans not to reside in the household for 30 or more days.. The family must request permission in writing from NHA for absences that will exceed 30 days. NHA will make a determination in writing within five business days of the request if the absence is authorized. No absence may 180 days. Any family absent for more than 30 days without authorization will be terminated from the program.

Authorized absences may include, but are not limited to:

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

## **SECTION 11 DETERMINING ASSISTANCE IF A FAMILY BREAKS UP**

In those instances where a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation or the division of the family; the new families cannot agree as to which new family unit should continue to receive the assistance; and there is no determination by a court, NHA will consider the following factors to determine which of the families will continue to be assisted:

- which of the two new family units has custody of dependent children;
- which family member was the head of household when the voucher was initially issued (listed on the initial application);
- the composition of the new family units and which unit includes elderly or disabled members;
- whether domestic violence was involved in the breakup;
- which family members remain in the unit; and
- recommendations of social service professionals.

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

### **Remaining Member of Tenant Family**

To be considered the remaining member of the tenant family, the person must have been previously approved to be living in the unit by NHA, and not a live-in aide. In order for a minor child to continue to receive assistance as a remaining family member:

- the court has to have awarded emancipated minor status to the minor; or
- verification that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child (or children) for an indefinite period.

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



## SECTION 12 INFORMAL REVIEW PROCEDURES FOR APPLICANTS

### Preference Denials

If a preference is denied to an applicant, the applicant will be notified in writing of the specific reason for the denial and will be offered the opportunity for an informal meeting (not an informal review) with a employee of NHA that is above the level of employee who made the decision.

### Informal Review Procedures for Applicants

NHA will give an applicant prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reason(s) for the decision and will state that the applicant may request an informal review within ten business days of the denial and will describe how to obtain the informal review.

If an applicant does not appear for the scheduled informal review and has not requested a change, the informal review will not be rescheduled. The applicant will be granted only one opportunity to reschedule an informal review. All informal review request will be conducted within 30 days from the date of the notice.

### When an Informal Review is Not Required

Informal reviews will be granted for any of the following reasons:

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

### Informal Review Process

Applicants will be given an opportunity for an informal review for decisions denying assistance to the applicant. Reviews will be provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When it is determined that an applicant is ineligible for the program, the family will be notified of their ineligibility in writing. The notice will contain:

- the reason(s) they have been determined ineligible;
- the procedure for requesting a review if the applicant contests the decision; and
- the deadline or time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, information will be given to the applicant as to the violations in question. However, it is not permissible for NHA to provide the applicant with a copy of the information provided to NHA from Microbilt Corp. The applicant will be given an opportunity to provide documentation from the jurisdiction in question stating that the information that we received is not correct, and there is no record of the activity in question in their jurisdiction.

Applicants will be provided the opportunity for an informal review for decisions denying the following:

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

### **Review Procedure**

A request for an informal review must be received in writing by the close of the business day, no later than ten business days from the date of the notification of denial of assistance. The informal review will be scheduled within five business days from the date the request is received. The informal review will be conducted within 30 days from the date of the notice of denial. The informal review will not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. The review will be conducted by the NHA Board's Tenant Selection Committee. The applicant will be given the option of presenting oral or written objections to the decision. Both the Section 8 representative and the family may present evidence and witnesses. The family may use an attorney or other representative to assist the family at its own expense. Any copies of documents that are requested by the applicant for the review will be supplied at the cost of .15 cents a copy plus the cost for the time of the employee that is making the copies. A notice of the review findings will be provided in writing to the applicant within fourteen days after the review. It will include the decision of the review officer and an explanation of the reasons for the decision. All requests for a review, supporting documentation, and a copy of the final decision will be retained in the applicant's file.

### **Mitigating Circumstances for Applicants with Disabilities**

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

Examples of mitigating circumstances are:

- A person with a cognitive disorder may not have understood the requirement to report increases in income.
- A person may not understand the need to make regular repayments on a repayment agreement.

### **USCIS (formerly INS) Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual searches do not verify the claim, the applicant will be notified within ten days of his/her right to appeal to the USCIS within thirty days or to request an informal hearing, either in lieu of or subsequent to the USCIS appeal. If the family appeals to the USCIS, they must provide us with a copy of the appeal and proof of mailing or we may proceed to deny assistance. The time period to request an appeal may be extended for good cause.

*NOTE: THE U. S. Department of Immigration and Naturalization Services has been renamed and is now under the U. S. Department of Homeland Security. The agency is now known as the U. S. Citizen and Immigration Services and will be represented in this Plan as USCIS*

### **Restrictions on Assistance to Non-Citizens**

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

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

Assistance to an applicant will be denied if:

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

### **Informal Review Regarding Citizenship Status**

The request for a review from NHA must be made within 14 days of receipt of the notice offering the review; if an appeal was made to the USCIS, within fourteen days of receipt of that notice. The applicant will be notified that assistance will not be denied until the USCIS appeal process concludes but that assistance may be denied pending the informal hearing. After receipt of a request for an informal review, the hearing is conducted as previously described in this section. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members assistance the applicant will be denied.

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

## **INFORMAL HEARING PROCEDURES FOR PARTICIPANTS**

### **Consideration of Circumstances**

In deciding whether to terminate assistance because of action or inaction by members of the family, all of the circumstances in each case will be considered, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure. For instance NHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure to act will not reside in the unit. The other members of the participant family will be permitted to continue receiving assistance.

### **When a Hearing is Required**

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

1. determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;
2. determination of the appropriate utility allowance (if any) for tenant-paid utilities from the utility allowance schedule;
3. determination of the family unit size under the subsidy standards;
4. determination to terminate assistance for a participant family because of the family's action or failure to act; or
5. determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under this policy and HUD rules.

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

### **When a Hearing is Not Required**

An opportunity for an informal hearing will not be provided for any of the following reasons:

1. discretionary administrative determinations HA;
2. general policy issues;
3. establishment of the schedule of utility allowances;
4. determination not to approve an extension or suspension of a certificate or voucher term;

5. determination not to approve a unit or lease;
  6. determination that an assisted unit is not in compliance with HQS.
  7. determination that the unit is not in accordance with HQS because of the family size; or
  8. determination by NHA to exercise or not exercise any right or remedy against the owner under a HAP contract.
- (an informal hearing will be provided for a decision to terminate assistance for a breach of the HQS caused by the family)

### **Notice to the Family**

In the cases described the Section above entitled "When a Hearing is Required," the family will be notified in writing that they may request a hearing within ten business days of the notification. The hearing procedures will be provided in the briefing packet. The participant family will only be given one opportunity to reschedule an informal hearing.

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

### **Hearing Procedures**

NHA and participants will adhere to the following policies and procedures:

#### **1. Discovery**

- a. The family will be given the opportunity to examine before the hearing any documents that are directly relevant to the hearing. The family will be allowed to copy any such documents at the family's expense. Any documents that are not made available for examination on request of the family may not be relied on at the hearing.
- b. NHA will be given the opportunity, by the family, to review any documents that are directly relevant to the hearing at the office of NHA. NHA will be allowed to copy the documents at their own expense prior to the date of the hearing. If the family does not make the document(s) available for examination on the request of NHA, the family may not rely on the document(s) at the hearing.

#### **2. Representation of the Family**

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

#### **3. Hearing Officer**

The hearing will be conducted by the Tenant Selection Committee (TSC) of the NHA Board of Directors. The person who conducts the hearing will

regulate the conduct of the hearing in accordance with the hearing procedures.

**4. Evidence**

NHA and the family will have the opportunity to present evidence and to question any witnesses.

**5. Issuance of Decision**

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

**Effect of the Decision**

The Section 8 Program is not bound by a hearing decision:

- concerning a matter for which the program is not required to provide an opportunity for an informal hearing under this section, or
- contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local law.

If the Section 8 Program determines that it is not bound by a hearing decision, the family will be notified within 14 calendar days of the determination and of the reasons for the determination.

**Mitigating Circumstances for Participants with Disabilities**

When the assistance is terminated, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal hearing process. Examples of mitigating circumstances are:

- a person with a cognitive disorder may not have understood the requirement to report increases in income;
- a person may not understand the need to make regular repayments on a promissory note; or

**Hearing Provisions for Restrictions on Assistance to Non-Citizens**

Assistance to a participant will not be terminated:

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

6. if assistance for a mixed family is continued in accordance with Sections 5.514 and 5.518 of program regulations;
7. if the NHA deferred termination of assistance in accordance with Sections 5.516 and 5.518 of program regulations.

Assistance to a participant *will be* terminated if:

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

### **USCIS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual search do not verify the claim, the participant will be notified the participant within ten days of his/her right to appeal to the USCIS within 30 days or to request an informal hearing with NHA, either in lieu of or subsequent to the USCIS appeal. If the family appeals to the USCIS, it must provide NHA with a copy of the appeal and proof of mailing or NHA may proceed to deny assistance. The time period to request an appeal may be extended by NHA for good cause.

### **Informal NHA Hearing**

The request for an NHA hearing must be made within 14 days of receipt of the notice offering opportunity for the hearing or, if an appeal was made to the USCIS, within 14 days of receipt of that notice. The participant will be notified that assistance will not be terminated until the USCIS appeal process concludes. After receipt of a request for an informal hearing, the hearing is conducted as previously described in this section. If the hearing officer decides that the individual is not eligible and there are no other eligible family members, NHA will:

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

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be terminated for failure to provide. Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination. Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment. Families terminated for fraud in connection with the non-

citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

- **Complaints from families:** If a participant family disagrees with an action or inaction by a representative of NHA or owner, complaints will be referred to the supervisor of the representative (unless that is the same person who the complaint was lodged against). If a complaint is not resolved, the family may be referred to the NHA Board of Directors for resolution. The Housing Manager will inform the Board in writing of any complaints prior to referring participant to the board.
- **Complaints from owners:** If an owner disagrees with an action or inaction of the NHA representative or the family, complaints from the owners will be referred to the Housing Manager.
- **Complaints from staff:** If a staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to Housing Manager for resolution.
- **Complaints from the General Public:** Complaints or referrals from persons in the community in regard to the Section 8 Program, a family or an owner will first be referred to the Housing Manager. If a complaint is not resolved, it may be referred to the NHA Board of Directors review and ultimate resolution.



## SECTION 13 PAYMENT STANDARDS

### **Setting the Payment Standard**

Payment standards are established within the allowed "basic range" (90 percent and 110 percent of the applicable HUD published Fair Market Rent (FMR)). Specific payment standards for all bedroom sizes will be established per the local markets.

NHA may, within the HUD-allowed basic range, approve a higher payment standard for a designated area if it is needed to expand housing opportunities outside areas of minority or poverty concentration. NHA may also approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

### **Revising the Payment Standard**

NHA will review payment standard levels annually, concurrent with publication of Fair Market Rents. Adequacy/appropriateness of existing payment standard levels will consider:

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

If it is determined that existing payment standard levels present an obstacle to achieving favorable success and/or utilization rates, reasonable rent burdens or that families are generally renting low quality units, NHA may, within the basic range, raise the payment standard to a higher level. NHA may also reduce a payment standard for a specific bedroom size or all bedroom sizes if analysis shows that a significant percentage of leased units of moderate to high quality have rents that are substantially below the payment standard level.

### **Reasonable Accommodation**

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

## SECTION 14 OWNER RENTS AND RENT REASONABLENESS

### Rent to Owner in the Housing Choice Voucher Program

The allowable rent to owner is limited primarily by rent reasonableness. However, if the proposed gross rent for a unit is above the payment standard, the impact this will have on a family's maximum allowed rent burden also becomes a factor. At the time a family initially receives Housing Choice Voucher (HCV) assistance, whether a new admission or a move to a different unit, the family share may not exceed 40 percent of the family's monthly adjusted income when the gross rent for the unit exceeds the applicable payment standard for the family. All owners will be advised that by accepting each monthly housing assistance payment they are certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the same premises. If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere.

### Rent Reasonableness Determinations

NHA will not approve an initial rent or a rent increase in the HCV program without determining that the rent amount is reasonable with respect to rents for comparable unassisted units in the market area. Reasonableness is determined prior to the initial lease and at the following times:

- before an increase in rent to owner is approved;
- if 60 days before the contract anniversary date, there is a 5 percent decrease in the published Fair Market Rent (FMR) as compared to the previous FMR; and
- if the NHA or HUD directs that reasonableness be redetermined. As part of the overall Section 8 Housing Choice Voucher System (SHCVS), DHCR has developed an automated database for analyzing and determining rent reasonableness on an individual unit basis. Data for unassisted units has been gathered from contacts via newspaper classified listings, realtors, professional associations, direct inquiries of owners, market surveys, local tax assessors, waiting list queries and other available sources. In order to ensure uniformity and consistency, the rent reasonableness system establishes standard criteria for all units entered in the database. Unit rents within any/all defined housing market areas are individually identified and segregated and are compared to similar units within the same market area.

The following criteria are included when determining rent reasonableness:

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

- utilities

### **Rent Reasonableness Methodology**

The rent reasonableness system is based on unit comparison per the criteria listed above. The system uses a non-weighted total point count determined by summing the responses to questions about each criterion. Based on the number of points derived for each unit, the automated rent reasonableness system then displays low, average and high rents for units of similar size and type within the same market area. While LAs are always encouraged to obtain multiple (three or more) comparables for each proposed unit, NHA currently requires a minimum of two comparable units in order for the unit to pass the rent reasonableness test. Information on unassisted units only is maintained in the automated database and is updated or purged when that data is more than 12 months old.

### **SPECIAL HOUSING TYPES**

NHA will only approve one of the following special housing types when it is necessary to provide a reasonable accommodation for a family with disabilities:

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

NHA will approve other HUD-permitted housing types including:

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

## SECTION 15 PARTICIPANT PAYMENTS FOR AMOUNTS OWED NHA

A participant is responsible for reporting all changes in income and household composition to NHA within two weeks of the date of such change. If a participant fails to report these changes an overpayment of Housing Assistance Payments (HAP) may occur. The participant will be responsible for repaying any amount overpaid on their behalf NHA's Section 8 Housing Choice Voucher (HCV) Program.

The full amount due can be paid immediately upon NHA's request or through a repayment agreement approved by the NHA. The maximum length of time that NHA will enter into a repayment agreement with a family is one year. If a participant is not current on any repayment agreements, the family will not be issued a voucher to move to a new unit. If the family has a repayment agreement in place or had a prior claim and incurs an additional debt to NHA, the additional debt must be paid in full within 30 days. If the debt is not paid in full within 30 days, the participant will be terminated from the program. An applicant owing money may apply to the program and remain on the waiting list until their time of selection. If the applicant still owes money when they are contacted, the applicant must immediately repay the entire amount due or the applicant's name will be removed from the waiting list.

### **Repayment Agreements – General**

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

NHA will not enter into repayment agreements under the following circumstances:

- the participant already has an agreement in force;
- it is determined that the family has committed additional program fraud during the term of the repayment agreement; or
- it is determined that the debt amount is larger than can be paid back by the family within 12 months.

If it is determined by the housing authority that they will not enter into a repayment agreement with a participant, the participant will be terminated from the program.

### **Repayment Agreements - Fraud Recovery**

NHA will provide the Section 8 and Public Housing Database for participants and landlords owing money to a federal program a list of the names and addresses of all participants/landlords who are in repayment agreements or owe money for , but not limited to, the following:

- unreported income; or
- unreported household members.

Funds collected due to fraud must be in the form of a certified check or money order and must be made payable to Nyack Housing Authority.

### **Late Payments**

A payment under a participant repayment agreement will be considered in arrears if payment has not been received in our office by the close of business on the day in which the payment is due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day. If the family's repayment agreement is in arrears and the family has not contacted or made arrangements, the participant will be required to pay the balance in full. If the participant subsequently fails to pay the full amount due within the time period specified the family will be denied the ability to move to another unit. If the family requests a move to another unit, has a repayment agreement in place the family will not be permitted to move with continued assistance until the family pays the balance in full. If the family requests a move to another unit and is in arrears on a payment agreement the family will be required to pay the balance in full or will be terminated from the program.

### **Minimum Rents**

The minimum rent will be \$50 for all participants.

## SECTION 16 RECERTIFICATIONS

### Interim Income Recertifications

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

Upon receiving any documentation requested from the family, an interim recertification will be processed in the following circumstances **only**:

- recertifications requested by a participant which result in a decrease in tenant rent;
- recertifications due to an increase in yearly household income which would result in a monthly increase of \$35 or more in participant rent share; or
- recertifications that are a result of a change in family composition and that result in either an increase or decrease in the tenant rent as described above.

In order to add a household member (other than through birth or adoption), including a live-in aide, the family must request that the new member be added to the lease. The new household member must first be approved by the landlord. When the new household member(s) is/are approved by the landlord, the leasing documents must be amended to include the new household member(s). Before adding the new member to the lease, the individual and participant head of household must undergo a recertification and document the income, assets, and all other information normally required of applicants and participants. Income of a live-in aide is not counted as part of the household income; however, the live-in aide's income must be entered on the HUD 50058 form.

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

**NOTE:** Housing assistance will only be delayed if caused by family action or inaction. The family's revised annual income will be recalculated taking into account the income and circumstances of the new family member.

### Effective Date of Changes for Interim Recertifications

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

delay. A reduction in participant rent share will be effective the first of the month after the revised family share of rent is determined.

### **Annual Recertifications**

An annual recertification will be completed for each Section 8 family. The recertification will be completed on or prior to the date of the previous year's recertification. The information used for reexamination must be current (within 120 days) of the effective date of the recertification. The family should be given a minimum of 90 days, but not more than 120 days, written notice prior to the anniversary date of the recertification. The initial recertification notice will inform the family of the required documents and the deadline to return all required documents through the mail. If the family fails to respond to the initial/first notice, a second notice will be sent to the family with a copy of the previously sent notice informing them that they have failed to submit the required information for recertification. If the family fails to respond to the second notice a termination notice must be mailed to the family with the right to appeal the decision.

### **Zero Income Families**

When a family reports zero income, an in office interim recertification will be conducted every 30 days. The purpose of the interim recertification is to verify the family's expenses, and to have the family provide an explanation of how their expenses are being paid. Any regular contributions received by the family from outside sources must be considered as household income.

## **SECTION 17 RESTRICTIONS ON MOVES BY A PARTICIPANT FAMILY**

Families will **not** be permitted to move more than once in a 12-month period unless approved by NHA based on a documented reason over which the participant has no control.

As allowed by program regulations, families will **not** be permitted to move outside our local jurisdiction (Rockland County) under portability provisions during the initial 12 months of assisted occupancy.

Permission to move may be denied for the following:

- the family has violated a family obligation;
- the family owes us money; or
- the family has moved or been issued a voucher within the past 12 months.

Families are required to give proper written 30-day notice of intent to terminate the lease. During the initial term families may not end the lease unless the family and the owner mutually agree to end the lease and submit in writing a statement signed by the owner and tenant that the lease is being mutually terminated and the effective date of the termination. If the family moves from the unit before the initial term of

the lease ends without the owner's and/or NHA's approval, it will be considered a serious lease violation and may result in the family's termination from the program.

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



## **SECTION 18 HOUSING QUALITY STANDARDS (HQS) INSPECTION POLICIES**

Housing Quality Standards (HQS) are minimum standards for tenant-based programs and are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as to the unit. Newly leased units must pass the HQS inspection **before** the beginning date of the assisted lease and Housing Assistance Payments (HAP) contract. Each unit under contract will be inspected at least annually. The Housing Manager will also perform quality control inspections on the number of files required for file sampling by the Section 8 Management Assessment Program (SEMAP) annually to maintain the required standards and to assure consistency in the program.

This section describes procedures for performing HQS and other types of inspections and standards for the timeliness of repairs. It also explains the responsibilities of the owner and family and the consequences of non-compliance with HQS requirements for both families and owners.

### **Requirements and Guidelines for Inspections**

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

All units will be inspected to confirm that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Program unless it meets HQS. Units will be inspected at least annually, and as needed to determine the unit meets HQS. Landlords and families must allow NHA to inspect the dwelling unit at reasonable times with reasonable notice. Families and owners will be notified of inspection appointment by mail or by phone. If the owner and/or family cannot be at home for the scheduled inspection appointment, the owner or family must make arrangements so that the inspector can enter the unit to complete the inspection. If the owner or family misses the scheduled inspection and fails to reschedule the inspection, NHA will schedule one more inspection. If the family misses two inspections, it will be considered that the family violated a Family Obligation and their Section 8 assistance will be terminated.

HQS will be the minimum requirement for approving units proposed for Section 8 Housing Choice Voucher (HCV) assistance. 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 HQS inspection. If the owner is responsible for the utilities the utilities must be on at the time of inspection. If the tenant is responsible for the utilities the inspector will notify the tenant that the utilities must be turned on and the tenant will have to provide proof from the utility company that the utilities are on.

If the tenant is responsible for supplying the refrigerator, NHA will allow the refrigerator to be placed in the unit after the unit has passed all other HQS. The

family must then certify that the refrigerator is in the unit and working. If deemed necessary a reinspection to confirm the refrigerator is in can be conducted.

Following are the types of inspections that will be conducted:

1. **Initial**--an inspection that must take place to insure that the unit passes HQS before assistance can begin; performed upon receipt of Request for Tenancy Approval;
2. **Annual**--an inspection to determine that the unit continues to meet HQS; this inspection will be conducted within 12 months of the last annual inspection;
3. **Complaint**--an inspection caused by the authority receiving a complaint regarding the unit by anyone;
4. **Special**--an inspection requested by a third party (i.e. - HUD request);
5. **Emergency**--an inspection that takes place in the event of a perceived emergency; these will take precedence over all other inspections; and
6. **Supervisory**--quality control inspections on units under lease during the fiscal year of April 1 thru March 31 each year.

### **Initial HQS Inspections**

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

### **Annual HQS Inspections**

Annual HQS inspections will be conducted within 12 months of the last annual inspection. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a deficiency for which the tenant is responsible. If the owner or family is unable to be present at the inspection, he/she must reschedule the appointment within five business days. If the family has been required to be at an inspection, misses the appointment and does not contact the office to reschedule the inspection, or if the family misses two scheduled inspection appointments, the family has violated a family obligation and the family's assistance will be terminated in accordance with the termination procedures in this Plan.

### **Verification of HQS Deficiencies**

NHA will do a reinspection to comply with 23 CFR 982.404 (a) (3) to verify that all HQS deficiencies have been corrected. A reinspection is not necessary if NHA can obtain verification by other means. Other than in the case of life threatening deficiencies an owner's and/or family's written certification that the deficiencies have been corrected will be accepted. When the deficiencies are the responsibility of the family, the owner or a representative of the owner must also certify that the deficiencies have been corrected. When the deficiencies are the responsibility of the

owner, the family must also certify that the deficiencies have been corrected. Verification that repairs were completed may be made at the next on-site inspection. NHA should base the verification process on the severity of corrections to be made and/or NHA's experience with the owner and property.

### **Reinspections**

If a reinspection is required and the family and/or owner are not at home for the reinspection appointment, a notice will be sent verifying the inspector's attempt to conduct the inspection. A final reinspection of the unit will be scheduled. A notice of the reinspection will be provided to the owner and the family with a warning that payments will be abated (in the case of owner's responsibility), or a warning of intent to terminate (in the case of family's responsibility).

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

### **Notification of HQS Failures**

When a unit fails HQS inspection, the owner will be notified in writing of the amount of time that will be allowed to correct any items noted as fail. The amount of time allowed will be determined based on the amount of time standards described below. If the time period allowed to correct the repairs has elapsed and an extension was not granted, the family must select another unit for assistance.

### **Time Standards for Repairs**

**Emergency items** which endanger the family's health or safety must be corrected by the owner within 23 hours of notification.

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

**Major repairs**, NHA may approve an extension beyond 30 days.

### **Rent Increases**

Rent to owner increases will not be approved if the unit is in a failed condition.

### **Move Out /Vacate Inspections**

At the discretion of NHA a move-out inspection may be conducted at the request of the tenant and/or landlord. If possible, both the tenant and landlord should be present for this inspection.

### **Special/Complaint Inspections**

If at any time the family or owner notifies NHA that the unit does not meet HQS, an inspection will be conducted in a timely manner. Only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs. If the

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

### **Quality Control Inspections**

Quality control inspections will be performed on the number of files required by SEMAP. The purpose of quality control inspections is to ascertain that each inspector is conducting accurate and complete inspections and to ensure that there is consistency among inspectors in application of HQS. The sampling of files will include recently completed inspections (within the prior three months), a cross-section of neighborhoods, and a cross-section of inspectors.

### **Accessibility Modifications to HQS**

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

### **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 23 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 temperatures are below the Fahrenheit degree level consistent with local building codes and temperature inside is below the Fahrenheit degree level consistent with local building codes;
- inoperable smoke detector;
- utilities not in service;
- no running hot water;
- broken glass where someone could be injured;
- obstacle which prevents tenant's entrance or exit; and
- lack of functioning toilet.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by NHA. If the emergency repair item(s) are not corrected in the time period required and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair items are not corrected in the time period required and it is an HQS breach which is a family obligation, the family's assistance may be terminated.

## **Lead Based Paint**

The Code of Federal Regulations (23 CFR 35 (M) 35.115 (12)) allows for the performance of an evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface, as required by the "rule," to be delayed for a reasonable time during a period when the weather conditions are unsuitable for conventional construction activities. However, families/persons with children under the age of six with a presence of non-environmental intervention blood lead levels (EIBLL) will not be allowed to **move into a unit** unless it passes the HQS inspection, including required lead testing and clearance. If a child under the age of six with EIBLL resides in a unit that fails re-inspection, the family must move to an approved unit or lose the rental subsidy.

## **Smoke Detectors**

Inoperable smoke detectors are a serious health threat and will be treated as an emergency (23-hour) fail item. If the smoke detector is not operating properly, NHA will contact the owner by phone and request the owner to repair the smoke detector within 23 hours. The unit will be reinspected the following day. If it is determined that the family has disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 23 hours and the unit will be reinspected the following day. A written warning will be issued to any family determined to have purposely disconnected the unit's smoke detector. The warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of HQS and may result in termination from the Section 8 Program if it happens consistently.

## **Determination of Responsibility**

The following explains certain HQS deficiencies which will be considered the responsibility of the family:

- tenant-paid utilities not in service;
- failure to provide or maintain family-supplied appliances; and
- damage to the unit or premises caused by a household member or guest beyond normal wear and tear.

The owner is responsible for all other HQS violations, including vermin infestation even if alleged to have been caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The family's assistance may be terminated on that basis. The owner or participant may appeal the determination within five business days of the inspection. If the family is responsible for damages but the owner carries out the repairs, the owner may bill the family for the cost of the repairs.

## **Consequences When Owner is Responsible (Non-Emergency Items)**

When it has been determined that a unit on the program fails to meet HQS, and the owner is responsible for completing the necessary repair(s) in a specific time period, the assistance payment to the owner will be abated if repairs are not made according

to time frame. A Notice of Abatement will be sent to the owner stating when the abatement will be effective from the day after the date of the failed inspection. The deadline for completing the deficiencies will be determined, depending on the nature of the repair(s) needed. NHA will also determine the time period for which abated units should be inspected, depending on the owner's notification that the work has been completed. Upon notification that the required work is completed, NHA will advise both owners and tenants of the reinspection date. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the portion of rent that is abated by NHA.

### **Reduction of Payments**

Extensions may be granted in lieu of abatement in the following cases:

- the owner has a good history of HQS compliance;
- the failed items are minor in nature;
- there is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services;
- the owner makes a good faith effort to make the repairs;
- the repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds; or
- the repairs must be delayed due to climate conditions.

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

### **Termination of Contract**

If the owner is responsible for repairs and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. 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 if the tenant chooses to remain in the unit. No more than two HQS inspections will be conducted after the termination notice is issued.

### **Consequences When Family Is Responsible**

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the family will be required to make any repairs or corrections within a time period consistent with the owner requirement for completing deficiencies. If the repairs or corrections are not made in this time period, assistance may be terminated, after providing an opportunity for an informal hearing. Extensions must be approved by NHA. The owner's rent will not be abated for items which are the family's responsibility. If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

## SECTION 19 SCREENING OF APPLICANTS

### Screening of Applicants

As part the process for determining eligibility for participation, NHA will conduct criminal background checks on all adult household members, including live-in aides. These checks will be used to identify circumstances under which assistance must be denied in accordance with the requirements of Section 982.553 of program regulations. All adult applicant family members will be required to sign a release of information which will authorize access to criminal records. This check will be made through a private company that provides state, and national court and other records. NHA will also check with the State sex offender registration program to determine if an individual is subject to a lifetime registration requirement as a State sex offender. Assistance will be permanently denied to a family if any member of the family has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally-assisted housing. Assistance will permanently be denied assistance to anyone subject to a lifetime registration requirement as a State sex offender.

Additional screening is the responsibility of the owner. NHA will not screen family behavior or suitability for tenancy. NHA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy. The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before approval of the tenancy, the owner will be informed that screening and selection for tenancy is the responsibility of the owner.

## SECTION 20 ADMINISTRATION

All screening and termination of assistance procedures will be administered uniformly fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups. To the maximum extent possible, NHA will involve other community and governmental entities in the promotion and enforcement of this policy. This policy will be posted on NHA's bulletin board and copies made readily available to applicants and participants upon request.

**We hereby incorporate into this Administrative Plan our Equal Opportunity Housing Plan, originally submitted to HUD in December of 1993, substantially revised, and adopted in 2006.**