

# **Housing Authority of the Township of Middletown**

## **Section 8 Administrative Plan**

**Adopted: May 14, 2025**

**Resolution: 2025-24**

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## **I. INTRODUCTION**

### **1. Mission Statement**

The mission of the Housing Authority of the Township of Middletown (“Housing Authority”) is to promote adequate affordable, decent, safe housing; economic opportunity; and a suitable living environment free from discrimination.

### **2. Purpose of Policy**

The purpose of the Section 8 Administrative Plan is to establish guidelines for the Housing Authority staff to follow in determining eligibility for admission to and continued participation in the Housing Authority’s Section 8 HCV program. The basic guidelines for this policy are governed by requirements of the U.S. Department of Housing and Urban Development (“HUD”), with latitude for local policies and procedures. The policies and procedures expressed herein are binding upon applicants, participants, owners, and the Housing Authority alike. Notwithstanding the above, changes in Federal or State of New Jersey laws or regulations shall supersede any conflicting provisions in this policy.

### **3. Objectives**

The objectives of this policy are to:

- Promote the overall goal of decent, safe, and sanitary housing by:
  - Ensuring assisted units are maintained in accordance with HQS.
  - Lawfully denying admission or continued participation to applicants or participants whose presence is likely to adversely affect the health, safety, comfort, or welfare of others or create a danger to Housing Authority employees.
- Facilitate the efficient management of the Housing Authority and compliance with Federal and State of New Jersey laws and regulations by establishing policies for the efficient and effective management of the Housing Authority’s program and staff.
- Comply in letter and spirit with all applicable Federal and State of New Jersey laws and regulations to ensure that admission and continued program participation are conducted without regard to any legally protected characteristic.

### **4. Outreach**

The Housing Authority will disseminate information about HCVs through local media. For those who call the Housing Authority, the staff may be available to convey essential information.

- The Housing Authority may hold meetings with local social community agencies.
- The Housing Authority may sponsor "Open House" programs to attract potential participants.
- The Housing Authority may make known to the public, through publications in a newspaper of general circulation as well as through other suitable means, the availability

and nature of housing assistance for lower-income families. The notice shall inform such families where they may apply for HCVs.

- The Housing Authority shall take affirmative actions to provide opportunities to participate in the program to persons who, because of such factors as race, ethnicity, sex of household head, age, or source of income, are less likely to apply for HCVs.<sup>1</sup>

## 5. **Privacy Rights**

Each applicant and participant shall be provided with a Privacy Act notice that states under what conditions HUD and/or the Housing Authority will release information.<sup>2</sup>

At admission and at the first recertification occurring after January 1, 2024, all adult household members must sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies.<sup>3</sup> Thereafter, the signing of consent forms shall only be necessary if there is a new adult family member, if an existing family member has reached eighteen years of age, or if required by HUD.<sup>4</sup> Families that fail to sign and submit consent forms, or that subsequently revoke consent, will have their assistance denied/terminated.<sup>5</sup>

The Housing Authority shall not release applicant or participant household information to third parties unless the request is accompanied by a signed release from the applicant or participant, or disclosure is authorized or required by Federal or State of New Jersey law or regulation.

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<sup>1</sup> 24 C.F.R. 903.15(c)(2).

<sup>2</sup> 24 C.F.R. 5.212(b).

<sup>3</sup> 24 C.F.R. 5.230.

<sup>4</sup> HUD Notice PIH-2023-27, Attachment J.

<sup>5</sup> 24 C.F.R. 5.232.

## II. DEFINITIONS

1. Abatement: stopping HAPs to an Owner with no potential for retroactive payment.<sup>6</sup>
  2. Adjusted Income:
    - a. *Prior to the HOTMA Compliance Date*: the annual income of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions: (1) mandatory deductions of \$480.00 for each dependent and \$400.00 for any elderly family or disabled family; (2) mandatory deductions for unreimbursed health and medical care expenses of any elderly family or disabled family, to the extent the sum exceeds 3% of annual income; (3) mandatory deductions for unreimbursed reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with a disability, to the extent necessary to enable any member of the family to be employed, and to the extent such sum exceeds 3% of annual income (except that the amount of the deduction shall not exceed the earned income from such individuals who were enabled to work); (4) mandatory deductions for any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education; and (5) and any additional deductions established by the Housing Authority.
    - b. *Effective on the HOTMA Compliance Date*: the annual income of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions: (1) mandatory deductions of \$480.00 for each dependent and \$525.00 for any elderly family or disabled family, subject to annual adjustment by HUD; (2) mandatory deductions for unreimbursed health and medical care expenses of any elderly family or disabled family, to the extent the sum exceeds 10% of annual income; (3) mandatory deductions for unreimbursed reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with a disability, to the extent necessary to enable any member of the family to be employed, and to the extent such sum exceeds 10% of annual income (except that the amount of the deduction shall not exceed the earned income from such individuals who were enabled to work); (4) mandatory deductions for any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education; and (5) and any additional deductions established by the Housing Authority.<sup>7</sup>
- Note: the above 10% threshold shall be phased in. The applicable threshold shall be 3% in 2023, 5% in 2024, 7.5% in 2025, and 10% in 2026 and going forward.*
3. Adult: a person who is at least eighteen (18) years of age or who is emancipated by court action to act on his/her own behalf, including the ability to execute a contract or lease.

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<sup>6</sup> 24 C.F.R. 982.4(b).

<sup>7</sup> 24 C.F.R. 5.611.

4. Annual Income:
  - a. *Prior to the HOTMA Compliance Date*: all amounts (unless specifically excluded by HUD), monetary or not, which: (1) go to, or on behalf of, any family member; (2) are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and (3) are derived (during the 12-month period) from assets to which any member of the family has access.
  - b. *Effective on the HOTMA Compliance Date*: all amounts (unless specifically excluded by HUD) received from all sources by the head of household, spouse, and any other adult family members; unearned income by or on behalf of each dependent who is under eighteen (18) years of age; and any imputed returns from net family assets based on the current HUD-determined passbook savings rate.<sup>8</sup> The Housing Authority shall calculate annual income in accordance with HUD Notice PIH-2023-27, particularly Attachments B, C, F, G, and H.
5. Applicant: an individual or family that seeks rental assistance under the Section 8 HCV program.<sup>9</sup>
6. Authorized Voucher Units: the number of units for which a PHA is authorized to make assistance payments to owners under its annual contributions contract.<sup>10</sup>
7. Bifurcate: to divide a lease as a matter of law (subject to the permissibility of such process by HUD program requirements and State or local law), such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.<sup>11</sup>
8. Child: a member of the family, other than the head of household or spouse, who is under eighteen (18) years of age.<sup>12</sup>
9. Child Care Expenses: the amounts anticipated to be paid by the family for the care of children under thirteen (13) years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable

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<sup>8</sup> 24 C.F.R. 5.609.

<sup>9</sup> 24 C.F.R. 5.214.

<sup>10</sup> 24 C.F.R. 982.4(b).

<sup>11</sup> 24 C.F.R. 5.2003.

<sup>12</sup> 24 C.F.R. 5.504.

- charges for child care and, if necessary to enable employment, shall not exceed the amount of employment income that is included in annual income.<sup>13</sup>
10. Citizen: a citizen or national of the United States of America.<sup>14</sup>
  11. Consent Form: any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and payments of retirement income); and return information for unearned income from the Internal Revenue Service. A consent form expires after a certain time and may authorize the collection of other information from assistance applicants or participants to determine eligibility or level of benefits.<sup>15</sup>
  12. Continuously Assisted: an applicant is continuously assisted if they are already receiving assistance under any Housing Act of 1937 program when admitted to the Housing Authority's Section 8 HCV program.<sup>16</sup>
  13. Currently Engaging In: with respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.<sup>17</sup>
  14. Dating Violence: violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.<sup>18</sup>
  15. Day Laborer: an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.<sup>19</sup>
  16. Dependent: a member of the family (excluding foster children and foster adults) other than the head of household or spouse, who is under eighteen (18) years of age, a person with a disability, or a full-time student.<sup>20</sup>

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<sup>13</sup> 24 C.F.R. 5.603(b).

<sup>14</sup> 24 C.F.R. 5.504.

<sup>15</sup> 24 C.F.R. 5.214.

<sup>16</sup> See 24 C.F.R. 982.201(d).

<sup>17</sup> 24 C.F.R. 5.853(b).

<sup>18</sup> 24 C.F.R. 5.2003.

<sup>19</sup> 24 C.F.R. 5.603(b).

<sup>20</sup> 24 C.F.R. 5.603(b).

17. Disability Assistance Expenses: reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.<sup>21</sup>
18. Disabled Family: a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.<sup>22</sup>
19. Displaced Family: a family in which each member, or whose sole member, is a person displaced by governmental action, or a person 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.<sup>23</sup>
20. Domestic Violence: felony or misdemeanor crimes of violence committed by: (1) a current or former spouse or intimate partner of the victim; (2) a person with whom the victim shares a child in common; (3) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (4) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction; or (5) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.<sup>24</sup>
21. Drug: a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).<sup>25</sup>
22. Drug-related Criminal Activity: the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.<sup>26</sup>
23. Earned Income: *effective on the HOTMA Compliance Date*, income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.<sup>27</sup>
24. Economic Self-Sufficiency Program: any program designed to encourage, assist, train, or facilitate the economic independence of families or to provide work for families, including

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<sup>21</sup> 24 C.F.R. 5.603(b).

<sup>22</sup> 24 C.F.R. 5.403.

<sup>23</sup> 24 C.F.R. 5.403.

<sup>24</sup> 24 C.F.R. 5.2003.

<sup>25</sup> 24 C.F.R. 5.100.

<sup>26</sup> 24 C.F.R. 5.100.

<sup>27</sup> 24 C.F.R. 5.100.

programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.<sup>28</sup>

25. Elderly Family: a family whose head (including co-head), spouse, or sole member is a person who is at least sixty-two (62) years of age. It may include two or more persons who are at least sixty-two (62) years of age living together, or one or more persons who are at least sixty-two (62) years of age living with one or more live-in aides.<sup>29</sup>
26. Elderly Person: an individual who is at least 62 years of age.<sup>30</sup>
27. Employer Identification Number (“EIN”): the nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.<sup>31</sup>
28. Extremely Low-Income Family: a very low-income family whose annual income does not exceed the higher of: (1) the poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or (2) 30% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.<sup>32</sup>
29. Evidence of Citizenship or Eligible Status: the documents that must be submitted to establish citizenship or eligible immigration status.<sup>33</sup>
30. Fair Market Rent (“FMR”): the rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. The FMR may be established at the ZIP code level, metropolitan area level, or non-metropolitan county level.<sup>34</sup>

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<sup>28</sup> 24 C.F.R. 5.603(b).

<sup>29</sup> 24 C.F.R. 5.403.

<sup>30</sup> 24 C.F.R. 5.100.

<sup>31</sup> 24 C.F.R. 5.214.

<sup>32</sup> 24 C.F.R. 5.603(b).

<sup>33</sup> 24 C.F.R. 5.504.

<sup>34</sup> 24 C.F.R. 982.4(b).

31. Family:

- a. *Effective prior to the HOTMA Compliance Date*: includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status: (1) a single person, who is an elderly person, a near-elderly person, a disabled person, a displaced person, or any other single person; or (2) a group of persons residing together, and such group includes, but is not limited to: a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining members of a tenant family.
  - b. *Effective on the HOTMA Compliance Date*: includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status: (1) a single person, who is an elderly person, a near-elderly person, a disabled person, a displaced person, an otherwise eligible individual between eighteen (18) and twenty four (24) years of age who has left or will be leaving (within the next ninety (90) days) foster care in accordance with a transition plan and is homeless or at risk of becoming homeless, or any other single person; or (2) a group of persons residing together, and such group includes, but is not limited to: a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining members of a tenant family.<sup>35</sup>
32. Federally Assisted Housing: housing assisted under any of the following programs: (1) Public Housing; (2) Section 8; (3) Section 202; (4) Section 811; (5) Section 211(d); (6) Section 236; (7) Section 514; or (8) Section 515.<sup>36</sup>
33. Fixed Income: income received in the form of periodic payments at reasonably predictable levels from one or more of the following sources: (1) Social Security, Supplemental Security Income, Supplemental Disability Insurance; (2) Federal, state, local, or private pension plans; (3) annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or (4) any other source of income subject to adjustment by a verifiable COLA<sup>37</sup> or current rate of interest.<sup>38</sup>
34. Foster Adult: a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental

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<sup>35</sup> 24 C.F.R. 5.403.

<sup>36</sup> 24 C.F.R. 5.100.

<sup>37</sup> COLA is an abbreviation for Cost of Living Adjustment.

<sup>38</sup> 24 C.F.R. 982.516(b)(2).

condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.<sup>39</sup>

35. Foster Child: a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g. public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.<sup>40</sup>
36. Full-Time Student: a person who is attending school or vocational training on a full-time basis.<sup>41</sup>
37. Gender Identity: the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity. Perceived gender identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.<sup>42</sup>
38. Guest: a person temporarily (no more than thirty (30) days during any twelve (12) month period) staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.<sup>43</sup>
39. Head of Household: the adult member of the family who is the head of the household for purposes of determining income eligibility and rent.<sup>44</sup>
40. Health and Medical Care Expenses: any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body, including medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.<sup>45</sup>
41. HOTMA Compliance Date: the date that the Housing Authority shall fully comply with the Housing Opportunity Through Modernization Act ("HOTMA"), which shall be the date by which HUD's Housing Information Portal ("HIP") system will be operational and the Housing Authority's software will be compliant with HIP.
42. Household: the family, foster children, foster adults, and the Housing Authority-approved live-in aide.<sup>46</sup>

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<sup>39</sup> 24 C.F.R. 982.4(b).

<sup>40</sup> 24 C.F.R. 982.4(b).

<sup>41</sup> 24 C.F.R. 5.603(b).

<sup>42</sup> 24 C.F.R. 5.100.

<sup>43</sup> 24 C.F.R. 5.100.

<sup>44</sup> 24 C.F.R. 5.504.

<sup>45</sup> 24 C.F.R. 5.603(b).

<sup>46</sup> 24 C.F.R. 982.4(b).

43. Housing Assistance Payments (“HAP”): the monthly assistance payment by the PHA, which includes: (1) a payment to the owner for rent to the owner under the family’s lease; and (2) an additional payment to the family if the total assistance payment exceeds the rent to owner.<sup>47</sup>
44. Housing Assistance Payments Contract (“HAP Contract”): the contract governing the terms and conditions of monthly assistance payments by the Housing Authority to the Owner.
45. Housing Authority: the Housing Authority of the Township of Middletown.
46. Housing Choice Voucher (“HCV”): a document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.<sup>48</sup>
47. Housing Quality Standards (“HQS”): the minimum quality standards developed by HUD in accordance with 24 C.F.R. 5.703 for the Section 8 HCV program, including any variations approved by HUD for the PHA under 24 C.F.R. 5.705(a)(3).<sup>49</sup> As of October 2024, the Housing Authority uses HUD’s National Standards for the Physical Inspection of Real Estate (“NSPIRE”).
48. HUD: the United States Department of Housing and Urban Development.
49. 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 nonetheless included in the family’s annual income for purposes of determining rent.<sup>50</sup>
50. Independent Contractor: an individual who qualifies as an independent contractor instead of an employee in accordance with Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax; typically, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.<sup>51</sup>
51. Independent Entity: the unit of general local government; however, if the PHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or a HUD-approved entity that is autonomous and recognized under State law as a separate legal entity from the PHA. The entity must not be connected

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<sup>47</sup> 24 C.F.R. 982.4.

<sup>48</sup> 24 C.F.R. 982.4.

<sup>49</sup> 24 C.F.R. 982.4.

<sup>50</sup> 24 C.F.R. 5.615.

<sup>51</sup> 24 C.F.R. 5.603(b).

- financially (except regarding compensation for services performed for PHA-owned units) or in any other manner that could result in the PHA improperly influencing the entity.<sup>52</sup>
52. Initial PHA: in portability, the term refers to both: (1) a PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) a PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.<sup>53</sup>
53. Initial Payment Standard: the payment standard at the beginning of the HAP Contract term.<sup>54</sup>
54. Initial Rent to Owner: the rent to owner at the beginning of the HAP Contract term.<sup>55</sup>
55. Intimate Partner of the Victim: a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.<sup>56</sup>
56. Jurisdiction: the area in which the PHA has authority under State and local law to administer the program.<sup>57</sup>
57. Lease: a written agreement between an Owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with a HAP under a HAP Contract between the Owner and the Housing Authority.<sup>58</sup>
58. Legally Protected Characteristic: this includes affectional or sexual orientation, age, ancestry, breastfeeding, civil union status, color, creed, disability, domestic partnership status, family status, gender identity or expression, liability for service in the Armed Forces of the United States, marital status, national origin, nationality, pregnancy, race, religion, sex, source of lawful income or source of lawful rent payment, and any other characteristic protected by law.<sup>59</sup>
59. Live-In Aide: a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care

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<sup>52</sup> 24 C.F.R. 982.4(b).

<sup>53</sup> 24 C.F.R. 982.4.

<sup>54</sup> 24 C.F.R. 982.4.

<sup>55</sup> 24 C.F.R. 982.4.

<sup>56</sup> 24 C.F.R. 5.2003.

<sup>57</sup> 24 C.F.R. 982.4.

<sup>58</sup> 24 C.F.R. 982.4.

<sup>59</sup> 42 U.S.C. 3604; 42 U.S.C. 6102; N.J.S.A. 10:5-12

and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the unit except to provide the necessary supportive services.<sup>60</sup>

60. Low-Income Family: a family whose annual income does not exceed 80% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.<sup>61</sup>
61. Minimum Rent: the minimum monthly tenant rent, as established by the Housing Authority and subject to the HUD limit of \$50.00 per month.<sup>62</sup>
62. Minor: a member of the family, other than the head of household or spouse, who is under eighteen (18) years of age.<sup>63</sup>
63. Mixed Family: a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.<sup>64</sup>
64. Monthly Adjusted Income: one twelfth of adjusted income.<sup>65</sup>
65. Monthly Income: one twelfth of annual income.<sup>66</sup>
66. National: a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.<sup>67</sup>
67. Near Elderly: an individual who is between fifty (50) and sixty-one (61) years of age.
68. Near-Elderly Family: a family whose head (including co-head), spouse, or sole member is a person who is at least fifty (50) years of age but below the age of sixty-two (62); or two or more persons, who are at least fifty (50) years of age but below the age of sixty-two (62), living together; or one or more persons who are at least fifty (50) years of age but below the age of sixty-two (62), living with one or more live-in aides.<sup>68</sup>
69. Net Family Assets: subject to the exclusions authorized by HUD, the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in

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<sup>60</sup> 24 C.F.R. 5.403.

<sup>61</sup> 24 C.F.R. 5.603(b).

<sup>62</sup> 24 C.F.R. 5.630(a).

<sup>63</sup> 24 C.F.R. 5.603(b).

<sup>64</sup> 24 C.F.R. 5.504.

<sup>65</sup> 24 C.F.R. 5.603(b).

<sup>66</sup> 24 C.F.R. 5.603(b).

<sup>67</sup> 24 C.F.R. 5.504.

<sup>68</sup> 24 C.F.R. 5.403.

disposing real property, savings, stocks, bonds, and other forms of capital investment; and the value of any assets disposed of by the family (including a disposition in trust, but excluding disposition by foreclosure, bankruptcy sale, or separation/divorce agreement whereby consideration not measurable in dollar terms was received) during the two preceding years, to the extent the value received was less than fair market value.<sup>69</sup>

70. Noncitizen: a person who is neither a citizen nor national of the United States.<sup>70</sup>
71. Other Person Under the Tenant's Control: a person who is not staying as a guest in the dwelling unit, but who is or, at the time of the activity in question, was on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.<sup>71</sup>
72. Owner: any person or entity with the legal right to lease or sublease a unit to a Participant.<sup>72</sup>
73. Participant: a family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).<sup>73</sup>
74. Payment Standard: the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).<sup>74</sup>
75. Person with a Disability:
- a. *For the purposes of program eligibility*: (1) a person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act; or (2) a person who has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration, substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS, but excludes persons whose disability is based solely on any drug or alcohol dependence.<sup>75</sup>
  - b. *For the purposes of reasonable accommodation and program accessibility*: a person who has a physical or mental impairment that substantially limits one or

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<sup>69</sup> 24 C.F.R. 5.603(b).

<sup>70</sup> 24 C.F.R. 5.504.

<sup>71</sup> 24 C.F.R. 5.100.

<sup>72</sup> 24 C.F.R. 982.4.

<sup>73</sup> 24 C.F.R. 982.4.

<sup>74</sup> 24 C.F.R. 982.4.

<sup>75</sup> 24 C.F.R. 5.403.

more major life activities, has a record of such an impairment, or is regarded as having such an impairment.<sup>76</sup>

- c. *For the purposes of reasonable accommodation only:* a person who has a physical or sensory disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, muteness or speech impairment, or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental, psychological, or developmental disability, including autism spectrum disorders, resulting from anatomical, psychological, physiological, or neurological conditions which prevents the typical exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. It also includes a person who has AIDS or HIV infection.<sup>77</sup>
76. PHA-Owned Unit: a dwelling unit in a project that is: (A) owned by the PHA (including having a controlling interest in the entity that owns the project); (B) owned by an entity wholly controlled by the PHA; or (C) owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.<sup>78</sup>
77. PHA Plan: the annual plan and the 5-year plan as adopted by the Housing Authority and approved by HUD in accordance with 24 C.F.R. Part 903.<sup>79</sup>
78. Portability: renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.<sup>80</sup>
79. Premises: the building or complex in which the dwelling unit is located, including common areas and grounds.<sup>81</sup>
80. Project: a project is a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. “Contiguous” includes “adjacent to,” as well as touching along a boundary or a point.<sup>82</sup>
81. Project-Based Voucher (“PBV”): HCV assistance that is allocated to a specific project rather than a specific participant.

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<sup>76</sup> 24 C.F.R. 5.403; 24 C.F.R. 8.3.

<sup>77</sup> N.J.S.A. 10:5-5(q).

<sup>78</sup> 24 C.F.R. 982.4(b).

<sup>79</sup> 24 C.F.R. 982.4.

<sup>80</sup> 24 C.F.R. 982.4.

<sup>81</sup> 24 C.F.R. 982.4.

<sup>82</sup> 24 C.F.R. 983.3.

82. Receiving PHA: in portability, a PHA that receives a family selected for participation in the Section 8 HCV program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.<sup>83</sup>
83. Recertification/Reexamination: the process of securing documentation of family income used to determine the rent the tenant will pay for the next twelve (12) months if there are no additional changes to be reported.
84. Rent to Owner: the total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.<sup>84</sup>
85. Request for Tenancy Approval (“RFTA”): a form (HUD-52517) submitted by or on behalf of a family to a PHA once the family has identified a unit that it wishes to rent using tenant-based voucher assistance.<sup>85</sup>
86. Residency Preference: a preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).<sup>86</sup>
87. Residency Preference Area: the specified area where families must reside to qualify for a residency preference.<sup>87</sup>
88. Seasonal Worker: an individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter), typically to address seasonal demands that arise for the particular employer or industry.<sup>88</sup>
89. Sexual Assault: any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.<sup>89</sup>
90. Sexual Orientation: an emotional or physical attraction to the same and/or opposite sex (e.g., bisexuality, heterosexuality, or homosexuality).<sup>90</sup>
91. Small Area Fair Market Rents (“SAFMRs”): FMRs established for U.S. Postal Service ZIP code areas and calculated in accordance with 24 C.F.R. 888.113(a) and (b).<sup>91</sup>

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<sup>83</sup> 24 C.F.R. 982.4.

<sup>84</sup> 24 C.F.R. 982.4.

<sup>85</sup> 24 C.F.R. 982.4(b).

<sup>86</sup> 24 C.F.R. 982.4.

<sup>87</sup> 24 C.F.R. 982.4.

<sup>88</sup> 24 C.F.R. 5.603(b).

<sup>89</sup> 24 C.F.R. 5.2003.

<sup>90</sup> 24 C.F.R. 5.100.

<sup>91</sup> 24 C.F.R. 982.4(b).

92. Social Security Number (“SSN”): the nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.<sup>92</sup>
93. Special Admission: admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.<sup>93</sup>
94. Spouse: the marriage partner of the head of household.
95. Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for their individual safety or the safety of others; or (2) suffer substantial emotional distress.<sup>94</sup>
96. State Wage Information Collection Agency (“SWICA”): the State agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.<sup>95</sup>
97. Subsidy Standards: standards established by the PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.<sup>96</sup>
98. Suspension: the term on the family’s voucher stops from the date that the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied.<sup>97</sup>
99. Tenant: the person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.<sup>98</sup>
100. Tenant-Paid Utilities: utilities and services that are not included in the rent to owner and are the responsibility of the assisted family, regardless of whether the payment goes to the utility company or the owner. The utilities and services are those necessary in the locality to provide housing that complies with HQS. The utilities and services may also include those required by HUD through a Federal Register notice after providing opportunity for public comment.<sup>99</sup>

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<sup>92</sup> 24 C.F.R. 5.214.

<sup>93</sup> 24 C.F.R. 982.4.

<sup>94</sup> 24 C.F.R. 5.2003.

<sup>95</sup> 24 C.F.R. 5.214.

<sup>96</sup> 24 C.F.R. 982.4.

<sup>97</sup> 24 C.F.R. 982.4.

<sup>98</sup> 24 C.F.R. 982.4.

<sup>99</sup> 24 C.F.R. 982.4(b).

101. Total Tenant Payment: the highest of the following amounts, rounded to the nearest dollar: (1) 30% of the family's monthly adjusted income; (2) 10% of the family's monthly income; (3) the portion of any welfare assistance from a public agency specifically designated to meet the family's housing costs; or (4) the minimum rent.<sup>100</sup>
102. Unearned Income: *effective on the HOTMA Compliance Date*, any income that is not earned income.<sup>101</sup>
103. Utilities: includes heat, electricity, gas, hot and cold water, sewage services, and trash collection, but excludes telephone and internet services.
104. Utility Allowance: if the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by the Housing Authority or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.<sup>102</sup>
105. Utility Reimbursement: the portion of the HAP which exceeds the amount of the rent to owner.<sup>103</sup>
106. Very Low-Income Family: a family whose annual income does not exceed 50% of the median family income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.<sup>104</sup>
107. Veteran: a veteran is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.
108. Violent Criminal Activity: any 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.<sup>105</sup>
109. Voucher Holder: a family holding a voucher with an unexpired term (search time).<sup>106</sup>

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<sup>100</sup> 24 C.F.R. 5.628(a).

<sup>101</sup> 24 C.F.R. 5.100.

<sup>102</sup> 24 C.F.R. 5.603(b).

<sup>103</sup> 24 C.F.R. 982.4.

<sup>104</sup> 24 C.F.R. 5.603(b).

<sup>105</sup> 24 C.F.R. 5.100.

<sup>106</sup> 24 C.F.R. 982.4.

110. Waiting List Admission: an admission from the PHA waiting list.<sup>107</sup>
111. Welfare Assistance: welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families program).<sup>108</sup>
112. Withholding: stopping HAP to an Owner while holding them for potential retroactive disbursement.<sup>109</sup>
113. Working Family: family whose head of household, spouse, or sole member is employed. In the event of a Working Family preference, an applicant must be given the benefit of this preference if the head, spouse, or sole member of the family is age sixty-two (62) or older or a person with a disability.

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<sup>107</sup> 24 C.F.R. 982.4.

<sup>108</sup> 24 C.F.R. 5.603(b).

<sup>109</sup> 24 C.F.R. 982.4(b).

### **III. FAIR HOUSING AND EQUAL OPPORTUNITY**

#### **1. Anti-Discrimination Policy**

It is the policy of the Housing Authority to fully comply with all Federal, State of New Jersey, and local laws, regulations, and rules governing fair housing and equal opportunity in housing, including but not limited to:

- The New Jersey Law Against Discrimination
- The United States Civil Rights Act of 1964
- The United States Civil Rights Act of 1968
- The United States Fair Housing Act
- The United States Rehabilitation Act of 1973
- The Americans with Disabilities Act
- The United States Age Discrimination Act of 1975
- The United States Violence Against Women Act

The Housing Authority shall not discriminate against applicants and/or participants on the basis of a Legally Protected Characteristic. Accordingly, the Housing Authority will not, on the basis of any Legally Protected Characteristic:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the Section 8 HCV program;
- Treat a person differently in determining eligibility or other requirements for admission;
- Provide different terms, conditions or privileges in connection with the rental of a dwelling, or provide different services or facilities in connection with the rental of a dwelling;
- Subject anyone to segregation or disparate treatment;
- Restrict anyone's access to any benefit enjoyed by others in connection with the Section 8 HCV program;
- Steer an applicant or resident toward or away from a particular area;
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the Section 8 HCV program;
- Discriminate in the provision of residential real estate transactions;
- Discriminate against someone because they are related to or associated with a member of a protected class;
- Make, print, publish or cause to be made, print, or published any notice, statement, or advertisement with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination on the basis of a protected characteristic;
- Represent that a dwelling is not available for inspection or rental when such dwelling is in fact so available; or

- Induce or attempt to induce any person to rent or vacate any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons with a protected characteristic.

In addition, the Housing Authority shall take affirmative steps to ensure that Limited English Proficiency (“LEP”) persons can effectively participate in or benefit from the Section 8 HCV program. An LEP person is someone who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English.

## 2. Reasonable Accommodations

The Housing Authority and/or owners will provide reasonable accommodations to applicants and/or participants with disabilities, provided that the requested accommodations do not fundamentally alter the nature of the program, service, or activity, and do not cause an undue financial or administrative burden.

A reasonable accommodation is a change, exception, or adjustment to a policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. A reasonable accommodation is also a modification or alteration of a dwelling unit or physical system that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

The Housing Authority will ask applicants and participants if they require any type of reasonable accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the Housing Authority, by including the following language:

If you or anyone in your family is a person with a disability, and you require a specific accommodation in order to fully utilize our programs and services, please contact the Housing Authority.

When the Housing Authority receives a reasonable accommodation request, and the need for the requested accommodation is not readily apparent or known to the Housing Authority, the applicant/participant will be requested to provide supporting documentation from a physician, psychiatrist, or other medical professional. The supporting documentation must establish both that the applicant/participant has a disability and that the requested accommodation will be effective in improving the applicant/participant’s ability to enjoy their dwelling.

Applicants and/or participants shall submit reasonable accommodation requests to the Housing Authority in writing. The Housing Authority will promptly consider reasonable accommodation requests on a case-by-case basis. The applicant/participant will be notified of the Housing Authority’s decision in writing. If the requested accommodation is rejected because it is determined to be not reasonable, then the Housing Authority will discuss with the applicant/participant whether an alternative accommodation could effectively address their disability-related needs. If a reasonable alternative accommodation cannot be identified through this interactive process, then the Housing Authority shall notify the applicant/participant in writing.

The Housing Authority will handle all reasonable accommodation requests and all associated data, information, documentation, and files in a confidential manner. Housing Authority employees shall not access, possess, use, disclose, copy, download, replicate, remove, share, transfer, email, reference, or discuss these materials by any means whatsoever, except to complete legitimate assigned job duties and responsibilities. Any discussion of applicant/participant reasonable accommodation requests and all associated data, information, documentation and files shall be limited to those individuals who are on a “need to know” basis only. Housing Authority employees shall store all reasonable accommodation requests and all associated data, information, documentation, and files in a manner sufficient to prevent access by unauthorized individuals.

### 3. **Violence Against Women Act Protections**

The Violence Against Women Act (“VAWA”) protects applicant and assisted families who have been victimized by domestic violence, dating violence, sexual assault, and/or stalking, regardless of sex, gender identity, or sexual orientation.<sup>110</sup>

An applicant or assisted family shall not be denied admission, denied assistance, terminated from participation, or evicted from housing solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

1. The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and
2. The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking.<sup>111</sup>

The Housing Authority shall provide each of its applicant and assisted families with a Notice of Occupancy Rights under VAWA and a certification form to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault or stalking.<sup>112</sup>

Victims of domestic violence, dating violence, sexual assault or stalking may be required to provide documentation of victim status.<sup>113</sup> Victims of domestic violence may optionally certify their victim status (utilizing HUD form 5382), which includes naming their abusers, if known and safe to provide, to qualify for these protections.<sup>114</sup>

Assisted families who are victims of domestic violence, dating violence, sexual assault or stalking may request an emergency transfer to another unit.<sup>115</sup> The Housing Authority has an Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.<sup>116</sup>

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<sup>110</sup> 24 C.F.R. 5.2001(a).

<sup>111</sup> 24 C.F.R. 5.2005(b).

<sup>112</sup> 24 C.F.R. 5.2005(a).

<sup>113</sup> 24 C.F.R. 5.2007(a).

<sup>114</sup> 24 C.F.R. 5.2005(a).

<sup>115</sup> 24 C.F.R. 5.2005(e)(2).

<sup>116</sup> 24 C.F.R. 5.2005(e).

Victims may fill out the Emergency Transfer Request form for the Housing Authority when making the request for the transfer (utilizing Form HUD-5383).

4. **Anti-Harassment Policy**

The Housing Authority prohibits the harassment of applicants and/or participants on the basis of any Legally Protected Characteristic. While it is not easy to define precisely what harassment is, it includes but is not limited to stalking, slurs, epithets, threats, derogatory or demeaning comments or references, unwelcome jokes, teasing, caricatures or representations of persons using electronically or physically altered photos, cyber-bullying, drawings, hate symbols, or images, and other similar verbal, written, printed or physical conduct.

5. **Anti-Sexual Harassment Policy**

The Housing Authority prohibits the sexual harassment of applicants and/or participants. Sexual harassment occurs when an individual is subject unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by which submission to such conduct is made either explicitly or implicitly a term or condition of an individual's housing; submission to or rejection of such conduct by an individual is used as the basis for housing decisions affecting such individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's housing or creating an intimidating, hostile or offensive housing environment.

6. **Filing a Complaint**

Any applicant or participant who has a complaint regarding discrimination, reasonable accommodation, harassment, sexual harassment, or retaliation may submit a written complaint to the Housing Authority's Executive Director addressed as follows:

Housing Authority of the Township of Middletown  
2 Oakdale Drive  
Middletown, New Jersey 07748  
Attention: Executive Director  
Subject: Confidential Housing Matter

Complaints will be promptly investigated by the Housing Authority at the direction of the Executive Director. Investigations will be conducted confidentially to the extent practicable and appropriate to protect the privacy of the persons involved. Interviews may be conducted with the parties involved in the complaint and, if necessary, any individuals who may have observed the incident or who may have other relevant knowledge. At the conclusion of the investigation, both parties will be advised of the decision made and of any corrective action taken. If the investigation substantiates the complaint, then appropriate corrective action will be swiftly pursued.

All complaints and investigations will be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have

a legitimate need to know about the matter. **All persons interviewed, including witnesses, are directed not to discuss any aspect of the investigation with others in light of the important privacy interest of all concerned.**

7. **Anti-Retaliation**

The Housing Authority shall not retaliate against any individual who complains about discrimination, reasonable accommodation, harassment, or sexual harassment, or against any individual who assists in the investigation of any such complaints.

Appropriate action will be taken against any individual who is found to have retaliated against a complainant or retaliated against any individual who assists in the investigation of a complaint, even if the original complaint is determined to be unfounded.

#### **IV. ELIGIBILITY**

1. Applicants must meet the definition of a family.<sup>117</sup>
2. Applicants must have a head of household who is at least eighteen (18) years of age or who is emancipated by court action.
3. Applicants must demonstrate they are capable of independent living or that a member of their household is capable of caring for them.
4. Effective on the HOTMA Compliance Date, applicants must have net family assets that do not exceed \$100,000.00 (subject to annual adjustment by HUD).<sup>118</sup>
  - a. The Housing Authority is not required to verify the valuation of net family assets if the family certifies that the value does not exceed \$50,000.00 (subject to annual adjustment by HUD).<sup>119</sup>
5. Effective on the HOTMA Compliance Date, applicants must not have a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family.<sup>120</sup>
  - a. A property is considered suitable for occupancy unless it does not meet the disability-related needs of the family, is not sufficient for the size of the family, is geographically located so as to be a hardship for the family (e.g. commuting to work and/or school), it is not safe to reside in because of the physical condition of the property, or it is not a property that may be inhabited by the family under the State or local laws of the jurisdiction where the property is located.<sup>121</sup>
  - b. The Housing Authority may accept a certification from the family that it does not have any present ownership interest in any real property.<sup>122</sup>
  - c. This restriction shall not apply to a person who is a victim of domestic violence, dating violence, sexual assault, or stalking.<sup>123</sup>

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<sup>117</sup> 24 C.F.R. 982.201(a)(1).

<sup>118</sup> 24 C.F.R. 5.618(a)(1)(i).

<sup>119</sup> 24 C.F.R. 5.618(b)(1).

<sup>120</sup> 24 C.F.R. 5.618(a)(1)(ii).

<sup>121</sup> 24 C.F.R. 5.618(a)(2).

<sup>122</sup> 24 C.F.R. 5.618(b)(2).

<sup>123</sup> 24 C.F.R. 5.618(a)(1)(ii)(C).

6. At the time of admission, applicants must be income eligible as a Very Low Income Family, a Low Income Family that is continuously assisted, or as otherwise provided by HUD.<sup>124</sup>
  - a. Income received by all family members must be counted unless specifically excluded by HUD regulations.
7. At least one family member must be a citizen, national, or noncitizen with eligible immigration status.<sup>125</sup>
  - a. Applicants must submit evidence of citizenship status when they complete the intake application for the Housing Authority's Section 8 HCV program.
    - i. Citizens and nationals shall provide: (1) a signed declaration of citizenship or nationality; and (2) any verification requested by the Housing Authority (e.g. passport or other documentation specified in HUD guidance).<sup>126</sup>
    - ii. Noncitizens who will be sixty-two (62) years of age or older at the time of admission shall provide: (1) a signed declaration of eligible immigration status; and (2) an acceptable proof of age document.<sup>127</sup>
    - iii. Noncitizens who will not be sixty-two (62) years of age or older at the time of admission shall provide: (1) a signed declaration of eligible immigration status; (2) acceptable evidence of immigration status; and (3) a signed verification consent form.<sup>128</sup>
  - b. A signed declaration, under penalty of perjury, must be completed for each family member contending eligible citizen, national, or immigration status. For each child, the declaration must be signed by an adult household member who is responsible for the child.<sup>129</sup>
  - c. A signed consent form must be completed for each family member under sixty-two years of age contending eligible immigration status. For each child, the form must be signed by an adult household member who is responsible for the child.<sup>130</sup>
  - d. The Housing Authority shall perform primary verification of eligible immigration status using the Systematic Alien Verification for Entitlements ("SAVE")

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<sup>124</sup> 24 C.F.R. 982.201(b).

<sup>125</sup> 24 C.F.R. 5.506(b).

<sup>126</sup> 24 C.F.R. 5.508(b)(1).

<sup>127</sup> 24 C.F.R. 5.508(b)(2).

<sup>128</sup> 24 C.F.R. 5.508(b)(3).

<sup>129</sup> 24 C.F.R. 5.508(c).

<sup>130</sup> 24 C.F.R. 5.508(d).

system.<sup>131</sup> If SAVE does not confirm eligible immigration status, the Housing Authority shall request that U.S. Citizenship and Immigration Services (“USCIS”) perform a manual records search.<sup>132</sup>

- e. Families that include eligible and ineligible individuals are considered mixed families and may request prorated assistance based on the HUD formula.<sup>133</sup>
  - f. Families that fail to provide evidence of citizenship or eligible immigration status within the required timeframe, or cannot be verified as having eligible immigration status, shall be denied assistance.<sup>134</sup>
    - i. The notice of denial of assistance will explain the reasons for the denial, state whether the family is eligible for prorated assistance, state the criteria and procedures for obtaining relief for the preservation of the family, and state that the family may appeal to USCIS, and state that the family may request an informal hearing with the Housing Authority.<sup>135</sup>
    - ii. The notice must also inform the family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the hearing process.<sup>136</sup>
    - iii. The hearing with the Housing Authority may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process.<sup>137</sup>
8. The applicant and all members of the household must completely and accurately disclose their SSNs and provide acceptable SSN documentation (e.g. SSN card issued by the U.S. Social Security Administration) to the Housing Authority.<sup>138</sup>
- a. These requirements do not apply to noncitizens who do not contend eligible immigration status.<sup>139</sup>
  - b. If the applicant family requests to add a new household member who is under six (6) years old and does not have an assigned SSN, the family shall be required to

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<sup>131</sup> 24 C.F.R. 5.512(c)(1).

<sup>132</sup> 24 C.F.R. 5.512(d).

<sup>133</sup> 24 C.F.R. 5.520(a),(c)(2).

<sup>134</sup> 24 C.F.R. 5.514(c).

<sup>135</sup> 24 C.F.R. 5.514(d)(1)-(5).

<sup>136</sup> 24 C.F.R. 5.514(d)(6).

<sup>137</sup> 24 C.F.R. 5.514(d)(5).

<sup>138</sup> 24 C.F.R. 5.216(b),(g).

<sup>139</sup> 24 C.F.R. 5.216(a).

provide the complete and accurate SSN for the child within ninety (90) days of the child being added to the household.<sup>140</sup>

- c. Families that do not meet the SSN disclosure, documentation, and verification requirements shall be denied assistance.<sup>141</sup>
9. Each applicant and adult household member must sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.<sup>142</sup> Families that fail to complete the required consent forms shall be denied assistance.<sup>143</sup>
10. Applicants will not be screened by the Housing Authority for suitability for tenancy.<sup>144</sup>
- a. Prior to approval of a tenancy, the Housing Authority will inform the Owner that screening and selection for tenancy is the responsibility of the Owner.<sup>145</sup>
  - b. An Owner may consider a family's background with respect to such factors as: (i) payment of rent and utility bills; (ii) caring for a unit and premises; (iii) respecting the rights of other residents to the peaceful enjoyment of their housing; (iv) drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and (v) compliance with other essential conditions of tenancy.<sup>146</sup>
  - c. The Housing Authority will provide the Owner with: (1) the family's current and prior address (as shown in the Housing Authority's records); and (2) the name and address (if known to the Housing Authority) of the landlord at the family's current and prior address.<sup>147</sup> The Housing Authority may offer the Owner other information in the Housing Authority's possession, including information about the tenancy history of family members, or about drug-trafficking by family members.<sup>148</sup>
  - d. The Housing Authority will provide the family with a statement of the Housing Authority's policy on providing information to Owners. The policy must be included in the briefing packet and provide that the Housing Authority will give the same types of information to all families and to all Owners.<sup>149</sup>

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<sup>140</sup> 24 C.F.R. 5.216(e)(2).

<sup>141</sup> 24 C.F.R. 5.218(a).

<sup>142</sup> 24 C.F.R. 5.212(b); 24 C.F.R. 5.230.

<sup>143</sup> 24 C.F.R. 5.232(a).

<sup>144</sup> 24 C.F.R. 982.307; 24 C.F.R. 983.255(a).

<sup>145</sup> 24 C.F.R. 982.307(a)(2).

<sup>146</sup> 24 C.F.R. 982.307(a)(3); 24 C.F.R. 983.255(b)(2).

<sup>147</sup> 24 C.F.R. 982.307(b)(1); 24 C.F.R. 983.255(c)(1).

<sup>148</sup> 24 C.F.R. 982.307(b)(2); 24 C.F.R. 983.255(c)(2).

<sup>149</sup> 24 C.F.R. 982.307(b)(3); 24 C.F.R. 983.255(c)(3),(4).

11. Applicants and all adult household members will be subject to a criminal background check and a Dru Sjodin National Sex Offender database search.<sup>150</sup>

- a. The Housing Authority shall not consider: (1) arrests or charges that have not resulted in a criminal conviction; (2) expunged convictions; (3) convictions erased through executive pardon; (4) vacated and otherwise legally nullified convictions; (5) juvenile adjudications of delinquency; and (6) records that have been sealed.<sup>151</sup>
- b. After a conditional offer of assistance, the Housing Authority shall consider any convictions for: (1) murder, aggravated sexual assault, kidnapping, arson, human trafficking, sexual assault in violation of N.J.S.A. 2C:14-2 (or equivalent statute in another state), causing or permitting a child to engage in a prohibited sexual act or in the simulation of such an act in violation of N.J.S.A. 2C:24-4 (or equivalent statute in another state), or any crime that resulted in lifetime registration in a state sex offender registry; (2) an indictable offense of the first degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the six years immediately preceding the issuance of the conditional offer; (3) an indictable offense of the second or third degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the four years immediately preceding the issuance of the conditional offer; or (4) an indictable offense of the fourth degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within one year immediately preceding the issuance of the conditional offer.<sup>152</sup>
- c. The Housing Authority may withdraw a conditional offer based on an applicant's criminal record if it determines, by preponderance of the evidence, that the withdrawal is necessary to fulfill a substantial, legitimate, and nondiscriminatory interest.<sup>153</sup>
- d. The Housing Authority shall perform an individualized assessment based on the following factors: (1) the nature and severity of the criminal offense; (2) the age of the applicant at the time of the occurrence of the criminal offense; (3) the time which has elapsed since the occurrence of the criminal offense; (4) any information produced by the applicant, or produced on the applicant's behalf, in regard to the applicant's rehabilitation and good conduct since the occurrence of the criminal offense; (5) the degree to which the criminal offense, if it reoccurred, would negatively impact the safety of the Housing Authority's other tenants or property; and (6) whether the criminal offense occurred on or was connected to property that was rented or leased by the applicant.<sup>154</sup>

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<sup>150</sup> See 42 U.S.C. 1437d(q); 24 C.F.R. 5.901 et seq.; HUD Notice PIH-2012-28.

<sup>151</sup> N.J.S.A. 46:8-56(a).

<sup>152</sup> N.J.S.A. 46:8-56(b).

<sup>153</sup> N.J.S.A. 46:8-56(c)(1).

<sup>154</sup> N.J.S.A. 46:8-56(c)(3).

- e. If the Housing Authority withdraws a conditional offer, it shall provide the applicant with a written notification specifying the reason(s) for the withdrawal of the conditional offer and an opportunity to appeal the denial by providing evidence demonstrating inaccuracies within the criminal record or evidence of rehabilitation or other mitigating factors.<sup>155</sup> In addition, the Housing Authority shall provide a copy of the criminal record(s) it has relied upon.<sup>156</sup>
12. An applicant family that does not meet the eligibility criteria described herein will be denied admission.

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<sup>155</sup> N.J.S.A. 46:8-56(c)(2).

<sup>156</sup> 24 C.F.R. 5.903(f); 24 C.F.R. 5.905(d).

## V. APPLICATION PROCESS

### 1. How to Apply

Any family that wishes to receive an HCV must apply for admission to the program while there is an open waiting list.<sup>157</sup> Pre-applications must be obtained from the Housing Authority's website and completed online. Pre-applications must be filled out completely in order to be accepted by the Housing Authority for processing.

Once a pre-application is submitted, the family will be instructed to register their pre-application with the Housing Authority's Application Portal. The family must create an account as this will enable them to update their information for the remaining time their application is active. Additionally, all update requests will be sent by email directing the family to the portal to update their status.

The Housing Authority will provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible.

### 2. Opening/Closing the Waiting List

The Housing Authority will announce the opening of the waiting list at least ten (10) business days prior to the date pre-applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how pre-applications are to be received. The Housing Authority will give public notice through publication in a newspaper of general circulation, in minority media, and other suitable means.<sup>158</sup>

The Housing Authority will close the waiting list when it reaches 300 applicants within the date specified in the public notice. Where the Housing Authority has particular preferences or other criteria that require a specific category of family, the Housing Authority may elect to continue to accept applications from these applicants while closing the waiting list to others.<sup>159</sup> The Housing Authority will give public notice through publication in a newspaper of general circulation, in minority media, and other suitable means.

### 3. Ineligibility

The Housing Authority will promptly notify in writing any applicant determined to be ineligible for admission of the basis for such determination and of the right to request an informal review of such determination.<sup>160</sup> The Housing Authority shall conduct an informal review within a reasonable time after a request is made.

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<sup>157</sup> There is an exception for special admissions pursuant to 24 C.F.R. 982.203.

<sup>158</sup> 24 C.F.R. 982.206(a)(2).

<sup>159</sup> 24 C.F.R. 982.206(b)(1).

<sup>160</sup> 24 C.F.R. 982.554(a).

#### 4. **Waiting List Placement**

Applicants will be placed on the waiting list according to the preference(s) selected on the pre-application and lottery placement.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the Housing Authority will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

#### 5. **Waiting List Organization**

The Housing Authority will maintain one waiting list for its Section 8 HCV program.<sup>161</sup> The Housing Authority will not merge the Section 8 HCV program waiting list with the waiting list for any other program the Housing Authority operates.<sup>162</sup>

The waiting list will contain the following information<sup>163</sup> for each applicant listed:

- Name and SSN of head of household
- Date and time of application or application number
- Admission preference, if any
- Amount and source of annual income
- Racial or ethnic designation of the head of household

If HUD awards the Housing Authority funding for a specified category of families on the waiting list, the Housing Authority must select applicant families in the specified category.<sup>164</sup>

#### 6. **Reporting Requirements**

While a family is on the waiting list, it must inform the Housing Authority, within ten (10) business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing. Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

#### 7. **Updating and Purging the Waiting List**

The waiting list will be updated as needed to ensure that all applicant information is current and timely.

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<sup>161</sup> 24 C.F.R. 982.204(f).

<sup>162</sup> See 24 C.F.R. 982.205(a).

<sup>163</sup> 24 C.F.R. 982.204(b).

<sup>164</sup> 24 C.F.R. 982.204(e).

The Housing Authority may periodically send update requests (via email or first-class mail) to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last mailing address or email address that the Housing Authority has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be recorded in the Application Portal not later than ten (10) business days following the issuance of the update request. If the family fails to respond within this timeframe, the family may be removed from the waiting list without further notice.<sup>165</sup>

All correspondence and communication will take place through the Application Portal.

When a family is removed from the waiting list during the update process for failure to respond, no informal review will be offered. Such failures to act prevent the Housing Authority from making an eligibility determination; therefore no informal review is required. A family that has been removed from the waiting list for failure to respond may be reinstated if the Housing Authority determines that the failure to response was due to Housing Authority error or circumstances beyond the family's control.

## **8. Family Break-Up**

The Housing Authority has discretion to determine which members of an applicant family will retain the original application date if the family breaks up.

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the Housing Authority shall ensure that the victim retains the original application date.<sup>166</sup>

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the Housing Authority shall be bound by the court's determination of which family members retain the original application date.<sup>167</sup>

In all other situations, the Housing Authority shall consider: (1) the interest of minor children or of ill, elderly, or disabled family members; (2) whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, and whether the abuser is still in the household; (3) other appropriate factors.<sup>168</sup>

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<sup>165</sup> See 24 C.F.R. 982.204(c)(1).

<sup>166</sup> See 24 C.F.R. 982.315(a)(2).

<sup>167</sup> See 24 C.F.R. 982.315(c).

<sup>168</sup> See 24 C.F.R. 982.315(b).

**9. Removal from the Waiting List**

The Housing Authority will remove an applicant from the waiting list upon request by the applicant family. In such cases, no informal review is required.

If the Housing Authority determines that a family on the waiting list is not eligible for admission, it will remove the family from the waiting list. In addition, the Housing Authority will promptly notify in writing the family of the basis for such determination and of the right to request an informal review on such determination.<sup>169</sup> The Housing Authority shall conduct an informal review within a reasonable time after a request is made.

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<sup>169</sup> 24 C.F.R. 982.554(a).

## **VI. SELECTION PROCESS**

### **1. General**

The Housing Authority will select tenants from its waiting list in accordance with the policies described below. The Housing Authority will ensure that this Administrative Plan is available for public review.<sup>170</sup>

### **2. Preferences**

- a. The Housing Authority has established the following local preferences:
  - i. Veteran Preference: available for families that include a qualifying veteran.
  - ii. Middletown Preference: available for families who live and/or work in the Township of Middletown. Use of this preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.<sup>171</sup>
  - iii. Monmouth Preference: available for families who live and/or work in the County of Monmouth. Use of this preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.<sup>172</sup>
- b. The Housing Authority shall inform all applicants about available preferences and shall give applicants an opportunity to demonstrate that they qualify for available preferences. The Housing Authority may limit the number of applicants that qualify for a given preference.<sup>173</sup>
- c. The Housing Authority's adoption and implementation of preferences are subject to HUD requirements concerning income-targeting. Preferences will not have the purpose or effect of delaying or otherwise denying admission to the program based on any legally protected characteristic.

### **3. Income Targeting**

- b. At least 75% of the families admitted from the waiting list to the Section 8 HCV program during the fiscal year must be Extremely Low-Income Families.<sup>174</sup>

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<sup>170</sup> 24 C.F.R. 982.54.

<sup>171</sup> 24 C.F.R. 982.202(b)(1).

<sup>172</sup> 24 C.F.R. 982.202(b)(1).

<sup>173</sup> 24 C.F.R. 982.207(a)(3).

<sup>174</sup> 24 C.F.R. 982.201(b)(2)(i); 24 C.F.R. 983.251(c)(8).

- c. The Housing Authority will monitor progress in meeting the income-targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

#### 4. **Order of Selection**

- a. Families will be selected from the waiting list based on preference. Among applicants with the same preference status, families will be selected based on a lottery drawing or other random choice technique, as specified in the notice opening the waiting list.<sup>175</sup>
- b. The order of admission from the waiting list may not be based on family size, or on the family unit size for which the family qualifies under this Administrative Plan.<sup>176</sup> If the Housing Authority does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, the Housing Authority may not skip the top family to admit an applicant with a smaller family unit size.<sup>177</sup> Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.<sup>178</sup>
- c. Factors such as income targeting will also be considered in accordance with HUD requirements.

#### 5. **Notification of Selection**

- a. The Housing Authority will notify the family by email when it is selected from the waiting list.
- b. The notice will inform the family of the documentation that needs to be submitted to the Application Portal, such as: documentation of the legal identity of household members, documentation establishing eligibility for a preference, and income documentation for the family to determine eligibility (*see Chapter VII, Verification Process*). The family must also complete the required forms, provide required signatures, and submit required documentation. If any materials are missing, the Housing Authority will provide the family with a written list of items that must be submitted.
- c. If a selection notice is returned to the Housing Authority as undeliverable the family will be notified at the primary phone number on file. If the family is still not able to be contacted, the family may be removed from the waiting list without further

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<sup>175</sup> 24 C.F.R. 982.207(c).

<sup>176</sup> 24 C.F.R. 982.204(d)(1).

<sup>177</sup> 24 C.F.R. 982.204(d)(2).

<sup>178</sup> 24 C.F.R. 982.204(d)(2).

notice. Such failure to act on the part of the applicant prevents the Housing Authority from making an eligibility determination; therefore, no informal review is required. A family that has been removed from the waiting list for failure to respond may be reinstated if the Housing Authority determines that the failure to response was due to Housing Authority error or circumstances beyond the family's control.

## 6. Application Interview

- a. Once all documentation is submitted to the Application Portal and eligibility is determined, families selected from the waiting list are required to participate in an interview via telephone.
- b. The head of household and the spouse will be strongly encouraged to attend the interview together. However, either the head of household or the spouse may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the Housing Authority.
- c. The family must provide the information necessary to establish the family's eligibility and to determine the appropriate amount of rent the family will pay.
- d. Any required documents or information that the family is unable to provide before the interview must be provided within ten (10) business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.
- e. An advocate, interpreter, or other assistant may assist the family with the application and the interview process.
- f. Interviews will be conducted in English. For Limited English Proficient (LEP) applicants, the Housing Authority will provide interpretative services in accordance with its Language Access Plan.
- g. If the family is unable to attend a scheduled interview, the family should contact the Housing Authority in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the Housing Authority will send another email notification with a new interview appointment time. Applicants who fail to attend two scheduled interviews without Housing Authority approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested, and their application will be made inactive. Such failure to act on the part of the applicant prevents the Housing Authority from making an eligibility determination; therefore, the Housing Authority will not offer an informal review.

7. **Final Eligibility Determination**

- a. The Housing Authority will verify all information provided by the family. Based on verified information related to the eligibility requirements, the Housing Authority will make a final determination of eligibility.
- b. Families will be promptly notified in writing of the final eligibility determination.
  - i. If the Housing Authority determines that the family is eligible, the family will be invited to view a briefing video link sent via email. Upon completion of viewing, the Housing Authority will be notified.
  - ii. If the Housing Authority determines that the family is ineligible, the notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review.<sup>179</sup>

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<sup>179</sup> 24 C.F.R. 982.554(a).

## **VII. VERIFICATION PROCESS**

### **1. General**

- a. The Housing Authority shall perform verifications (using the EIV system and other methods) in accordance with HUD Notice PIH-2023-27, particularly Attachment J.
- b. The Housing Authority may request any documentation needed to determine eligibility or to calculate rent.
- c. Any documents used for verification must be uploaded to the Application Portal and generally must be dated within sixty (60) days of the date they are provided to the Housing Authority.<sup>180</sup> The documents must not be damaged, altered, or in any way illegible. Printouts from web pages may be considered original documents.
- d. Any family self-certifications must be made in a format acceptable to the Housing Authority.

### **2. File Documentation**

- a. The Housing Authority will document in the family file how the figures used in income and rent calculations were determined.
- b. The Housing Authority will document the reported family annual income, value of assets, expenses related to deductions from annual income, and other factors influencing the adjusted income or income-based rent determination.
- c. When the Housing Authority is unable to obtain third-party verification, it will document in the file the reason that third-party verification was not available.

### **3. Family Information**

- a. The Housing Authority will require families to furnish verification of legal identity for each household member. Acceptable verification shall include, but not be limited to, the following: birth certificate, naturalization certificate, citizenship certificate, current U.S. passport, current driver's license, adoption papers, and military discharge papers.
  - i. If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.
  - ii. If none of these documents can be provided and at the Housing Authority's discretion, a third party who knows the person may attest to the person's identity. The attestation must be provided in writing, in a format acceptable

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<sup>180</sup> 24 C.F.R. 982.201(e).

to the Housing Authority and signed in the presence of a Housing Authority representative.

- iii. Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the Housing Authority has reason to doubt the identity of a person representing him or herself to be a tenant or a member of a tenant family.
- b. The family must provide documentation of a valid SSN for each member of the household, with the exception of those who do not contend eligible immigration status or those whose were who were at least sixty-two (62) years of age as of January 31, 2010 and whose initial determination of eligibility was conducted before that date.<sup>181</sup>
- i. Acceptable documentation is an original SSN card issued by the Social Security Administration (“SSA”), an original document issued by a Federal or State agency containing the name and SSN of the individual, or such other evidence of the SSN deemed acceptable by HUD.<sup>182</sup>
  - ii. If the Housing Authority determines that documentation is not acceptable, it will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN within ninety (90) days.
  - iii. If a family requests to add a new household member who is under six (6) years old and does not have an assigned SSN, an otherwise eligible family will be admitted and the family shall be required to provide the complete and accurate SSN and acceptable documentation of the SSN for the child within ninety (90) days of the child being added to the household.<sup>183</sup>
    1. A ninety (90) day extension will be granted if the Housing Authority determines that the failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the family (e.g. delayed processing by the SSA, natural disaster, fire, or death in the family).<sup>184</sup>
  - iv. When a voucher participant requests to add a new household member who is at least six (6) years of age, or who is under the age of six (6) and has an assigned SSN, the family must provide the complete and accurate SSN and acceptable documentation of the SSN for the new member at the time of the request or at the time of processing the interim reexamination or

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<sup>181</sup> 24 C.F.R. 5.216(e)(1).

<sup>182</sup> 24 C.F.R. 5.216(g).

<sup>183</sup> 24 C.F.R. 5.216(e)(2).

<sup>184</sup> See 24 C.F.R. 5.216(e)(2).

recertification of family composition that includes the new member.<sup>185</sup> The Housing Authority may not add the new household member until such documentation is provided.

- c. A birth certificate or other official record of birth is the preferred form of age verification for all family members.
  - i. For elderly family members, an original document that provides evidence of the receipt of social security retirement benefits is acceptable.
  - ii. If an official record of birth or evidence of social security retirement benefits cannot be provided, the Housing Authority will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.
- d. Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Typically, a certification by the head of household constitutes sufficient verification. If the Housing Authority has reasonable doubts about a family relationship, it may request documentation.
  - i. If an adult who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a notarized lease from their current landlord or utility bill).
  - ii. For foster children and foster adults, third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.
- e. The Housing Authority requires families to provide information about the student status of all students who are eighteen (18) years of age or older. This information will be verified only if the family claims full-time student status for an adult other than the head or spouse, or the family claims a childcare deduction to enable a family member to further his or her education.
- f. The Housing Authority will verify the existence of a disability in order to allow certain income disallowances and deductions from income. The Housing Authority will not inquire about the nature or extent of a person's disability.
- g. Family members who declare U.S. citizenship or national status will not be required to provide additional documentation unless the Housing Authority receives information indicating that an individual's declaration may not be accurate.<sup>186</sup>

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<sup>185</sup> 24 C.F.R. 5.216(e)(2).

<sup>186</sup> See 24 C.F.R. 5.508(b)(1).

- h. The Housing Authority must verify any preferences claimed by an applicant that determine his or her placement on the waiting list.

#### 4. Income and Assets

- a. Housing Authority staff shall only review EIV reports for families that have submitted the required consent forms. The EIV reports to be reviewed, and the frequency of such reviews, are specified in HUD Notice PIH-2023-27, Attachment J. EIV reports shall be maintained in the tenant file in accordance with the Housing Authority's Record Retention and Disposition Policy.
- b. The Housing Authority shall also require third-party verification of: (1) reported annual income; (2) the value of all assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or rent. If the value of net family assets does not exceed \$50,000.00 (subject to annual adjustment by HUD), the Housing Authority may accept a certification as to the value of the assets and any income expected to be received from the assets.<sup>187</sup> In all other cases, if third-party verification is not available, the Housing Authority shall document in the file why it was not available and utilize alternate verification techniques.<sup>188</sup>
  - i. The hierarchy of verification techniques is as follows: (1) Upfront Income Verification ("UIV") using EIV; (2) UIV using a non-HUD system; (3) written third-party verification; (4) written third-party verification form; (5) oral third-party verification; and (6) tenant certification.<sup>189</sup>
- c. For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.<sup>190</sup> Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.
- d. Business owners and self-employed persons will be required to provide:
  - i. An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

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<sup>187</sup> 24 C.F.R. 5.618(b).

<sup>188</sup> HUD Notice PIH-2023-27, Attachment J.

<sup>189</sup> HUD Notice PIH-2023-27, Attachment J.

<sup>190</sup> HUD Notice PIH-2023-27, Attachment J.

- ii. All schedules completed for filing federal and local taxes in the preceding year.
- iii. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The Housing Authority will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination, the Housing Authority may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the Housing Authority will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the Housing Authority will require the family to provide documentation of income and expenses for this period and use that information to project income.

- e. The Housing Authority will request a current SSA benefit verification letter if there is a discrepancy between the amount claimed by the tenant and the amount reported by EIV.
- f. The methods the Housing Authority will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.
  - i. If the family declares that it receives regular payments, verification will be obtained in the following order of priority: copies of the receipts and/or payment stubs for the 60 days prior to Housing Authority request; third-party verification form from the state or local child support enforcement agency; third-party verification form from the person paying the support; family's self-certification of amount received.
  - ii. If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the Housing Authority may require verification that the family has taken all reasonable efforts to collect the amounts due. This may include a statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts and, if the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

- g. The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.
  - i. The Housing Authority will verify the value of assets disposed of only if the Housing Authority does not already have a reasonable estimation of its value from previously collected information, or the amount reported by the family in the certification appears obviously in error.
- h. For net income from rental properties, the family must provide a current executed lease for the property that shows the rental amount or certification from the current tenant and a self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).
  - i. If schedule E was not prepared, the Housing Authority will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- i. The Housing Authority will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.
- j. The Housing Authority will accept the family's self-certification as verification of fully excluded income. The Housing Authority may request additional documentation if necessary to document the income source.
- k. The Housing Authority will check up-front income verification ("UIV") sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, etc. are not being received by families claiming to have zero annual income.

## 5. **Mandatory Deductions**

- a. Medical Expenses will be verified through:
  - i. Written third-party documents provided by the family, such as pharmacy printouts or receipts.
  - ii. Written third-party verification forms, if the family is unable to provide acceptable documentation.
  - iii. If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming twelve (12) months.

The Housing Authority will make an effort to determine what expenses from the past are likely to continue to occur in the future. The Housing Authority will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve (12) months.

In addition, the Housing Authority will verify that: the household is eligible for the deduction; the costs to be deducted are qualified medical expenses; the expenses are not paid for or reimbursed by any other source; and costs incurred in past years are counted only once.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

b. Disability Assistance Expenses

i. Expenses for attendant care will be verified through:

1. Written third-party documents provided by the family, such as receipts or cancelled checks.
2. Third-party verification form signed by the provider, if family-provided documents are not available.
3. If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming twelve (12) months.

ii. Expenses for auxiliary apparatus will be verified through:

1. Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
2. Third-party verification form signed by the provider, if family-provided documents are not available.
3. If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming twelve (12) months.

In addition, the Housing Authority will verify that: the family member for whom the expense is incurred is a person with a disability; the expense permits a family member, or members, to work; and the expense is not reimbursed from another source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

c. Childcare Expenses

- i. The Housing Authority will verify that the child is eligible for care (12 or younger); the costs claimed are not reimbursed; the costs enable a family member to work, actively seek work, or further their education; the costs are for an allowable type of childcare; and the costs are reasonable.
- ii. The family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

## VIII. DENIAL OF ASSISTANCE

### 1. General

- a. The Housing Authority may deny assistance to an applicant family because of the family's action or failure to act.<sup>191</sup>
- b. Denial of assistance may include any or all of the following: denying listing on the Housing Authority waiting list, denying or withdrawing a voucher, refusing to enter into a HAP Contract or approve a lease, and refusing to process or provide assistance under portability procedures.<sup>192</sup>

### 2. Grounds for Denial

- a. The Housing Authority shall deny assistance under the following circumstances:
  - i. The family does not meet the Housing Authority's eligibility criteria.<sup>193</sup>
  - ii. Any household member has been evicted from federally assisted housing for drug-related criminal activity in the past three (3) years.<sup>194</sup>
    1. The Housing Authority may admit the family if the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the Housing Authority or the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).<sup>195</sup>
  - iii. Any household member is currently engaging in illegal use of a drug.<sup>196</sup>
  - iv. Any household member's illegal drug use or pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.<sup>197</sup>

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<sup>191</sup> 24 C.F.R. 982.552(a)(1).

<sup>192</sup> 24 C.F.R. 982.552(a)(2).

<sup>193</sup> 24 C.F.R. 982.201(f).

<sup>194</sup> 24 C.F.R. 982.553(a)(1)(i).

<sup>195</sup> 24 C.F.R. 982.553(a)(1)(i).

<sup>196</sup> 24 C.F.R. 982.553(a)(1)(ii)(A).

<sup>197</sup> 24 C.F.R. 982.553(a)(1)(ii)(B).

- v. Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.<sup>198</sup>
  - vi. Any household member is subject to a lifetime registration requirement under a state sex offender registration program.<sup>199</sup>
  - vii. Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.<sup>200</sup>
  - viii. Any family member fails to sign and submit consent forms for obtaining information.<sup>201</sup>
  - ix. A family member fails to establish citizenship or eligible immigration status.<sup>202</sup>
  - x. Any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education.<sup>203</sup>
  - xi. The family has failed to comply with restrictions on net assets and/or property ownership.<sup>204</sup>
- b. The Housing Authority may deny assistance under the following circumstances:
- i. Any household member has engaged in drug-related criminal activity.<sup>205</sup>
  - ii. Any household member has engaged in violent criminal activity.<sup>206</sup>
  - iii. Any household member has engaged in other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.<sup>207</sup>

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<sup>198</sup> 24 C.F.R. 982.553(a)(1)(ii)(C).

<sup>199</sup> 24 C.F.R. 982.553(a)(2)(i).

<sup>200</sup> 24 C.F.R. 982.553(a)(3).

<sup>201</sup> 24 C.F.R. 982.552(b)(3).

<sup>202</sup> 24 C.F.R. 982.552(b)(4).

<sup>203</sup> 24 C.F.R. 982.552(b)(5).

<sup>204</sup> 24 C.F.R. 982.552(b)(6).

<sup>205</sup> 24 C.F.R. 982.553(a)(2)(ii)(A)(1).

<sup>206</sup> 24 C.F.R. 982.553(a)(2)(ii)(A)(2).

<sup>207</sup> 24 C.F.R. 982.553(a)(2)(ii)(A)(3).

- iv. Any household member has engaged in other criminal activity which may threaten the health or safety of the Owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the Housing Authority.<sup>208</sup>
- v. The family violates any family obligations under the program.<sup>209</sup>
- vi. Any family member has been evicted from federally assisted housing in the last five years.<sup>210</sup>
- vii. Any family member has ever had their assistance terminated under a Section 8 HCV program.<sup>211</sup>
- viii. Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.<sup>212</sup>
- ix. The family currently owes rent or other amounts to the Housing Authority or to another PHA in connection with Section 8 or public housing assistance.<sup>213</sup>
- x. The family has not reimbursed any PHA for amounts paid to an Owner under a HAP Contract for rent, damages to the unit, or other amounts owed by the family under the lease.<sup>214</sup>
- xi. The family breaches an agreement with the Housing Authority to pay amounts owed to a PHA, or amounts paid to an owner by a PHA.<sup>215</sup>
  - 1. The Housing Authority, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an Owner by a PHA. The Housing Authority shall prescribe the terms of the agreement.<sup>216</sup>
- xii. The family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel.<sup>217</sup>

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<sup>208</sup> 24 C.F.R. 982.553(a)(2)(ii)(A)(4).

<sup>209</sup> 24 C.F.R. 982.552(c)(1)(i).

<sup>210</sup> 24 C.F.R. 982.552(c)(1)(ii).

<sup>211</sup> 24 C.F.R. 982.552(c)(1)(iii).

<sup>212</sup> 24 C.F.R. 982.552(c)(1)(iv).

<sup>213</sup> 24 C.F.R. 982.552(c)(1)(v).

<sup>214</sup> 24 C.F.R. 982.552(c)(1)(vi).

<sup>215</sup> 24 C.F.R. 982.552(c)(1)(vii).

<sup>216</sup> 24 C.F.R. 982.552(c)(1)(vii).

<sup>217</sup> 24 C.F.R. 982.552(c)(1)(viii).

1. Abusive or violent behavior towards Housing Authority personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  
- xiii. Any household member has ever been convicted of: (1) murder, aggravated sexual assault, kidnapping, arson, human trafficking, sexual assault in violation of N.J.S.A. 2C:14-2 (or equivalent statute in another state), causing or permitting a child to engage in a prohibited sexual act or in the simulation of such an act in violation of N.J.S.A. 2C:24-4 (or equivalent statute in another state), or any crime that resulted in lifetime registration in a state sex offender registry; (2) an indictable offense of the first degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the six years immediately preceding the issuance of a conditional offer; (3) an indictable offense of the second or third degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the four years immediately preceding the issuance of a conditional offer; or (4) an indictable offense of the fourth degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within one year immediately preceding the issuance of a conditional offer.<sup>218</sup>

### 3. Denial Decisions

- a. The Housing Authority will use the preponderance of the evidence as the standard for making all denial decisions.
  - i. Preponderance of the 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.
  - ii. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
  
- b. If the grounds for denial are discretionary, the Housing Authority may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial of assistance on other family members who were not involved in the action or failure.<sup>219</sup>
  
- c. The Housing Authority may impose, as a condition of receiving assistance, a requirement that family members who participated in or were culpable for the

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<sup>218</sup> N.J.S.A. 46:8-56(b).

<sup>219</sup> 24 C.F.R. 982.552(c)(2)(i).

action or failure will not reside in the unit.<sup>220</sup> The head of household must certify that the family member will not be permitted to visit the assisted unit and present evidence of the former family member's current address upon request.

- d. In determining whether to deny assistance for criminal activity as shown by a criminal record, the Housing Authority shall perform an individualized assessment based on the following factors:
  - i. the nature and severity of the criminal offense;
  - ii. the age of the offender at the time of the occurrence of the criminal offense;
  - iii. the time which has elapsed since the occurrence of the criminal offense;
  - iv. any information produced by the offender, or produced on the offender's behalf, in regard to the offender's rehabilitation and good conduct since the occurrence of the criminal offense;
  - v. the degree to which the criminal offense, if it reoccurred, would negatively impact the safety of the other tenants or property; and
  - vi. whether the criminal offense occurred on or was connected to property that was rented or leased by the offender.<sup>221</sup>
- e. In determining whether to deny assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the Housing Authority may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.<sup>222</sup>
  - i. The Housing Authority may require the family to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.<sup>223</sup>
- f. If the family includes a person with disabilities, the Housing Authority decision concerning such action is subject to consideration of reasonable accommodation.<sup>224</sup>

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<sup>220</sup> See 24 C.F.R. 982.552(c)(2)(ii).

<sup>221</sup> N.J.S.A. 46:8-56(c)(3).

<sup>222</sup> 24 C.F.R. 982.552(c)(2)(iii).

<sup>223</sup> 24 C.F.R. 982.552(c)(2)(iii).

<sup>224</sup> 24 C.F.R. 982.552(c)(2)(iv).

- g. The Housing Authority shall ensure that its denial decisions are consistent with fair housing and equal opportunity requirements.<sup>225</sup>
  - h. The Housing Authority shall ensure that its denial decisions are consistent with protections for victims of domestic violence, dating violence, sexual assault, and stalking.<sup>226</sup>
4. **Notice Requirements**
- a. The Housing Authority shall give prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the decision. The notice must also state that the applicant may request an informal review of the decision and must describe how to obtain the informal review.<sup>227</sup>
  - b. If the Housing Authority proposes to deny assistance for criminal activity as shown by a criminal record, the Housing Authority shall notify the family and provide the family with a copy of the criminal record. The Housing Authority shall give the family an opportunity to dispute the accuracy and relevance of that record and/or provide evidence of rehabilitation or other mitigating factors.<sup>228</sup>
    - i. The notice will specify that the family has ten (10) business days to dispute the accuracy of the record. If the applicant does not contact the Housing Authority to dispute the information within that timeframe, the Housing Authority will proceed with issuing the notice of denial of assistance.
    - ii. If the family does not exercise their right to dispute the accuracy of the information prior to issuance of the notice of denial of assistance, they will be given the opportunity to do so as part of the informal review process.

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<sup>225</sup> 24 C.F.R. 982.552(c)(2)(v).

<sup>226</sup> 24 C.F.R. 982.552(c)(2)(v).

<sup>227</sup> 24 C.F.R. 982.554(a).

<sup>228</sup> 24 C.F.R. 982.553(d)(2); 24 C.F.R. 5.903(f); N.J.S.A. 46:8-56(c)(2).

## **IX. INCOME AND SUBSIDY DETERMINATIONS**

### **1. Annual Income**

- a. Income received by all family members must be counted unless specifically excluded by HUD regulations.<sup>229</sup>
- b. The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.
  - i. Generally, an individual who is or is expected to be absent from the assisted unit for one hundred eighty (180) consecutive days or less is considered temporarily absent and continues to be considered a family member.
  - ii. Generally, an individual who is or is expected to be absent from the assisted unit for more than one hundred eighty (180) consecutive days is considered permanently absent and no longer a family member.
- c. The Housing Authority is required to count all income anticipated to be received from a source outside of the family during the twelve (12) month period following admission or annual reexamination effective date.
  - i. The Housing Authority generally will use current circumstances to determine anticipated income for the coming twelve (12) month period.
  - ii. The Housing Authority will use other than current circumstances to anticipate income when an imminent change in circumstances is expected; it is not feasible to anticipate a level of income over a twelve (12) month period (e.g., seasonal or cyclic income); or the Housing Authority believes that past income is the best available indicator of expected future income.

### **2. Housing Assistance Payments**

- a. The Housing Authority's payment standards are used to calculate the monthly HAP for a family.<sup>230</sup> The payment standard is the maximum monthly subsidy payment.<sup>231</sup>
  - i. The Housing Authority may establish a payment standard within the basic range (90% – 110% of the applicable FMR) without HUD approval or prior notification to HUD.<sup>232</sup>

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<sup>229</sup> See 24 C.F.R. 5.609(b).

<sup>230</sup> 24 C.F.R. 982.503(a)(2).

<sup>231</sup> 24 C.F.R. 982.505(a).

<sup>232</sup> 24 C.F.R. 982.503(c).

- ii. The payment standard for the family is the lower of: (1) the payment standard amount for the family unit size; or (2) the payment standard amount for the size of the dwelling unit rented by the family.<sup>233</sup>
  - iii. If the payment standard is decreased during the term of a HAP Contract, the Housing Authority is not required to recalculate the subsidy for the family.<sup>234</sup> The Housing Authority must provide at least twelve (12) months' notice that the payment standard is being reduced during the term of the HAP Contract before the effective date of the change.<sup>235</sup>
  - iv. If the payment standard is increased during the term of a HAP Contract, the Housing Authority shall recalculate the subsidy for the family beginning no later than the earliest of: (1) the effective date of an increase in the gross rent that would result in an increase in the family share; (2) the family's first regular or interim reexamination; or (3) one year following the effective date of the increase in the payment standard amount.<sup>236</sup>
  - v. Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the term of a HAP Contract, the new family unit size must be used to determine the payment standard for the family no later than the family's first regular reexamination following the change in family unit size.<sup>237</sup>
  - vi. The Housing Authority may establish an exception payment standard for a family as a reasonable accommodation of a disability.<sup>238</sup> The exception payment standard shall not exceed 120% of the applicable FMR unless HUD approval is obtained.<sup>239</sup>
- b. The Housing Authority shall pay a monthly HAP on behalf of the family that is equal to the lower of: (1) the payment standard for the family minus the total tenant payment; or (2) the gross rent minus the total tenant payment.<sup>240</sup>
- i. If the HAP exceeds the rent to owner, the Housing Authority may pay the balance of the HAP as a utility reimbursement either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the

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<sup>233</sup> 24 C.F.R. 982.505(c)(1).

<sup>234</sup> 24 C.F.R. 982.505(c)(3).

<sup>235</sup> 24 C.F.R. 982.505(c)(3)(iii).

<sup>236</sup> 24 C.F.R. 982.505(c)(4).

<sup>237</sup> 24 C.F.R. 982.505(c)(5).

<sup>238</sup> 24 C.F.R. 982.505(d).

<sup>239</sup> 24 C.F.R. 982.503(d)(5).

<sup>240</sup> 24 C.F.R. 982.505(b).

Housing Authority elects to pay the utility supplier directly, it shall notify the family of the amount paid to the utility supplier.<sup>241</sup>

- c. HAPs are paid to the Owner in accordance with the terms of the HAP Contract. HAPs may only be paid to the Owner during the lease term, and while the family is residing in the unit.<sup>242</sup>
- d. HAPs terminate when the lease is terminated by the Owner in accordance with the lease. However, if the Owner has commenced the eviction process, and the family continues to reside in the unit, the Housing Authority shall continue to make HAPs to the Owner in accordance with the HAP Contract until the Owner has obtained a court judgment or other process allowing the Owner to evict the tenant. The Housing Authority may continue such payments until the family moves from or is evicted from the unit.<sup>243</sup>
- e. HAPs terminate if the lease terminates, the HAP Contract terminates, or the Housing Authority terminates assistance for the family.<sup>244</sup>
- f. If the family moves out of the unit, the Housing Authority shall not make any HAPs to the Owner for any month after the month when the family moves out. The Owner may keep the HAP for the month when the family moves out of the unit.<sup>245</sup>
- g. If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. One month of overlap shall not constitute a duplicative housing subsidy.<sup>246</sup>

### 3. **Rent**

- a. Rent is typically negotiated by the owner and the family. However, the Housing Authority shall help the family negotiate the rent upon request.<sup>247</sup>
- b. At all times during the assisted tenancy, the rent may not exceed the reasonable rent as most recently determined by the Housing Authority.<sup>248</sup>

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<sup>241</sup> 24 C.F.R. 982.514(b).

<sup>242</sup> 24 C.F.R. 982.311(a).

<sup>243</sup> 24 C.F.R. 982.311(b).

<sup>244</sup> 24 C.F.R. 982.311(c).

<sup>245</sup> 24 C.F.R. 982.311(d)(1).

<sup>246</sup> 24 C.F.R. 982.311(d)(2).

<sup>247</sup> 24 C.F.R. 982.506.

<sup>248</sup> 24 C.F.R. 982.507(a)(4).

- c. The cost of meals or supportive services may not be included in the rent to owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent.<sup>249</sup>
  - d. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.<sup>250</sup>
4. **Rent Reasonableness**
- a. In general, the Housing Authority may not approve a lease until it determines that the initial rent to owner is a reasonable rent.<sup>251</sup>
  - b. The Housing Authority must redetermine the reasonable rent: (1) before any increase in the rent to owner; (2) if there is a 10% decrease in the published FMR in effect 60 days before the contract anniversary, as compared with the FMR in effect 1 year before the contract anniversary; and (3) when directed by HUD.<sup>252</sup>
    - i. The Owner cannot change the amount of rent without Housing Authority approval.
    - ii. Requests for rent adjustments must be consistent with the lease between the Owner and the family.
    - iii. Requests for rent adjustments will not be approved while there are outstanding (i.e. unabated) HQS violations in the dwelling unit.
    - iv. If a rent adjustment is approved, it will take effect sixty (60) days from the approval or on the date specified by the owner, whichever is later.<sup>253</sup>
  - c. The Housing Authority may redetermine the reasonable rent at any other time it deems appropriate.<sup>254</sup>
  - d. The Housing Authority must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. The Housing Authority must consider: (1) the location, quality, size, unit type, and age of the contract unit; and (2) any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.<sup>255</sup>

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<sup>249</sup> 24 C.F.R. 982.510(a); 24 C.F.R. 983.354(a) (excluding assisted living developments).

<sup>250</sup> 24 C.F.R. 982.510(c); 24 C.F.R. 983.354(b).

<sup>251</sup> 24 C.F.R. 982.507(a)(1).

<sup>252</sup> 24 C.F.R. 982.507(a)(2).

<sup>253</sup> See 24 C.F.R. 982.308(g)(4).

<sup>254</sup> 24 C.F.R. 982.507(a)(3).

<sup>255</sup> 24 C.F.R. 982.507(b).

- i. For a unit receiving Low Income Housing Tax Credits (“LIHTC”) or HOME Program assistance, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.<sup>256</sup>
  - ii. If the rent requested by the owner exceeds the LIHTC rents for non-voucher families, the Housing Authority must perform a rent comparability study in accordance with program regulations and the rent shall not exceed the lesser of the: (1) reasonable rent as determined pursuant to a rent comparability study; or (2) the payment standard.<sup>257</sup>
- e. By accepting each monthly HAP from the Housing Authority, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the Housing Authority information requested by the Housing Authority on rents charged by the owner for other units in the premises or elsewhere.<sup>258</sup>

## 5. **Family Share**

- a. The family share is calculated by subtracting the amount of the HAP from the gross rent.<sup>259</sup>
- b. The family rent to owner is calculated by subtracting the amount of the HAP from the rent to owner.<sup>260</sup>
- c. The Housing Authority shall not use program funds to pay any part of the family share, including the family rent to owner. Payment of the whole family share is the responsibility of the family.<sup>261</sup>
- d. At the time the Housing Authority approves a tenancy for initial occupancy, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40% of the family’s adjusted monthly income. The determination of adjusted monthly income must be based on verification information received by the Housing Authority no earlier than 60 days before the Housing Authority issues a voucher to the family.<sup>262</sup>

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<sup>256</sup> 24 C.F.R. 982.507(c)(1).

<sup>257</sup> 24 C.F.R. 982.507(c)(2).

<sup>258</sup> 24 C.F.R. 982.507(d).

<sup>259</sup> 24 C.F.R. 982.515(a).

<sup>260</sup> 24 C.F.R. 982.515(b).

<sup>261</sup> 24 C.F.R. 982.515(c).

<sup>262</sup> 24 C.F.R. 982.508.

## 6. Minimum Rent

- a. The family share shall be no less than the Minimum Rent (\$50.00 per month).<sup>263</sup>
- b. The Housing Authority shall grant an exception from payment of Minimum Rent if the family is unable to pay the Minimum Rent due to financial hardship.<sup>264</sup>
- c. Any request for a financial hardship exception must be submitted in writing to the Housing Authority.
- d. If a family requests a financial hardship exception, the Housing Authority shall suspend the Minimum Rent requirement beginning the month following the family's request and continuing until the Housing Authority determines whether there is a qualifying financial hardship and whether it is temporary or long term.<sup>265</sup>
  - i. If it is determined that no qualifying financial hardship exists, the Housing Authority shall reinstate the Minimum Rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by the Housing Authority.<sup>266</sup>
  - ii. If the financial hardship is deemed temporary, the Housing Authority must not impose the Minimum Rent during the 90-day period beginning the month following the date of the family's request. At the end of the 90-day suspension period, the Housing Authority must reinstate the Minimum Rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by the Housing Authority, for the amount of back rent owed by the family.<sup>267</sup>
  - iii. If a financial hardship is deemed long term, the Housing Authority must exempt the family from the Minimum Rent requirements so long as such hardship continues.<sup>268</sup>

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<sup>263</sup> 24 C.F.R. 5.630(a).

<sup>264</sup> 24 C.F.R. 5.630(b)(1).

<sup>265</sup> 24 C.F.R. 5.630(b)(2).

<sup>266</sup> 24 C.F.R. 5.630(b)(2).

<sup>267</sup> 24 C.F.R. 5.630(b)(2).

<sup>268</sup> 24 C.F.R. 5.630(b)(2).

7. **Mixed Families**

- a. An eligible mixed family who requests prorated assistance must be provided prorated assistance.<sup>269</sup>
- b. Proration of the HAP does not affect contract rent to the owner. The family must pay as rent the portion of contract rent not covered by the prorated HAP.<sup>270</sup>
- c. The prorated HAP is calculated using the following formula<sup>271</sup>:
  - i. Determine the amount of the pre-proration HAP.
  - ii. Multiply the amount of the pre-proration HAP by a fraction for which: (1) the numerator is the number of family members who have established eligible immigration status; and (2) the denominator is the total number of family members.

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<sup>269</sup> 24 C.F.R. 5.520(a).

<sup>270</sup> 24 C.F.R. 5.520(c)(2).

<sup>271</sup> 24 C.F.R. 5.520(c)(2).

## **X. BRIEFINGS AND VOUCHER ISSUANCE**

### **1. Briefing**

- a. When the Housing Authority selects a family to participate in the Section 8 HCV program, it shall provide the family with an email link for a video briefing.<sup>272</sup>
- b. The head of household, or another adult family member designated by the head of household, must view the briefing video.
- c. The briefing shall include information on the following subjects: (1) a description of how the program works; (2) family and owner responsibilities; (3) where the family may lease a unit, including renting a dwelling unit inside or outside the Housing Authority's jurisdiction, and any information on selecting a unit that HUD provides; (4) an explanation of how portability works; and (5) an explanation of the advantages of areas that do not have a high concentration of low-income families.<sup>273</sup>
- d. The Housing Authority shall take appropriate steps to ensure effective communication with any family that includes a disabled person.<sup>274</sup>
- e. If a family fails to view the briefing video within ten (10) business days of the link being sent, the family will be denied housing assistance.
- f. Typically, the Housing Authority will issue the family a voucher immediately following confirmation that the family viewed the video briefing. Voucher issuance may be delayed if the family has not yet submitted all of the documentation required by the Housing Authority.

### **2. Information Packet**

- a. When the Housing Authority selects a family to participate in the Section 8 HCV program, it shall provide the family with an information packet.<sup>275</sup>
- b. The information packet shall include information on the below subjects.<sup>276</sup>
  - i. The voucher term, suspensions of the voucher term, and the policy on extensions of the voucher term. If the Housing Authority allows extensions, the packet must explain how the family can request an extension.

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<sup>272</sup> See 24 C.F.R. 982.301(a)(1).

<sup>273</sup> 24 C.F.R. 982.301(a)(1).

<sup>274</sup> 24 C.F.R. 982.301(a)(4); 24 C.F.R. 8.6.

<sup>275</sup> 24 C.F.R. 982.301(b).

<sup>276</sup> 24 C.F.R. 982.301(b).

- ii. How the Housing Authority determines the amount of the HAP for a family, including how the Housing Authority determines the payment standard and total tenant payment for a family.
- iii. How the Housing Authority determines the maximum rent for an assisted unit.
- iv. Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, etc.
- v. The HUD-required "tenancy addendum" that must be included in the lease.
- vi. The form that the family uses to request Housing Authority approval of the assisted tenancy, and an explanation of how to request such approval.
- vii. A statement of the Housing Authority policy on providing information about a family to prospective owners.
- viii. Subsidy standards, including when the Housing Authority will consider granting exceptions to the standards.
- ix. Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
- x. Information on Federal, State and local equal opportunity laws, the contact information for the Section 504 Coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation.
- xi. A list of landlords known to the Housing Authority who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the Housing Authority that may assist the family in locating a unit. The Housing Authority shall ensure that the list or other resources covers areas outside of poverty or minority concentration.
- xii. Notice that if the family includes a disabled person, the Housing Authority shall provide a current listing of available accessible units known to the Housing Authority and, if necessary, otherwise assist the family in locating an available accessible dwelling unit.
- xiii. Family obligations under the program.
- xiv. The advantages of areas that do not have a high concentration of low-income families, which may include: access to accessible and high-quality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services.

- xv. A description of when the Housing Authority is required to give a participant family the opportunity for an informal hearing and how to request a hearing.

### 3. Subsidy Standards

- a. The Housing Authority shall establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions.<sup>277</sup>
- b. For each family, the Housing Authority determines the appropriate number of bedrooms under the subsidy standards (family unit size).<sup>278</sup>
- c. The family unit size number is entered on the voucher issued to the family. The Housing Authority issues the family a voucher for the family unit size when a family is selected for participation in the program.<sup>279</sup>
- d. The Housing Authority shall consider the below standards when determining family unit size.<sup>280</sup>

- i. The Housing Authority shall consider the following chart:

<b>Family Unit Size</b>	<b>Persons in Household (minimum – maximum)</b>
0 Bedroom	1
1 Bedroom	1-2
2 Bedroom	2-4
3 Bedroom	3-6
4 Bedroom	4-8
5 Bedroom	5-10

- ii. The Housing Authority will generally assign one bedroom for every two persons within the household. Persons of the opposite sex, other than spouses and children under age 5, will be allocated separate bedrooms. If funding allows, the Housing Authority may consider allocating separate bedrooms for persons of a different generation on a case-by-case basis. Live-in aides will be allocated a separate bedroom.
- iii. The family unit size shall provide for the fewest number of bedrooms needed to house a family without overcrowding.

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<sup>277</sup> 24 C.F.R. 982.402(a)(1).

<sup>278</sup> 24 C.F.R. 982.402(a)(2).

<sup>279</sup> 24 C.F.R. 982.402(a)(3).

<sup>280</sup> See 24 C.F.R. 982.402(b).

- iv. The family unit size must be consistent with space requirements under HQS.
  - v. These standards shall be applied consistently for all families of like size and composition.
  - vi. A child who is temporarily placed in foster care shall be considered a member of the family.
  - vii. A family that consists of a pregnant woman (with no other persons) shall be considered a two-person family.
  - viii. An approved live-in aide shall be counted when determining the family unit size.
  - ix. The family unit size for a family that consists of a single person (who is not pregnant and does not have a live-in aide) shall be either a zero or one-bedroom unit.
  - x. Any request for an exception to the subsidy standards must be made in writing, describe the basis for the request, and include appropriate documentation (e.g. medical verification of disability-related need). An exception may be granted if the Housing Authority determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances.
- e. The family unit size is used to determine the maximum rent subsidy for a family assisted in the voucher program.<sup>281</sup>
  - f. The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit must meet the applicable space requirements under HQS.<sup>282</sup>
  - g. The family may lease an otherwise acceptable dwelling unit with more bedrooms than the family unit size. However, utility allowances must comply with HUD requirements.<sup>283</sup>

#### 4. Voucher Issuance

- a. When a family is selected, or when a participant family is eligible to move to another unit, the Housing Authority shall issue a voucher to the family.<sup>284</sup>

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<sup>281</sup> 24 C.F.R. 982.402(c).

<sup>282</sup> 24 C.F.R. 982.402(d)(1).

<sup>283</sup> 24 C.F.R. 982.402(d)(2); 24 C.F.R. 982.517(d).

<sup>284</sup> 24 C.F.R. 982.302(a).

- b. The initial voucher term shall be at least sixty (60) calendar days. The initial term shall be stated on the voucher.<sup>285</sup>
- c. At its discretion, the Housing Authority may grant a family one or more extensions of the initial voucher term. Any extension of the term is granted by the Housing Authority on notice to the family.<sup>286</sup>
  - i. All requests for voucher term extensions must be made in writing and submitted to the Housing Authority prior to the expiration of the voucher.
  - ii. The Housing Authority will automatically approve one 60-day extension upon written request from the family.
  - iii. Any request for an additional extension must include the basis for the request. The Housing Authority may require the family to provide documentation to support the request or obtain third-party verification. The Housing Authority will approve additional extensions if necessary: (1) as a reasonable accommodation of a disability; or (2) due to circumstances beyond the family's control (e.g. serious illness, death in the family, or family unit size or other special circumstances make it difficult to find a suitable unit).
- d. If the family requests an extension of the initial voucher term as a reasonable accommodation of a disability, the Housing Authority must extend the voucher term up to the term reasonably required for that purpose.<sup>287</sup>
- e. The Housing Authority shall provide for suspension of the initial or any extended voucher term from the date that the family submits a RFTA until the date the Housing Authority notifies the family in writing whether the request has been approved or denied.<sup>288</sup>
- f. During the initial or any extended voucher term, the Housing Authority may require the family to report progress in leasing a unit. Such reports may be required at such intervals or times as determined by the Housing Authority.<sup>289</sup>
- g. If the voucher term expires, the family must reapply for assistance if it still wishes to participate in the Section 8 HCV program.

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<sup>285</sup> 24 C.F.R. 982.303(a).

<sup>286</sup> 24 C.F.R. 982.303(b)(1).

<sup>287</sup> 24 C.F.R. 982.303(b)(2).

<sup>288</sup> 24 C.F.R. 982.303(c).

<sup>289</sup> 24 C.F.R. 982.303(d).

## **XI. HOUSING QUALITY STANDARDS**

### **1. Owner Obligations**

- a. The Owner must maintain the unit in accordance with HQS.<sup>290</sup> As of October 2024, the applicable HQS is NSPIRE.
  - i. A unit is not in compliance with HQS if the Housing Authority or other inspector authorized by the State or local government determines that the unit has HQS deficiencies based upon an inspection, the inspector notifies the Owner in writing of the HQS deficiencies, and the deficiencies are not remedied within the appropriate timeframe.<sup>291</sup>
  - ii. If the Owner fails to maintain the unit in accordance with HQS, then the Housing Authority shall take enforcement action.<sup>292</sup> Remedies for such breach of the HQS include withholding the HAP, abating the HAP, and terminating the HAP Contract.<sup>293</sup>
- b. The Housing Authority shall not make any HAPs for a unit that fails to meet the HQS, unless the Owner corrects the defect within the period specified by the Housing Authority and the Housing Authority verifies the correction.<sup>294</sup>
  - i. If a defect is life threatening, the Owner must correct the defect within 24 hours. For other defects, the Owner must correct the defect within 30 calendar days (or any reasonable extension approved by the Housing Authority).<sup>295</sup>
  - ii. The Housing Authority shall abate the HAP beginning no later than the first of the month following the correction period.<sup>296</sup> No retroactive payments shall be made to the Owner for the period of time the HAP was abated.
  - iii. The Housing Authority shall terminate the HAP Contract if the HAP is abated for more than sixty (60) days.<sup>297</sup>
- c. The Housing Authority shall give any family residing in a unit for which the HAP Contract is terminated due to a failure to correct HQS deficiencies 90 days (or

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<sup>290</sup> 24 C.F.R. 982.404(a)(1).

<sup>291</sup> 24 C.F.R. 982.404(a)(1).

<sup>292</sup> 24 C.F.R. 982.404(a)(2).

<sup>293</sup> 24 C.F.R. 982.404(d).

<sup>294</sup> See 24 C.F.R. 982.404(d).

<sup>295</sup> 24 C.F.R. 982.404(a)(3).

<sup>296</sup> 24 C.F.R. 982.985.3(f).

<sup>297</sup> 24 C.F.R. 982.404(d)(5).

longer as the Housing Authority determines is reasonably necessary) following the termination to lease a new unit.<sup>298</sup>

- i. If the family is unable to lease a new unit within this timeframe and the Housing Authority owns or operates public housing, the Housing Authority must offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.
  - ii. If the family receives security deposit assistance from the Housing Authority for the new unit, the Housing Authority may require the family to remit the security deposit returned by the Owner of the new unit at such time that the lease is terminated, up to the amount of the security deposit assistance provided by the Housing Authority for that unit.
- d. The Housing Authority may waive the Owner's responsibility to remedy a deficiency caused by the family (other than any damage resulting from ordinary use). In the event of such a waiver, the HAP shall not be abated or withheld. However, the Housing Authority may terminate assistance to a family because of an HQS breach beyond damage resulting from ordinary use caused by any member of the household or any guest or other person under the tenant's control.<sup>299</sup>

## 2. **Family Obligations**

- a. The family may be held responsible for an HQS breach caused by any of the following: (1) the family's failure to pay for any utilities that are to be paid by the tenant; (2) the family's failure to provide and maintain any appliances that are to be provided by the tenant; or (3) any damage (beyond ordinary wear and tear) caused by any household member or guest.<sup>300</sup>
- b. If an HQS breach caused by the family is life threatening, the family must take all steps permissible under the lease and State and local law to ensure the deficiency is corrected within 24 hours of notification.<sup>301</sup>
- c. For other family-caused defects, the family must take all steps permissible under the lease and State and local law to ensure the deficiency is corrected within 30 days of notification (or any extension approved by the Housing Authority).<sup>302</sup>

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<sup>298</sup> 24 C.F.R. 982.404(e); 24 C.F.R. 983.208(d)(6).

<sup>299</sup> 24 C.F.R. 982.404(a)(4).

<sup>300</sup> 24 C.F.R. 982.404(b)(1); 24 C.F.R. 983.208(c).

<sup>301</sup> 24 C.F.R. 982.404(b)(2).

<sup>302</sup> 24 C.F.R. 982.404(b)(2).

- d. If the family has caused an HQS breach, the Housing Authority must take prompt and vigorous action to enforce the family obligations. The Housing Authority may terminate assistance for the family.<sup>303</sup>

### 3. Inspections

- a. The Housing Authority shall inspect assisted units to determine if the unit is in compliance with HQS.
- b. The Housing Authority shall conduct initial inspections (prior to the initial term of the lease), regular inspections (at least biennially during assisted occupancy), supervisory quality control inspections, and interim inspections.<sup>304</sup>
- c. In scheduling inspections, the Housing Authority must consider complaints and any other information brought to the attention of the Housing Authority.<sup>305</sup>
  - i. If a participant family or government official reports a life-threatening deficiency, then the Housing Authority must inspect the unit and notify the Owner of the results within 24 hours of receiving the report.<sup>306</sup>
  - ii. If a participant family or government official reports any other deficiency, then the Housing Authority must inspect the unit and notify the Owner of the results within 15 days of receiving the report.<sup>307</sup>
- d. The Housing Authority shall provide reasonable notice of all inspections to the Owner and the family.
  - i. At least forty-eight (48) hours' notice shall be provided unless there is a life-threatening emergency, in which case the Housing Authority will provide as much notice as possible given the nature of the emergency.
  - ii. Inspections will typically be conducted during normal business hours.
- e. An adult family member must attend all inspections, except that an adult family member is not required to attend the initial inspection.
  - i. Inspections concerning a life-threatening deficiency cannot be rescheduled.

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<sup>303</sup> 24 C.F.R. 982.404(b)(3).

<sup>304</sup> 24 C.F.R. 982.405(a)-(d).

<sup>305</sup> 24 C.F.R. 982.405(e).

<sup>306</sup> 24 C.F.R. 982.405(d)(1).

<sup>307</sup> 24 C.F.R. 982.405(d)(2).

- ii. If the family needs to reschedule an inspection that does not concern a life-threatening deficiency, they must notify the Housing Authority at least twenty-four (24) hours prior to the scheduled inspection. The Housing Authority will reschedule the inspection no more than once unless there is verifiable good cause to delay the inspection.
- iii. If the family fails to attend an inspection without prior Housing Authority approval, it will be rescheduled automatically. If the family fails to attend two scheduled inspections without prior Housing Authority approval, the family's housing assistance will be terminated.
- f. The Housing Authority shall notify the family and the Owner of the inspection results. If it is a failed inspection, the notice shall identify any defects and the timeframe(s) for the correction of such defects.<sup>308</sup>
- g. The Housing Authority shall not charge the family for an initial inspection or reinspection of the unit.<sup>309</sup>
- h. The Housing Authority shall not charge the Owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit, but may establish a reasonable fee for re-inspections if any deficiency cited in the previous inspection that the Owner is responsible for was not corrected. The Owner may not pass this fee along to the family.<sup>310</sup>
- i. When the Housing Authority must verify correction of a deficiency, the Housing Authority may use verification methods other than another on-site inspection. Upon either an inspection for initial occupancy or a reinspection, the Housing Authority may accept photographic evidence or other reliable evidence from the owner to verify that a deficiency has been corrected.<sup>311</sup>
- j. This Administrative Plan does not create any right of the family, or any other party other than HUD or the Housing Authority, to require enforcement of the HQS requirements by HUD or the Housing Authority, or to assert any claim against HUD or the Housing Authority, for damages, injunction or other relief, for alleged failure to enforce the HQS.<sup>312</sup>

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<sup>308</sup> See 24 C.F.R. 982.405(f) (requiring the Housing Authority to notify the Owner of any defects shown by the inspection).

<sup>309</sup> 24 C.F.R. 982.405(g).

<sup>310</sup> 24 C.F.R. 982.405(h).

<sup>311</sup> 24 C.F.R. 982.405(i); 24 C.F.R. 983.103.

<sup>312</sup> See 24 C.F.R. 982.407.

## **XII. LEASING PROCESS**

### **1. Introduction**

- a. The Housing Authority shall not approve an assisted tenancy or execute a HAP Contract until the Housing Authority has determined that: (1) the unit is eligible; (2) the unit has been inspected by the Housing Authority and passes HQS; (3) the lease offered by the Owner includes the HUD Tenancy Addendum; (4) the rent to owner is reasonable; and (5) at the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40% of the family's monthly adjusted income.<sup>313</sup>
- b. Prior to the initial lease term: (1) the Housing Authority must inspect the unit and determine that the unit satisfies HQS; (2) the landlord and the tenant must execute the lease (including the HUD Tenancy Addendum and the lead-based paint disclosure information); and (3) the Housing Authority must approve the leasing of the unit in accordance with program requirements.<sup>314</sup>
- c. The Owner is responsible for the screening and selection of the family to occupy the Owner's unit. The Housing Authority shall advise the Owner of this responsibility prior to the approval of the tenancy.<sup>315</sup>
- d. The Housing Authority has no liability or responsibility to the Owner or other persons for the family's behavior or suitability for tenancy.<sup>316</sup>

### **2. Request for Tenancy Approval**

- a. If the family finds a unit, and the owner is willing to lease the unit under the program, the family may request Housing Authority approval of the tenancy. The Housing Authority has the discretion whether to permit the family to submit more than one request at a time.<sup>317</sup>
- b. The family must submit to the Housing Authority a RFTA and a copy of the proposed lease, including the HUD-prescribed tenancy addendum. The request must be submitted during the term of the voucher.<sup>318</sup>

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<sup>313</sup> 24 C.F.R. 982.305(a).

<sup>314</sup> 24 C.F.R. 982.305(b)(1).

<sup>315</sup> 24 C.F.R. 982.307(a)(2).

<sup>316</sup> 24 C.F.R. 982.307(a)(1).

<sup>317</sup> 24 C.F.R. 982.302(b).

<sup>318</sup> 24 C.F.R. 982.302(c).

- c. The Housing Authority specifies the procedure for requesting tenancy approval. The family must submit the request for approval of the tenancy in the form and manner required by the Housing Authority.<sup>319</sup>
- d. The Housing Authority must inspect the unit, determine whether the unit satisfies HQS, and notify the family and owner of the determination within fifteen (15) days after the RFTA is submitted.<sup>320</sup>
- e. The Housing Authority shall promptly notify the family and the Owner whether the assisted tenancy is approved.<sup>321</sup>

### 3. **Eligible Owners**

- a. No Owner has a right to participate in the Housing Authority's Section 8 HCV program.<sup>322</sup>
- b. The Housing Authority shall not approve an assisted tenancy if the Housing Authority has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation.<sup>323</sup>
- c. When directed by HUD, the Housing Authority shall not approve an assisted tenancy if: (1) the federal government has instituted an administrative or judicial action against the Owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or (2) a court or administrative agency has determined that the Owner violated the Fair Housing Act or other federal equal opportunity requirements.<sup>324</sup>
- d. The Housing Authority may deny tenancy approval if the Owner:
  - i. has violated obligations under a Section 8 HAP Contract;
  - ii. has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program;
  - iii. has engaged in any drug-related criminal activity or any violent criminal activity;
  - iv. has a history or practice of non-compliance with HQS or applicable housing standards for units leased under any other Federal housing program;

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<sup>319</sup> 24 C.F.R. 982.302(d).

<sup>320</sup> 24 C.F.R. 982.305(b)(2).

<sup>321</sup> 24 C.F.R. 982.305(d).

<sup>322</sup> See 24 C.F.R. 982.306(e).

<sup>323</sup> 24 C.F.R. 982.306(a).

<sup>324</sup> 24 C.F.R. 982.306(b).

- v. has a history or practice of failing to terminate the tenancy of Federal housing program participants for activity that threatens the right to peaceful enjoyment of the premises by other residents; threatens the health or safety of other residents, of employees of the Housing Authority, or of owner employees or other persons engaged in management of the housing; threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or is drug-related criminal activity or violent criminal activity;
  - vi. has a history or practice of renting units that fail to meet State or local housing codes; or
  - vii. has not paid State or local real estate taxes, fines, or assessments.<sup>325</sup>
- e. The Housing Authority shall not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the Housing Authority determines that approving the unit would provide reasonable accommodation for a family member who is a person with a disability.<sup>326</sup>

#### 4. **Eligible Units**

- a. Generally, a family may lease a unit located anywhere in the Housing Authority's jurisdiction.<sup>327</sup>
  - i. If neither the head of household nor their spouse had already established a domicile in the Housing Authority's jurisdiction at the time the family's program application was submitted, then the family does not have any right to portability during the 12-month period following program admission.<sup>328</sup>
  - ii. The Housing Authority may waive the portability limitation at its discretion.<sup>329</sup>
  - iii. The Housing Authority shall waive the portability limitation if a family member is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and the move is needed to protect the health or safety of the family member, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.<sup>330</sup>

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<sup>325</sup> 24 C.F.R. 982.306(c).

<sup>326</sup> 24 C.F.R. 982.306(d).

<sup>327</sup> 24 C.F.R. 982.353(a).

<sup>328</sup> 24 C.F.R. 982.353(c)(1),(2).

<sup>329</sup> 24 C.F.R. 982.353(c)(2),(3).

<sup>330</sup> 24 C.F.R. 982.353(c)(4).

- b. The Housing Authority shall not directly or indirectly reduce the family's opportunity to select among available units, except as required by HUD.<sup>331</sup>
- c. The following types of housing are ineligible: (1) a public housing or Indian housing unit; (2) a unit receiving project-based Section 8 assistance; (3) nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; (4) college or other school dormitories; (5) units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; and (6) a unit occupied by its owner or by a person with any interest in the unit.<sup>332</sup>
- d. A PHA-Owned Unit may be assisted only if the following conditions are satisfied: (1) the Housing Authority informs the family, both orally and in writing, that the family has the right to select any eligible unit available for lease; (2) the PHA-Owned Unit is freely selected by the family, without Housing Authority pressure or steering; (3) the PHA-Owned Unit is not ineligible housing; (4) the family will not benefit from any form of prohibited housing subsidy during the tenancy; and (5) the Housing Authority obtains the services of an Independent Entity to determine rent reasonableness, assist the family with negotiating rent, and inspect the unit for HQS compliance.<sup>333</sup>
- e. A family shall not receive program assistance while receiving the benefit of any prohibited housing subsidy. The housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit shall not be considered a prohibited housing subsidy.<sup>334</sup>

## 5. Lease

- a. The tenant must have legal capacity to enter a lease under State and local law.<sup>335</sup>
- b. The tenant and the Owner must enter a written lease for the unit. The lease must be executed by the Owner and the tenant.<sup>336</sup>
  - i. If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form.<sup>337</sup>

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<sup>331</sup> 24 C.F.R. 982.353(e).

<sup>332</sup> 24 C.F.R. 982.352(a).

<sup>333</sup> 24 C.F.R. 982.352(b).

<sup>334</sup> 24 C.F.R. 982.352(c).

<sup>335</sup> 24 C.F.R. 982.308(a); 24 C.F.R. 983.256(a).

<sup>336</sup> 24 C.F.R. 982.308(b)(1); 24 C.F.R. 983.256(b)(1).

<sup>337</sup> 24 C.F.R. 982.308(b)(2); 24 C.F.R. 983.256(b)(2).

- ii. If the owner does not use a standard lease form for rental to unassisted tenants, the Owner may use another form of lease, such as a Housing Authority model lease.<sup>338</sup>
- b. The Housing Authority may review the lease to determine if the lease complies with State and local law. The Housing Authority may decline to approve the tenancy if the Housing Authority determines that the lease does not comply with State or local law.<sup>339</sup>
- c. The lease must specify: (1) the names of the owner and the tenant; (2) the unit rented (address, apartment number, and any other information needed to identify the contract unit); (3) the term of the lease (initial term and any provisions for renewal); (4) the amount of the monthly rent to owner; (5) a specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family; and (6) for PBV units, the amount of any charges for food, furniture, or supportive services.<sup>340</sup>
- c. The lease must provide that the Owner may terminate the tenancy for:
  - i. drug-related criminal activity engaged in, on or near the premises by any tenant, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control.<sup>341</sup>
  - ii. illegal use of a drug by a household member, as determined by the Owner.<sup>342</sup>
  - iii. pattern of illegal use of a drug that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents, as determined by the Owner.<sup>343</sup>
  - iv. any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises).<sup>344</sup>
  - v. any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises.<sup>345</sup>

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<sup>338</sup> 24 C.F.R. 982.308(b)(2); 24 C.F.R. 983.256(b)(2).

<sup>339</sup> 24 C.F.R. 982.308(c); 24 C.F.R. 983.256(b)(4).

<sup>340</sup> 24 C.F.R. 982.308(d); 24 C.F.R. 983.256(b)(1).

<sup>341</sup> 24 C.F.R. 982.310(c)(1).

<sup>342</sup> 24 C.F.R. 982.310(c)(1).

<sup>343</sup> 24 C.F.R. 982.310(c)(1).

<sup>344</sup> 24 C.F.R. 982.310(c)(2)(i).

<sup>345</sup> 24 C.F.R. 982.310(c)(2)(i).

- vi. any violent criminal activity on or near the premises by a tenant, household member, or guest, or any such activity on the premises by any other person under the tenant's control.<sup>346</sup>
- vii. fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is an indictable crime or serious disorderly persons offense.<sup>347</sup>
- viii. violating a condition of probation or parole imposed under Federal or State law.<sup>348</sup>
- d. The lease may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.<sup>349</sup>
- e. The initial lease term must be for at least one (1) year unless the Housing Authority determines that a shorter term would improve housing opportunities for the tenant and such shorter term is the prevailing local market practice.<sup>350</sup>
- f. The lease (including the tenancy addendum and lead-based paint disclosure information) must be signed prior to the beginning of the initial lease term.<sup>351</sup>
- g. The Owner must notify the Housing Authority of any changes to the rent at least sixty (60) days in advance.<sup>352</sup> The Owner may not raise the rent during the initial lease term.<sup>353</sup>
- h. The Owner is permitted to collect a security deposit, provided that the amount of the security deposit is permitted by State law (i.e. no more than one- and one-half month's rent) and not more than the amount charged by the Owner to unassisted tenants.<sup>354</sup>
  - i. When the tenant moves out of the unit and if permitted by the lease, the Owner may use the security deposit as reimbursement for any unpaid rent

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<sup>346</sup> 24 C.F.R. 982.310(c)(2)(i).

<sup>347</sup> See 24 C.F.R. 982.310(c)(2)(ii).

<sup>348</sup> 24 C.F.R. 982.310(c)(2)(ii).

<sup>349</sup> 24 C.F.R. 982.510(b).

<sup>350</sup> 24 C.F.R. 982.309(a)(1),(2).

<sup>351</sup> 24 C.F.R. 982.305(b)(2).

<sup>352</sup> 24 C.F.R. 982.308(g)(4).

<sup>353</sup> 24 C.F.R. 982.309(a)(3).

<sup>354</sup> 24 C.F.R. 982.313(a),(b); N.J.S.A. 46:8-21.2; 24 C.F.R. 983.259(a),(b).

payable by the tenant, damages to the unit, or for other amounts the tenant owes under the lease.<sup>355</sup>

- ii. The Owner must give the tenant a written list of all items charged against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the Owner, the Owner must refund promptly the full amount of the unused balance to the tenant.<sup>356</sup>
- iii. If the security deposit is insufficient to cover amounts the tenant owes under the lease, the Owner may seek to collect the balance from the tenant.<sup>357</sup>

i. All provisions in the HUD-required tenancy addendum must be added word-for-word to the Owner's lease. The terms of the tenancy addendum shall prevail over any other provisions of the lease.<sup>358</sup>

i. The tenant shall have the right to enforce the tenancy addendum against the Owner.<sup>359</sup>

j. If the tenant and the Owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the Housing Authority a copy of such changes. The lease, including any changes, must be in accordance with the requirements identified above.<sup>360</sup>

i. Tenancy approval and a new HAP Contract are required if: (1) there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances; (2) there are any changes in lease provisions governing the term of the lease; or (3) the family moves to a new unit, even if the unit is in the same building or complex.<sup>361</sup>

## **6. Housing Assistance Payments Contract**

a. If the Housing Authority has given approval for the family of the assisted tenancy, the Owner and the Housing Authority execute the HAP Contract.<sup>362</sup>

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<sup>355</sup> 24 C.F.R. 982.313(c); 24 C.F.R. 983.259(c).

<sup>356</sup> 24 C.F.R. 982.313(d); 24 C.F.R. 983.259(d).

<sup>357</sup> 24 C.F.R. 982.313(e); 24 C.F.R. 983.259(e).

<sup>358</sup> 24 C.F.R. 982.308(f)(2); 24 C.F.R. 983.256(d)(2).

<sup>359</sup> 24 C.F.R. 982.308(f)(2).

<sup>360</sup> 24 C.F.R. 982.308(g)(1); 24 C.F.R. 983.256(e)(1).

<sup>361</sup> 24 C.F.R. 982.308(g)(2),(3).

<sup>362</sup> 24 C.F.R. 982.305(e).

- b. The HAP Contract shall be executed no later than sixty (60) calendar days from the beginning of the lease term.<sup>363</sup> Any HAP Contract executed after the 60-day period (or any extension approved by HUD based on extenuating circumstances) is void, and the Housing Authority shall not pay any HAP to the Owner.<sup>364</sup>
- c. The term of the HAP Contract begins on the first day of the lease term and ends on the last day of the lease term.<sup>365</sup>
- d. The Housing Authority shall not pay any HAP to the Owner until the HAP Contract has been executed.<sup>366</sup>
  - i. If the HAP Contract is executed during the period of 60 calendar days from the beginning of the lease term, the Housing Authority will pay HAPs after execution of the HAP Contract to cover the portion of the lease term before execution of the HAP Contract.<sup>367</sup>
- e. The HAP Contract terminates if any of the following occurs: (1) the lease is terminated by the owner or the tenant; (2) the Housing Authority terminates the HAP Contract; or (3) the Housing Authority terminates assistance for the family.<sup>368</sup>
- f. The Housing Authority may terminate a HAP Contract if it determines that funding is insufficient to support continued assistance for families in the HCV program.<sup>369</sup>
  - i. The termination of HAP Contracts shall be undertaken only if other cost-cutting measures are insufficient.
  - ii. Prior to terminating any HAP Contracts, the Housing Authority shall develop a plan and inform the HUD Field Office.
  - iii. The Housing Authority will terminate HAP Contracts for ordinary HCVs before any specialized HCVs (e.g. VASH) or PBVs.
- g. The HAP Contract terminates automatically 180 calendar days after the last HAP to the Owner.<sup>370</sup>

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<sup>363</sup> 24 C.F.R. 982.305(c)(1).

<sup>364</sup> 24 C.F.R. 982.305(c)(4).

<sup>365</sup> 24 C.F.R. 982.309(b)(1).

<sup>366</sup> 24 C.F.R. 982.305(c)(2).

<sup>367</sup> 24 C.F.R. 982.305(c)(3).

<sup>368</sup> 24 C.F.R. 982.309(b)(2).

<sup>369</sup> 24 C.F.R. 982.454.

<sup>370</sup> 24 C.F.R. 982.455.

## 7. Live-In Aide

- a. A family may request approval for a live-in aide to reside in the unit and provide necessary supportive services for a family member with a disability.<sup>371</sup>
- b. The Housing Authority shall approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.<sup>372</sup>
- c. At any time, the Housing Authority may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if the person: (1) commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) commits drug-related criminal activity or violent criminal activity; or (3) currently owes rent or other amounts to the Housing Authority or to another public housing agency in connection with Section 8 or public housing.<sup>373</sup>

## 8. Unit Absence

- a. The family must promptly notify the Housing Authority of any absence from the unit.<sup>374</sup>
- b. The family shall not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason.<sup>375</sup> Absence means that no member of the family is residing in the unit.<sup>376</sup>
- c. If the family is absent from the unit for longer than the maximum period permitted, then the HAP Contract, HAPs, and lease shall terminate.<sup>377</sup>
- d. The family shall promptly supply any information or certification requested by the Housing Authority to verify that the family is residing in the unit, or relating to family absence from the unit. The family must cooperate with the Housing Authority for this purpose.<sup>378</sup>

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<sup>371</sup> 24 C.F.R. 982.316(a).

<sup>372</sup> 24 C.F.R. 982.316(a).

<sup>373</sup> 24 C.F.R. 982.316(b).

<sup>374</sup> 24 C.F.R. 982.312(d)(1).

<sup>375</sup> 24 C.F.R. 982.312(a).

<sup>376</sup> 24 C.F.R. 982.312(c).

<sup>377</sup> 24 C.F.R. 982.312(b).

<sup>378</sup> 24 C.F.R. 982.312(d)(1).

- e. The Housing Authority may utilize appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits or questions to the landlord or neighbors.<sup>379</sup>

## 9. **Family Break-Up**

- a. The Housing Authority has discretion to determine which members of an assisted family continue to receive program assistance if the family breaks up.<sup>380</sup>
- b. If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the Housing Authority shall ensure that the victim retains assistance.<sup>381</sup>
- c. If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the Housing Authority shall be bound by the court's determination of which family members continue to receive assistance in the program.<sup>382</sup>
- d. In all other situations, the Housing Authority shall consider: (1) whether the assistance should remain with family members remaining in the original assisted unit; (2) the interest of minor children or of ill, elderly, or disabled family members; (3) whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking; (4) whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, and whether the abuser is still in the household; (5) other appropriate factors.<sup>383</sup>

## 10. **Caretaker for a Child**

- a. If neither a parent nor a designated guardian remains in a household receiving assistance, the Housing Authority may take the following actions:
  - i. If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
  - ii. If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal

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<sup>379</sup> 24 C.F.R. 982.312(d)(2).

<sup>380</sup> 24 C.F.R. 982.315(a)(1).

<sup>381</sup> 24 C.F.R. 982.315(a)(2).

<sup>382</sup> 24 C.F.R. 982.315(c).

<sup>383</sup> 24 C.F.R. 982.315(b).

guardianship, the caretaker will be treated as a visitor for 90 calendar days. After the 90 calendar days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases, the Housing Authority will extend the caretaker's status as an eligible visitor.

- iii. At any time that custody or guardianship legally has been awarded to a caretaker, the voucher will be transferred to the caretaker.
- iv. During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.
- v. When the minor child becomes an adult and completes all documentation required by the Housing Authority, the voucher will be transferred to the minor child who is now an adult.

#### **11. Termination of Tenancy by Owner**

- a. Termination of an assisted tenancy is a matter between the Owner and the participant family; the Housing Authority is not directly involved.
- b. The Owner must comply with the New Jersey Anti-Eviction Act (N.J.S.A. 2A:18-53 et seq.), the Section 8 HCV program regulations (see 24 C.F.R. 982.310), and the HAP Contract when seeking to evict a participant family.
- c. During the term of the lease, the Owner may not terminate the tenancy except on the following grounds: (1) serious violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violation of the terms and conditions of the lease; (2) violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or (3) other good cause.<sup>384</sup>
  - i. The family is not responsible for payment of the portion of the rent to owner to be paid by the Housing Authority pursuant to the HAP Contract between the Owner and the Housing Authority.<sup>385</sup>
  - ii. The Housing Authority's failure to make a payment to the Owner is not a violation of the lease between the family and the Owner. During the term of the lease, the Owner may not terminate the tenancy of the family for the Housing Authority's nonpayment.<sup>386</sup>

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<sup>384</sup> 24 C.F.R. 982.310(a).

<sup>385</sup> 24 C.F.R. 982.310(b)(1); 24 C.F.R. 983.353(b)(4).

<sup>386</sup> 24 C.F.R. 982.310(b)(2); 24 C.F.R. 983.353(b)(4).

- iii. Other good cause for termination of tenancy by the Owner may include, but is not limited to, any of the following examples: (1) failure by the family to accept the offer of a new lease or revision; (2) a family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or premises; (3) the Owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or (4) a business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rental).<sup>387</sup>
  - iv. During the initial lease term, the Owner may not terminate the tenancy for "other good cause", unless the Owner is terminating the tenancy because of something the family did or failed to do.<sup>388</sup>
  - v. A family may have their tenancy terminated and be evicted through judicial action for criminal activity by a covered person if the Owner determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.<sup>389</sup>
- d. The Owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the Owner has given this notice, and the notice must be given at or before commencement of the eviction action.<sup>390</sup>
- i. The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.<sup>391</sup>
  - ii. Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under State or local law to commence an eviction action.<sup>392</sup>
  - iii. The Owner must give the Housing Authority a copy of any owner eviction notice to the tenant.<sup>393</sup>

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<sup>387</sup> 24 C.F.R. 982.310(d)(1).

<sup>388</sup> 24 C.F.R. 982.310(d)(2).

<sup>389</sup> 24 C.F.R. 982.310(c)(3).

<sup>390</sup> 24 C.F.R. 982.310(e)(1).

<sup>391</sup> 24 C.F.R. 982.310(e)(1).

<sup>392</sup> 24 C.F.R. 982.310(e)(2).

<sup>393</sup> 24 C.F.R. 982.310(e)(2).

- e. If the family terminates the lease on notice to the Owner, the family must give the Housing Authority a copy of the notice of termination at the same time. Failure to do this is a breach of family obligations under the program.<sup>394</sup>
- f. The family must notify the Housing Authority and the Owner before the family moves out of the unit. Failure to do this is a breach of family obligations under the program.<sup>395</sup>

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<sup>394</sup> 24 C.F.R. 982.309(c)(1).

<sup>395</sup> 24 C.F.R. 982.309(c)(2).

### **XIII. RE-EXAMINATIONS**

#### **1. General Procedures**

- a. The Housing Authority will request regular reexamination paperwork to coincide with the family's anniversary date. The Housing Authority will begin the reexamination process approximately one hundred twenty (120) days in advance of the scheduled effective date.
  - i. The anniversary date is twelve (12) months from the effective date of the family's last regular reexamination or, for new program participants that have not yet undergone reexamination, from the effective date of the family's admission to the program.
  - ii. The Housing Authority may schedule a regular reexamination for completion prior to the anniversary date for administrative purposes.
- b. The Housing Authority may require the family to participate in a reexamination interview, which must be attended by the head of household or spouse.
  - i. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the Housing Authority to request a reasonable accommodation.
  - ii. An advocate, interpreter, or other assistant may assist the family in the interview process.
  - iii. If the family is unable to attend a scheduled interview, the family should contact the Housing Authority in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview, the Housing Authority will send a second notification with a new interview appointment time.
  - iv. If a family fails to attend two scheduled interviews without Housing Authority approval, the family's assistance will be terminated.
- c. Reexamination notices will: (1) be sent via email to inform the family of the information and documentation that must be submitted to the Housing Authority via the Tenant Portal; and (2) specify the date, time, and location for documents to be submitted.
- d. The required reexamination documentation shall include a Housing Authority reexamination form and supporting documentation related to the family's income, assets, deductions, expenses, and family composition.
  - i. The Housing Authority shall require all adult household members to execute a HUD-approved release and consent form. The Housing Authority

shall limit the use or disclosure of information obtained from the family or from another source pursuant to this release and consent to purposes directly in connection with administration of the program.<sup>396</sup>

- ii. Any required information or documentation that the family is unable to provide at the time of the interview must be provided within ten (10) business days of the interview.
  - iii. If the family is unable to obtain the information or documentation within the required time frame, the family may request an extension.
  - iv. If the family does not provide the required information or documentation within the required time frame (plus any extensions), the family's assistance will be terminated.
- e. Safe Harbor Income Determination. The Housing Authority may determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period by means-tested Federal public assistance programs in accordance with HUD Notice PIH-2023-27, Attachment J.
  - f. In connection with the regular reexamination, the Housing Authority will ask whether any member of the family is subject to a lifetime sex offender registration requirement in any state. The Housing Authority will use the Dru Sjodin National Sex Offender database to verify the information provided by the family.
  - g. In connection with the regular reexamination, the Housing Authority will ask whether any member of the family has been convicted of any criminal activity. The Housing Authority may conduct a criminal background check on all adult household members to verify the information provided by the family.
  - h. Unless the family reports a change, or the Housing Authority has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include legal identity, age, SSNs, disability status, and citizenship or immigration status.
  - i. If the Housing Authority determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the Housing Authority shall issue the family a new voucher, and the family and the Housing Authority shall try to find an acceptable unit as soon as possible.<sup>397</sup>

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<sup>396</sup> 24 C.F.R. 982.516(g).

<sup>397</sup> 24 C.F.R. 982.403(a).

## 2. **Regular Reexaminations**

- a. The Housing Authority shall conduct a reexamination of family income and composition at least annually.<sup>398</sup>
- b. The Housing Authority must obtain and document in the tenant file third-party verification of the following factors, or must document in the tenant file why third-party verification was not available: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income.<sup>399</sup>
- c. The Housing Authority is not required to verify the valuation of net family assets if the family certifies that the value does not exceed \$50,000.00 (subject to annual adjustment by HUD), except that the Housing Authority must obtain third-party verification of all family assets every 3 years.<sup>400</sup>

## 3. **Interim Reexaminations**

- a. Any changes in family income or composition that occur between regular reexaminations must be reported by the family within ten (10) business days.<sup>401</sup>
  - i. The family must report when a family member, live-in aide, foster child, or foster adult ceases to reside in the unit. This requirement applies to a family member who was considered temporarily absent and who is now permanently absent.
  - ii. The addition of a family member, other than through birth, adoption, or court-awarded custody, requires Housing Authority approval.
  - iii. Any person who is not a family member and who is expected to stay longer than thirty (30) days in any twelve (12) month period does not qualify as a guest and therefore requires Housing Authority approval.
  - iv. Any live-in aides, foster children, or foster adults require Housing Authority approval.
  - v. Any requests to add a new family member, live-in aide, foster child, or foster adult must be made in writing and approved by the Housing Authority before the individual moves into the unit.

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<sup>398</sup> 24 C.F.R. 982.516(a)(1).

<sup>399</sup> 24 C.F.R. 982.516(a)(2).

<sup>400</sup> 24 C.F.R. 982.516(a)(3).

<sup>401</sup> See 24 C.F.R. 982.516(d).

- vi. The Housing Authority shall not approve the addition of a new family member or household member unless the individual meets the Housing Authority's eligibility and suitability criteria and documentation requirements.
  - vii. The Housing Authority will make a decision on the family's request to add a new family member or household member within ten (10) business days of receiving all information required to verify the individual's eligibility and suitability.
- b. The Housing Authority shall conduct an interim reexamination of family income or composition within a reasonable period of time after a request by the family or when the Housing Authority becomes aware of an increase in family adjusted income.<sup>402</sup>
- i. The Housing Authority may decline to conduct an interim reexamination of family income if the Housing Authority estimates that the family's adjusted income will increase or decrease by less than 10%.<sup>403</sup>
  - ii. The Housing Authority shall not consider any increase in the earned income of the family when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the certification period.<sup>404</sup>
  - iii. The Housing Authority will not conduct an interim reexamination in the three (3) month period prior to a regular reexamination.<sup>405</sup>
- c. The Housing Authority will also conduct interim reexaminations in each of the following instances:
- i. If the family has reported zero income, the Housing Authority will conduct an interim reexamination every three (3) months as long as the family continues to report that they have no income.<sup>406</sup>
  - ii. If at the time of the regular reexamination, it is not feasible to anticipate a level of income for the next twelve (12) months (e.g. seasonal or cyclic income), the Housing Authority will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

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<sup>402</sup> 24 C.F.R. 982.516(c)(1).

<sup>403</sup> 24 C.F.R. 982.516(c)(2),(3).

<sup>404</sup> 24 C.F.R. 982.516(c)(3)(i).

<sup>405</sup> 24 C.F.R. 982.516(c)(3)(ii).

<sup>406</sup> See HUD Notice PIH 2023-27.

- iii. If at the time of the regular reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Housing Authority will conduct an interim reexamination.
  - iv. The Housing Authority may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.
- d. Generally, the family will not be required to attend an interview for an interim reexamination. However, if the Housing Authority determines that an interview is warranted, the family may be required to attend.
- i. Based on the type of change reported, the Housing Authority will determine the documentation the family will be required to submit.
  - ii. The family must submit any required information or documentation within ten (10) business days of receiving a request from the Housing Authority. This deadline may be extended by the Housing Authority for good cause.
- e. Effective on the HOTMA Compliance Date, the Housing Authority shall conduct interim reexaminations in accordance with HUD Notice PIH-2023-27, particularly Attachment I.

#### 4. **Recalculations**

- a. The Housing Authority shall recalculate the HAP, family share, and family rent to owner based on the income information received during the reexamination process.
- b. The Housing Authority shall notify the Owner and the family of the amount and effective date of the new HAP, family share, and family rent to owner.
  - i. Thirty days' notice shall be provided in the event of an increase to the family share, an increase to the family rent to owner, and/or a decrease to the HAP, and such changes shall be effective the first of the next month following the notice period.<sup>407</sup> However, if the family failed to timely report a change in family income or composition, then the resulting changes shall be implemented retroactively to the first of the month following the date of the change.<sup>408</sup>
  - ii. In the event of a decrease to the family share, a decrease to the family rent to owner, and/or an increase to the HAP, such changes shall be effective on the first day of the first month after the date of the reported change leading

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<sup>407</sup> 24 C.F.R. 982.516(c)(4)(i); see 24 C.F.R. 982.516(e)(1).

<sup>408</sup> 24 C.F.R. 982.516(c)(4)(ii); see 24 C.F.R. 982.516(e)(1).

to the interim reexamination of family income.<sup>409</sup> However, if the family failed to timely report a change in family income or composition, then the resulting changes shall be implemented no later than the first rent period following completion of the reexamination.<sup>410</sup>

- iii. If the family failed to timely report a change in family income or composition, and the failure was caused by circumstances beyond the family's control, the resulting changes shall be implemented retroactively. However, the retroactive changes may not be applied prior to the later of the first of the month following: (1) the date of the change leading to the interim reexamination of family income; or (2) the effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).<sup>411</sup>
- c. During a reexamination, the Housing Authority may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the Housing Authority may discover errors made by the Housing Authority. When errors are discovered, corrections will be made in accordance with HUD requirements.<sup>412</sup>
  - i. The Housing Authority shall take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share as a result of an error (including a de minimis error) in the income determination.<sup>413</sup>
  - ii. Families will not be required to repay the Housing Authority in instances where the Housing Authority has miscalculated income resulting in a family being undercharged for rent or family share.<sup>414</sup>

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<sup>409</sup> 24 C.F.R. 982.516(c)(4)(i); see 24 C.F.R. 982.516(e)(1)

<sup>410</sup> 24 C.F.R. 982.516(c)(4)(ii); see 24 C.F.R. 982.516(e)(1)

<sup>411</sup> 24 C.F.R. 982.516(c)(4)(iii); see 24 C.F.R. 982.516(e)(1)

<sup>412</sup> See 24 C.F.R. 982.516(f).

<sup>413</sup> 24 C.F.R. 982.516(f)(1).

<sup>414</sup> 24 C.F.R. 982.516(f)(1).

## **XIV. MOVING WITH CONTINUED ASSISTANCE**

### **1. Permitted Moves**

- a. A participant family may move with continued assistance under the program, either inside the PHA jurisdiction, or under portability procedures, in accordance with the Housing Authority's policies.<sup>415</sup>
- b. A family may move to a new unit if:
  - i. the assisted lease for the old unit has terminated. This includes a termination because the Housing Authority has terminated the HAP contract for the Owner's breach and a termination because the lease has terminated by mutual agreement of the Owner and the tenant.
  - ii. the Owner has given the tenant 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 tenant.
  - iii. the tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the Owner, for Owner breach, or otherwise).
  - iv. the family or a member of the family, is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and the move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.<sup>416</sup>
- c. The Housing Authority may not terminate assistance if the family, with or without prior notification to the Housing Authority, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. Any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit.<sup>417</sup>

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<sup>415</sup> 24 C.F.R. 982.354(c)(1).

<sup>416</sup> 24 C.F.R. 982.354(b).

<sup>417</sup> 24 C.F.R. 982.354(b)(4).

## 2. Restrictions on Moves

- a. A participant family will be denied permission to move during the initial lease term and during any twelve (12) month period that the family has already moved, unless the move is necessary to:
  - i. protect the health or safety of a family member (lead-based paint hazards, domestic violence, dating violence, sexual assault, stalking, etc.)
  - ii. accommodate a change in family circumstances.
  - iii. address an emergency situation over which the family has no control.
  - iv. provide a reasonable accommodation to the family.<sup>418</sup>
- b. A family may be denied permission to move if the Housing Authority does not have sufficient funding for continued assistance.<sup>419</sup>
  - i. The Housing Authority must provide written notification to the local HUD Office within 10 business days of determining it is necessary to deny moves to a higher-cost unit based on insufficient funding.<sup>420</sup>
- c. A family may be denied permission to move if the Housing Authority has grounds for termination of program assistance.<sup>421</sup>
- d. A family will be denied permission if debts are owed the Housing Authority.

## 3. Procedures

- a. The family must notify the Housing Authority and the Owner before moving from the old unit. If the family wants to move to a new unit that is located outside the Housing Authority's jurisdiction, the notice to the Housing Authority must specify the area where the family wants to move.<sup>422</sup>
- b. The Housing Authority will notify the participant family of its determination regarding whether the move is permitted in writing within ten (10) business days of receiving the family's notification.

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<sup>418</sup> See 24 C.F.R. 982.354(c)(2).

<sup>419</sup> 24 C.F.R. 982.354(e)(1).

<sup>420</sup> 24 C.F.R. 982.354(e)(1).

<sup>421</sup> 24 C.F.R. 982.354(e)(2).

<sup>422</sup> 24 C.F.R. 982.354(d).

- c. If a move within the Housing Authority's jurisdiction is permitted, the Housing Authority will issue a new voucher within ten (10) business days of the written approval to move. If the participant family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued assistance if the owner agrees and the Housing Authority approves. Otherwise, the family will put into searching mode for six months. If not leased up after six months, the participant family will lose its assistance.
- d. The Housing Authority will issue a voucher even if the family is not receiving any subsidy under a current HAP Contract. However, if the Housing Authority determines that no subsidy would be paid at the new unit, the Housing Authority may refuse to enter into a HAP Contract on behalf of the family.

#### 4. **Portability**

- a. A participant family has the right to lease a unit outside the Initial PHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a Section 8 HCV program.<sup>423</sup>
- b. The Initial PHA shall not provide portable assistance if the family has moved out of their assisted unit in violation of the lease, unless the family is eligible to move because a family member has been the victim of domestic violence, dating violence, sexual assault, or stalking, and has otherwise complied with all other obligations under the Section 8 program.<sup>424</sup>
- c. A PHA shall not refuse to assist incoming portable families or direct them to another PHA for assistance unless the PHA has written approval from HUD to refuse incoming portable families.<sup>425</sup>
- d. The Initial PHA shall provide the family with contact information for all PHAs with jurisdiction to serve as the Receiving PHA. If there is more than one such PHA, the family shall select the Receiving PHA and notify the Initial PHA of the selection. If the family prefers not to select the Receiving PHA, the Initial PHA shall select the Receiving PHA on behalf of the family.<sup>426</sup>
- e. The following portability procedures shall be followed:
  - i. The family notifies the Initial PHA of its desire to relocate outside the Initial PHA's jurisdiction and specifies the location where it wants to live.

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<sup>423</sup> 24 C.F.R. 982.353(b).

<sup>424</sup> 24 C.F.R. 982.353(b).

<sup>425</sup> 24 C.F.R. 982.355(b).

<sup>426</sup> 24 C.F.R. 982.355(b).

- ii. The Initial PHA determines the family's eligibility to move.
- iii. The family or Initial PHA selects the Receiving PHA.
- iv. The Initial PHA contacts the Receiving PHA, via email or other confirmed delivery method, prior to approving the family's request to move in order to determine whether the voucher will be absorbed or billed by the Receiving PHA. The Receiving PHA advises the Initial PHA in writing, via email or other confirmed delivery method, of its decision.
  - 1. If the Receiving PHA notifies the Initial PHA that it will absorb the voucher, then the Receiving PHA cannot reverse its decision at a later date without consent of the Initial PHA.
  - 2. If the Receiving PHA will bill the Initial PHA for the portability voucher and the cost of the HAP will increase due to the move, the Initial PHA may deny the move if it does not have sufficient funding for continued assistance.
- v. If a billing arrangement is approved by the Initial PHA or if the voucher is to be absorbed by the Receiving PHA, the Initial PHA issues the family a voucher to move (if it has not already done so) and advises the family how to contact and request assistance from the Receiving PHA.
- vi. The Initial PHA promptly notifies the Receiving PHA to expect the family. The Initial PHA provides the Receiving PHA with form HUD-52665, the most recent form HUD 50058 for the family, and all related verification information.
- vii. The family promptly contacts the Receiving PHA in order to be informed of the Receiving PHA's procedures for incoming portable families and comply with these procedures. The family's failure to comply may result in denial or termination of the Receiving PHA's voucher.
- viii. If the family is not already receiving assistance in the Initial PHA's Section 8 HCV program, the Initial PHA determines whether the family is eligible for admission to the Receiving PHA's Section 8 HCV program. In determining income eligibility, the Receiving PHA's income limits are used by the Initial PHA.
- ix. When a Receiving PHA assists a family under portability, administration of the voucher must be in accordance with the Receiving PHA's policies.
- x. If the Receiving PHA opts to conduct a new reexamination for a current participant family, the Receiving PHA cannot delay issuing the family a voucher or otherwise delay approval of a unit.

- xi. The Receiving PHA determines the family unit size for the family based on the subsidy standards of the Receiving PHA.
- xii. The Receiving PHA issues a voucher to the family. The term of the Receiving PHA voucher may not expire before 30 calendar days from the expiration date of the Initial PHA voucher. If the voucher expires before the family arrives at the Receiving PHA, then the Receiving PHA contacts the Initial PHA to determine if it will extend the voucher.
- xiii. Once the Receiving PHA issues the portable family a voucher, the Receiving PHA's policies on extensions of the voucher term apply. The Receiving PHA notifies the Initial PHA of any extensions granted to the term of the voucher.
- xiv. The family submits a RFTA to the Receiving PHA during the term of the Receiving PHA voucher.
- xv. The Receiving PHA suspends the term of the Receiving PHA voucher while the RFTA is pending.
- xvi. The Receiving PHA promptly notifies the Initial PHA if the family has leased an eligible unit under the program, or if the family has failed to submit a RFTA for an eligible unit within the term of the voucher.
- xvii. At any time, either the Initial PHA or the Receiving PHA may make a determination to deny or terminate assistance to the family.<sup>427</sup>

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<sup>427</sup> 24 C.F.R. 982.355(c).

## **XV. TERMINATION OF ASSISTANCE**

### **1. General**

- a. The Housing Authority may terminate assistance for a participant family because of the family's action or failure to act.<sup>428</sup>
- b. Termination of assistance may include any or all of the following: refusing to enter into a HAP Contract or approve a lease, terminating the HAP under an outstanding HAP Contract, and refusing to process or provide assistance under portability procedures.<sup>429</sup>

### **2. Grounds for Termination**

- a. The Housing Authority shall terminate assistance under the following circumstances:
  - i. Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.<sup>430</sup>
  - ii. The family has been evicted from their assisted unit for serious violation of the lease.<sup>431</sup>
    1. A family is considered evicted if the family moves after a court of competent jurisdiction has issued a legal eviction order (i.e. a Warrant of Removal), whether or not physical enforcement of the order was necessary.
  - iii. Any family member fails to sign and submit consent forms for obtaining information.<sup>432</sup>
  - iv. A family member fails to establish citizenship or eligible immigration status.<sup>433</sup>

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<sup>428</sup> 24 C.F.R. 982.552(a)(1).

<sup>429</sup> 24 C.F.R. 982.552(a)(3).

<sup>430</sup> 24 C.F.R. 982.553(b)(1)(ii).

<sup>431</sup> 24 C.F.R. 982.552(b)(2).

<sup>432</sup> 24 C.F.R. 982.552(b)(3).

<sup>433</sup> 24 C.F.R. 982.552(b)(4).

- v. Any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education.<sup>434</sup>
  - vi. The family has failed to comply with restrictions on net assets and/or property ownership.<sup>435</sup>
  - vii. The family has been absent from the assisted unit for a period of more than 180 consecutive calendar days.<sup>436</sup>
- b. The Housing Authority may terminate assistance under the following circumstances:
- i. Any household member is currently engaged in any illegal use of a drug.<sup>437</sup>
  - ii. Any household member's pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.<sup>438</sup>
  - iii. Any family member has engaged in drug-related criminal activity.<sup>439</sup>
  - iv. Any household member has engaged in violent criminal activity.<sup>440</sup>
  - v. Any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.<sup>441</sup>
  - vi. The family violates any family obligations under the program.<sup>442</sup>
  - vii. Any family member has been evicted from federally assisted housing in the last five years.<sup>443</sup>

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<sup>434</sup> 24 C.F.R. 982.552(b)(5).

<sup>435</sup> 24 C.F.R. 982.552(b)(6).

<sup>436</sup> 24 C.F.R. 982.312.

<sup>437</sup> 24 C.F.R. 982.553(b)(1)(i)(A).

<sup>438</sup> 24 C.F.R. 982.553(b)(1)(i)(B).

<sup>439</sup> 24 C.F.R. 982.553(b)(1)(iii).

<sup>440</sup> 24 C.F.R. 982.553(b)(2).

<sup>441</sup> 24 C.F.R. 982.553(b)(3).

<sup>442</sup> 24 C.F.R. 982.552(c)(1)(i).

<sup>443</sup> 24 C.F.R. 982.552(c)(1)(ii).

- viii. Any family member has ever had their assistance terminated under a Section 8 HCV program.<sup>444</sup>
- ix. Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.<sup>445</sup>
- x. The family currently owes rent or other amounts to the Housing Authority or to another PHA in connection with Section 8 or public housing assistance.<sup>446</sup>
- xi. The family has not reimbursed any PHA for amounts paid to an Owner under a HAP Contract for rent, damages to the unit, or other amounts owed by the family under the lease.<sup>447</sup>
- xii. The family breaches an agreement with the Housing Authority to pay amounts owed to a PHA, or amounts paid to an owner by a PHA.<sup>448</sup>
  - 1. The Housing Authority, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an Owner by a PHA. The Housing Authority shall prescribe the terms of the agreement.<sup>449</sup>
- xiii. The family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel.<sup>450</sup>
  - 1. Abusive or violent behavior towards Housing Authority personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- xiv. Any household member has ever been convicted of: (1) murder, aggravated sexual assault, kidnapping, arson, human trafficking, sexual assault in violation of N.J.S.A. 2C:14-2 (or equivalent statute in another state), causing or permitting a child to engage in a prohibited sexual act or in the simulation of such an act in violation of N.J.S.A. 2C:24-4 (or equivalent statute in another state), or any crime that resulted in lifetime registration in a state sex offender registry; (2) an indictable offense of the first degree that

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<sup>444</sup> 24 C.F.R. 982.552(c)(1)(iii).

<sup>445</sup> 24 C.F.R. 982.552(c)(1)(iv).

<sup>446</sup> 24 C.F.R. 982.552(c)(1)(v).

<sup>447</sup> 24 C.F.R. 982.552(c)(1)(vi).

<sup>448</sup> 24 C.F.R. 982.552(c)(1)(vii).

<sup>449</sup> 24 C.F.R. 982.552(c)(1)(viii).

<sup>450</sup> 24 C.F.R. 982.552(c)(1)(viii).

was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the six years immediately preceding the issuance of a conditional offer; (3) an indictable offense of the second or third degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within the four years immediately preceding the issuance of a conditional offer; or (4) an indictable offense of the fourth degree that was issued, or if the conviction resulted in a prison sentence that sentence concluded, within one year immediately preceding the issuance of a conditional offer.<sup>451</sup>

### 3. **Termination Decisions**

- a. The Housing Authority will use the preponderance of the evidence as the standard for making all termination decisions.
  - i. Preponderance of the 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.
  - ii. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- b. If the grounds for termination are discretionary, the Housing Authority may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of termination of assistance on other family members who were not involved in the action or failure.<sup>452</sup>
- c. The Housing Authority may impose, as a condition of continued assistance, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit.<sup>453</sup>
- d. In determining whether to terminate assistance for criminal activity as shown by a criminal record, the Housing Authority shall perform an individualized assessment based on the following factors:
  - i. the nature and severity of the criminal offense;
  - ii. the age of the offender at the time of the occurrence of the criminal offense;

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<sup>451</sup> N.J.S.A. 46:8-56(b).

<sup>452</sup> 24 C.F.R. 982.552(c)(2)(i).

<sup>453</sup> 24 C.F.R. 982.552(c)(2)(ii).

- iii. the time which has elapsed since the occurrence of the criminal offense;
  - iv. any information produced by the offender, or produced on the offender's behalf, in regard to the offender's rehabilitation and good conduct since the occurrence of the criminal offense;
  - v. the degree to which the criminal offense, if it reoccurred, would negatively impact the safety of the other tenants or property; and
  - vi. whether the criminal offense occurred on or was connected to property that was rented or leased by the offender.<sup>454</sup>
- e. In determining whether to terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the Housing Authority may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.<sup>455</sup>
- i. The Housing Authority may require the family to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.<sup>456</sup>
- f. If the family includes a person with disabilities, the Housing Authority decision concerning such action is subject to consideration of reasonable accommodation.<sup>457</sup>
- g. The Housing Authority shall ensure that its termination decisions are consistent with fair housing and equal opportunity requirements.<sup>458</sup>
- h. The Housing Authority shall ensure that its termination decisions are consistent with protections for victims of domestic violence, dating violence, sexual assault, and stalking.<sup>459</sup>

#### 4. **Notice Requirements**

- a. The Housing Authority shall provide written notice of termination of assistance to the family and the Owner.

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<sup>454</sup> N.J.S.A. 46:8-56(c)(3).

<sup>455</sup> 24 C.F.R. 982.552(c)(2)(iii).

<sup>456</sup> 24 C.F.R. 982.552(c)(2)(iii).

<sup>457</sup> 24 C.F.R. 982.552(c)(2)(iv).

<sup>458</sup> 24 C.F.R. 982.552(c)(2)(v).

<sup>459</sup> 24 C.F.R. 982.552(c)(2)(v).

- i. The notice to the family will include a copy of forms HUD-5380 and HUD-5382.
  - ii. The notice shall include the ground(s) for and effective date of the termination. Generally, at least thirty (30) days' notice will be provided.
  - iii. The notice shall advise the family of their right to an informal hearing, if any.
  - iv. The notice shall advise the Owner of their right to offer the family a separate, unassisted lease, if appropriate.
- b. If the Housing Authority proposes to terminate assistance for criminal activity as shown by a criminal record, the Housing Authority shall notify the family and provide the family with a copy of the criminal record. The Housing Authority shall give the family an opportunity to dispute the accuracy and relevance of that record and/or provide evidence of rehabilitation or other mitigating factors.<sup>460</sup>
- i. The notice will specify that the family has ten (10) business days to dispute the accuracy of the record. If the applicant does not contact the Housing Authority to dispute the information within that timeframe, the Housing Authority will proceed with issuing the notice of termination of assistance.
  - ii. If the family does not exercise their right to dispute the accuracy of the information prior to issuance of the notice of termination of assistance, they will be given the opportunity to do so as part of the informal hearing process.

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<sup>460</sup> 24 C.F.R. 982.553(d)(2); 24 C.F.R. 5.903(f); N.J.S.A. 46:8-56(c)(2).

## **XVI. APPEAL RIGHTS**

### **1. Informal Reviews**

- a. The Housing Authority shall give an applicant family prompt notice of a decision to deny housing assistance. The notice shall contain a brief statement of the reasons for the Housing Authority's decision, state that the applicant may request an informal review of the decision, and describe how to obtain the informal review.<sup>461</sup>
- b. The family must submit their request for an informal review in writing within ten (10) business days of receiving written notice of the Housing Authority's decision.
- c. The Housing Authority shall give an applicant an opportunity for an informal review of a decision to deny housing assistance.<sup>462</sup> The informal review may be conducted in person or via remote means.
- d. Within ten (10) business days of receiving a timely request for an informal review, the Housing Authority shall schedule the review and notify the family in writing.
  - i. Any request to reschedule shall be submitted in writing no later than twenty-four (24) hours prior to the scheduled start of the review and identify the basis for the request. The Housing Authority shall promptly notify the family whether the request has been granted or denied.
  - ii. If the family fails to attend a scheduled review without Housing Authority approval, the Housing Authority's decision shall stand.
- e. The Housing Authority shall comply with the below review procedures.
  - i. The review shall be conducted by a person designated by the Housing Authority. The reviewer shall not be a person who made or approved the decision under review, or a subordinate of such a person.<sup>463</sup>
  - ii. If any person engages in disruptive, abusive, or otherwise inappropriate behavior, the reviewer may request that the person leave the review. If that person refuses to leave, the reviewer may immediately conclude the review. The review will not be rescheduled; instead, a final decision will be issued based upon the evidence introduced by the non-disruptive party.

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<sup>461</sup> 24 C.F.R. 982.554(a).

<sup>462</sup> 24 C.F.R. 982.554(b).

<sup>463</sup> 24 C.F.R. 982.554(b)(1).

- iii. The applicant shall be given an opportunity to present written or oral objections to the Housing Authority's decision.<sup>464</sup>
  - iv. The Housing Authority shall notify the applicant of the final decision after the informal review, including a brief statement of the reasons for the final decision.<sup>465</sup>
- f. The Housing Authority is not required to provide the applicant an opportunity for an informal review for any of the reasons listed below.<sup>466</sup>
- i. Discretionary administrative determinations by the Housing Authority.
  - ii. General policy issues or class grievances.
  - iii. A determination of the family unit size under the Housing Authority's subsidy standards.
  - iv. A determination not to approve an extension of the voucher term.
  - v. A determination not to grant approval of the tenancy.
  - vi. A determination that a unit selected by the applicant is not in compliance with HQS.
  - vii. A determination that the unit is not in accordance with HQS because of the family size or composition.
- g. The informal review procedures shall not apply to a denial of assistance on the basis of ineligible immigration status. Instead, the Housing Authority shall comply with the informal hearing process set forth in 24 C.F.R. 5.514.<sup>467</sup>

## 2. **Informal Hearings**

- a. The Housing Authority shall give a participant an opportunity to ask for an explanation of the basis for a determination regarding family income, HAP calculations, utility allowances, or family unit size. The participant may request an informal hearing if they are not satisfied with the Housing Authority's explanation.<sup>468</sup>

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<sup>464</sup> 24 C.F.R. 982.554(b)(2).

<sup>465</sup> 24 C.F.R. 982.554(b)(3).

<sup>466</sup> 24 C.F.R. 982.554(c).

<sup>467</sup> 24 C.F.R. 982.554(d).

<sup>468</sup> 24 C.F.R. 982.555(c)(1).

- b. The Housing Authority shall give a participant family prompt notice of a decision to terminate assistance. The notice shall contain a brief statement of the reasons for the Housing Authority's decision, state that the family may request an informal hearing on the decision, and state the deadline for the family to request an informal hearing.<sup>469</sup>
- c. The Housing Authority shall give a participant family an opportunity for an informal hearing to determine whether the below decisions were made in accordance with the law, HUD regulations, and Housing Authority policies.<sup>470</sup>
  - i. A determination of the family's annual or adjusted income, and the use of such income to compute the HAP.
  - ii. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Housing Authority utility allowance schedule.
  - iii. A determination of the family unit size under the Housing Authority subsidy standards.
  - iv. A determination to terminate assistance for a participant family because of the family's action or failure to act.
  - v. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under Housing Authority policy and HUD rules.
- d. The family must submit their request for an informal hearing in writing within ten (10) business days of receiving written notice of the Housing Authority's decision.
- e. Within ten (10) business days of receiving a timely request for an informal hearing, the Housing Authority shall schedule the hearing and notify the family in writing.
  - i. Any request to reschedule shall be submitted in writing no later than twenty-four (24) hours prior to the scheduled start of the hearing and identify the basis for the request. The Housing Authority shall promptly notify the family whether the request has been granted or denied.
  - ii. If the family fails to attend a scheduled hearing without Housing Authority approval, the Housing Authority's decision shall stand.

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<sup>469</sup> 24 C.F.R. 982.555(c)(2).

<sup>470</sup> 24 C.F.R. 982.555(a)(1).

- f. If an informal hearing is required, the Housing Authority shall proceed with the hearing in a reasonably expeditious manner upon the request of the family.<sup>471</sup> The informal hearing may be conducted in person or via remote means.
  - i. The opportunity for an informal hearing shall be given before the effective date of the termination of HAPs under an outstanding HAP Contract.<sup>472</sup>
- g. The Housing Authority shall comply with the below hearing procedures.
  - i. Prior to the hearing, the family shall be given the opportunity to examine any Housing Authority documents that are directly relevant to the hearing. The family must be allowed to copy any such document at the family's expense. The Housing Authority cannot rely on a document at the hearing if it was not made available for examination on request of the family.<sup>473</sup>
    - 1. Documents include both records and regulations.<sup>474</sup>
  - ii. Prior to the hearing, the Housing Authority shall be given the opportunity to examine any family documents that are directly relevant to the hearing. The Housing Authority must be allowed to copy any such documents at the Housing Authority's expense. The family cannot rely on a document at the hearing if it was not made available for examination on request of the Housing Authority.<sup>475</sup>
  - iii. At its own expense, the family may be represented by a lawyer or other representative.<sup>476</sup>
  - iv. The hearing shall be conducted by a person designated by the Housing Authority. The hearing officer shall not be a person who made or approved the decision under review, or a subordinate of such a person.<sup>477</sup>
  - v. The hearing officer shall regulate the conduct of the hearing in accordance with the Housing Authority's hearing procedures.<sup>478</sup>

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<sup>471</sup> 24 C.F.R. 982.555(d).

<sup>472</sup> 24 C.F.R. 982.555(a)(2).

<sup>473</sup> 24 C.F.R. 982.555(e)(2)(i).

<sup>474</sup> 24 C.F.R. 982.555(e)(2)(iii).

<sup>475</sup> 24 C.F.R. 982.555(e)(2)(ii).

<sup>476</sup> 24 C.F.R. 982.555(e)(3).

<sup>477</sup> 24 C.F.R. 982.555(e)(4)(i).

<sup>478</sup> 24 C.F.R. 982.555(e)(4)(ii).

- vi. If any person engages in disruptive, abusive, or otherwise inappropriate behavior, the hearing officer may request that the person leave the hearing. If that person refuses to leave, the hearing officer may immediately conclude the hearing. The hearing will not be rescheduled; instead, a final decision will be issued based upon the evidence introduced by the non-disruptive party.
- vii. The Housing Authority and the family shall be given the opportunity to present evidence, and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.<sup>479</sup>
- h. The hearing officer shall issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the family.<sup>480</sup>
  - i. The Housing Authority is not bound by a hearing decision that concerns a matter for which the Housing Authority was not required to provide an opportunity for an informal hearing, that otherwise exceeds the authority of the hearing officer, or that is contrary to HUD regulations or requirements (or otherwise contrary to federal, State, or local law).<sup>481</sup>
  - ii. If the Housing Authority determines that it is not bound by a hearing decision, it shall promptly notify the family of the determination, and of the reasons for the determination.<sup>482</sup>
- i. The Housing Authority is not required to provide the participant an opportunity for an informal hearing for any of the reasons listed below.<sup>483</sup>
  - i. Discretionary administrative determinations by the Housing Authority.
  - ii. General policy issues or class grievances.
  - iii. Establishment of the Housing Authority schedule of utility allowances for families in the program.
  - iv. A determination not to approve an extension of the voucher term.

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<sup>479</sup> 24 C.F.R. 982.555(e)(5).

<sup>480</sup> 24 C.F.R. 982.555(e)(6).

<sup>481</sup> 24 C.F.R. 982.555(f).

<sup>482</sup> 24 C.F.R. 982.555(f).

<sup>483</sup> 24 C.F.R. 982.555(b).

- v. A determination not to approve a unit or tenancy.
  - vi. A determination that an assisted unit is not in compliance with HQS. (However, the Housing Authority shall provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family)
  - vii. A determination that the unit is not in accordance with HQS because of the family size.
  - viii. A determination to exercise or not to exercise any right or remedy against the Owner under a HAP Contract.
- j. The informal hearing procedures shall not apply to a termination of assistance on the basis of ineligible immigration status. Instead, the Housing Authority shall comply with the informal hearing process set forth in 24 C.F.R. 5.514.<sup>484</sup>

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<sup>484</sup> 24 C.F.R. 982.555(g).

## **XVII. PROJECT-BASED VOUCHERS**

### **1. General**

- a. The Section 8 HCV program requirements apply to the Section 8 PBV program unless stated otherwise in the HUD regulations or in this Administrative Plan.
  - i. For any Rental Assistance Demonstration (“RAD”) converted properties, the Section 8 PBV program requirements apply unless stated otherwise in the applicable HUD RAD Notice(s).
- b. Generally, the Housing Authority may commit project-based assistance to no more than 20% of its authorized voucher units.<sup>485</sup>
  - i. The program cap shall not apply to any units that were formerly, within the five (5) years prior to selection, part of a qualifying Federal housing program.<sup>486</sup>
  - ii. The program cap shall not apply to qualifying replacement units.<sup>487</sup>
- c. Generally, the Housing Authority may not provide project-based assistance if the number of assisted units would be more than 25% of the total dwelling units or if there would be more than 25 assisted units.<sup>488</sup>
  - i. If a project is located in an area where vouchers are difficult to use, the Housing Authority may not provide project-based assistance if the number of assisted units would be more than 40% of the total dwelling units or if there would be more than 25 assisted units.<sup>489</sup>
  - ii. The project cap shall not apply to units exclusively serving elderly families, eligible youth, or families eligible for supportive services available to the residents of the assisted project.<sup>490</sup>
  - iii. A family shall not be required to participate in supportive services as a condition of living in an excepted unit.<sup>491</sup> However, if supportive services

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<sup>485</sup> 24 C.F.R. 983.6(a).

<sup>486</sup> 24 C.F.R. 983.59(b).

<sup>487</sup> 24 C.F.R. 983.59(c).

<sup>488</sup> 24 C.F.R. 983.54(a).

<sup>489</sup> 24 C.F.R. 983.54(b).

<sup>490</sup> 24 C.F.R. 983.54(c).

<sup>491</sup> 24 C.F.R. 983.54(c)(2)(iii).

are requested, they shall be provided within one hundred twenty (120) days.<sup>492</sup>

- iv. The PBV HAP Contract shall specify, and the Owner must set aside, the number of excepted units made available for occupancy by families who qualify for the exception.<sup>493</sup> For a unit to be considered excepted it must be occupied by a family who qualifies for the exception.<sup>494</sup>
- v. The project cap shall not apply to any units that were formerly, within the five (5) years prior to selection, part of a qualifying Federal housing program.<sup>495</sup>
- vi. The project cap shall not apply to qualifying replacement units.<sup>496</sup>
- d. If a unit no longer qualifies for excepted status with regard to the program cap and/or project cap, the Housing Authority shall: (1) remove the unit's excepted status, provided that this action would not cause the Housing Authority to exceed the program cap and/or project cap; (2) substitute the unit for another unit that qualifies for excepted status; or (3) remove the unit from the HAP Contract and, if possible, provide the family with an HCV (which may be used to remain in the same unit if the family and the Owner agree).<sup>497</sup>
- e. The Housing Authority is not required to perform an environmental review for projects selected in accordance with the site selection standards in effect on or after June 6, 2024.<sup>498</sup>
- f. The Housing Authority shall calculate the number of authorized voucher units that it is permitted to project-base and determine the amount of budget authority that it has available for project-basing before it issues a request for proposals, makes a selection based on a previous competition, amends an existing HAP Contract to add units, or noncompetitively selects a project.<sup>499</sup>
- g. Prior to selecting a project for PBV assistance, the Housing Authority shall perform an analysis of the impact if project-basing 50% or more of its authorized voucher units. The analysis should consider the ability of the Housing Authority to meet the

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<sup>492</sup> 24 C.F.R. 983.54(c)(2)(iii).

<sup>493</sup> 24 C.F.R. 983.54(c)(4)(i).

<sup>494</sup> 24 C.F.R. 983.54(c)(4)(ii).

<sup>495</sup> 24 C.F.R. 983.59(b).

<sup>496</sup> 24 C.F.R. 983.59(c).

<sup>497</sup> 24 C.F.R. 983.262(b)(4).

<sup>498</sup> 24 C.F.R. 983.56(a)(2).

<sup>499</sup> 24 C.F.R. 983.58(a).

needs of the community across its HCV and PBV portfolio, including the impact on, among others: families on the waiting list and eligible PBV families that wish to move. The analysis must be available as part of the public record.<sup>500</sup>

## 2. Project Selection

- a. Typically, the Housing Authority shall select projects on a competitive basis through a publicly advertised Request for Proposals.<sup>501</sup> The Request for Proposals shall contain evaluation criteria and any limitations on the selection process.<sup>502</sup>
  - i. Prior to selection, the Housing Authority shall ensure that the project complies with all HUD requirements, including but not limited to unit eligibility rules, project cap rules, and site selection standards.<sup>503</sup>
    1. The Housing Authority shall select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities.
    2. The Housing Authority shall limit approval of sites for PBV housing to census tracts that have poverty concentrations of 20% or less, or to census tracts where the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities.<sup>504</sup>
  - ii. The Housing Authority shall conduct an inspection to determine compliance with site selection standards.<sup>505</sup>
  - iii. The Housing Authority shall give prompt written notice of the selection to the successful respondent and prompt notice to the public.<sup>506</sup> The date of the notice to the successful respondent shall be considered the project selection date.<sup>507</sup>

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<sup>500</sup> 24 C.F.R. 983.58(b).

<sup>501</sup> 24 C.F.R. 983.51(b).

<sup>502</sup> See 24 C.F.R. 983.51(d).

<sup>503</sup> 24 C.F.R. 983.51(a).

<sup>504</sup> See 24 C.F.R. 983.55(b)(1).

<sup>505</sup> 24 C.F.R. 983.51(e)(1).

<sup>506</sup> 24 C.F.R. 983.51(f)(1).

<sup>507</sup> 24 C.F.R. 983.51(g)(1).

- iv. A Housing Authority owned unit shall only be selected if the HUD Field Office or the independent entity reviews the project selection process and determines that the project was appropriately selected.<sup>508</sup>
- b. If the Housing Authority intends to select any qualifying project(s) on a non-competitive basis, it shall notify the public of its intent through its 5-Year Plan prior to the non-competitive selection.<sup>509</sup>
  - i. The selection decision shall be made by resolution of the Housing Authority's Board of Commissioners. The date of the resolution shall be considered the project selection date.<sup>510</sup>
  - ii. Public notice shall not be required if the project was selected to receive Federal, State, or local government housing assistance, community development assistance, or supportive services assistance, on a competitive basis within the past three (3) years any the competition did not involve any consideration that the project would receive PBVs.<sup>511</sup>
  - iii. The Housing Authority shall give prompt written notice of project selection to the Owner, which shall require the Owner to provide a written response accepting the terms and requirements stated in the notice.<sup>512</sup>
- c. The Housing Authority shall not commit project-based assistance to a project if the Owner or any principal or interested party is debarred, subject to a limited denial of participation, or otherwise excluded.<sup>513</sup>
- d. The Housing Authority shall make the documentation regarding the basis for project selection available for public inspection.<sup>514</sup>
- e. The Housing Authority shall enter into a Development Agreement with the Owner prior to the commencement of construction or rehabilitation.<sup>515</sup>
  - i. The Owner shall be required to submit evidence and certify that development activity or substantial improvement has been completed, and that all such work was in accordance with applicable requirements. The

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<sup>508</sup> 24 C.F.R. 983.51(h).

<sup>509</sup> 24 C.F.R. 983.51(c).

<sup>510</sup> 24 C.F.R. 983.51(g)(2).

<sup>511</sup> 24 C.F.R. 983.51(b)(2).

<sup>512</sup> 24 C.F.R. 983.51(f)(2).

<sup>513</sup> 24 C.F.R. 983.51(k).

<sup>514</sup> 24 C.F.R. 983.51(i).

<sup>515</sup> See 24 C.F.R. 983.154(f).

certification shall be in the form specified by the Housing Authority. The evidence and certification shall be submitted via hand delivery or certified mail to the Housing Authority's offices.<sup>516</sup>

- ii. The Housing Authority shall review the evidence to determine whether the development activity or substantial improvement was completed in accordance with applicable requirements.<sup>517</sup>
- f. The Housing Authority may execute a HAP Contract for existing housing if the proposed contract units substantially comply with HQS on the selection date and the project meets the initial inspection requirements.<sup>518</sup>
- g. The Housing Authority may execute a HAP Contract for newly constructed or rehabilitated housing if the proposed units fully comply with HQS following completion of the work.<sup>519</sup>
  - i. The Housing Authority shall not allow an owner of a rehabilitated housing project to conduct any of the development activity during the term of the HAP Contract.<sup>520</sup>
- h. If the Housing Authority determines that any requirements in addition to HQS are necessary for design, architecture, or quality of PBV housing, such requirements shall be specified in the Request for Proposals and documented in the agreement with the Owner. If the project was selected on a non-competitive basis, then the additional requirements shall be communicated to the Owner in advance and documented in the agreement with the Owner.<sup>521</sup>

### 3. Eligible Units

- a. Before the Housing Authority places a specific unit under a HAP Contract, it shall determine whether the unit is occupied and, if occupied, whether the unit's occupants are eligible for assistance, whether the unit is appropriate for the size of the family under the Housing Authority's subsidy standards, and whether the total tenant payment for the family is less than the gross rent for the unit.<sup>522</sup>

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<sup>516</sup> 24 C.F.R. 983.155.

<sup>517</sup> 24 C.F.R. 983.155.

<sup>518</sup> 24 C.F.R. 983.51(e)(2); 24 C.F.R. 983.103(c).

<sup>519</sup> 24 C.F.R. 983.103(b).

<sup>520</sup> See 24 C.F.R. 983.157(a)(1).

<sup>521</sup> See 24 C.F.R. 983.154(e)(11); 24 C.F.R. 983.157(e)(4); 24 C.F.R. 983.208(a)(3).

<sup>522</sup> 24 C.F.R. 983.52(c).

- b. A HAP Contract shall not be effective and PBV assistance shall not be provided for any of the below.<sup>523</sup>
- i. Shared housing.
  - ii. Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institution.
  - iii. Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (excluding a dwelling unit in an assisted living facility that provides home health care services such as nursing and therapy for residents of the housing).
  - iv. Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution.
  - v. Manufactured homes that are not permanently affixed to a permanent foundation or whose owner does not own fee title to the real property (land) on which the manufactured home is located.
  - vi. Transitional Housing.
  - vii. A public housing dwelling unit.
  - viii. A unit subsidized with any other form of Section 8 assistance (tenant-based or project-based).
  - ix. A unit subsidized with any governmental subsidy for rent and/or operating costs (including but not limited to assistance provided under the HOME, Section 202, Section 521, and/or Section 811 programs).
  - x. A unit with any other duplicative Federal, State, or local housing subsidy, as determined by HUD or by the Housing Authority in accordance with HUD requirements.
    1. The term “housing subsidy” does not include the housing component of a welfare payment; a social security payment; or a Federal, State, or local tax concession (such as relief from local real property taxes).
  - xi. A unit occupied by an owner of the housing (excluding a member of a cooperative who owns shares in the project).

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<sup>523</sup> 24 C.F.R. 983.52(a); 24 C.F.R. 983.53(a),(b),(d).

- xii. A unit for which commencement of construction or rehabilitation occurred in violation of program requirements.
- c. The Housing Authority shall ensure that assisted units comply with applicable accessibility requirements.<sup>524</sup>

4. **HAP Contract**

- a. A HAP Contract shall cover a single project unless the Housing Authority and the Owner agree to place multiple projects, consisting of a single-family building, under one HAP Contract.<sup>525</sup>
- b. The HAP Contract shall specify the total number of contract units by number of bedrooms, the information needed to identify the site and the building(s) where the contract units are located, the information needed to identify the contract units in the building(s), the services and equipment to be supplied by the Owner without charge, the utilities available to the contract units (which shall identify which utilities shall be paid by the Owner and which utilities shall be paid by the tenant), the features provided to comply with accessibility requirements, the HAP Contract term, the number of contract units under the increased program cap or excepted from the project cap, the initial rent to owner, and whether the Housing Authority has elected not to reduce rents below the initial rent to owner.<sup>526</sup>
  - i. At the discretion of the Housing Authority, the parties may execute an amendment to the HAP Contract to substitute or add contract units in accordance with 24 C.F.R. 983.207.
  - ii. A contract unit shall be removed from the HAP Contract if the family's increased income has caused no HAP to be paid for one hundred eighty (180) days. The Housing Authority may reinstate the contract unit after the ineligible family vacates the property or substitute a different unit.<sup>527</sup>
- c. Before execution of the HAP Contract, the Housing Authority shall determine that applicable pre-HAP Contract HQS requirements have been met.<sup>528</sup>
- d. The effective date of the HAP Contract must be on or after the date the HAP Contract is executed. The HAP Contract must be effective before the effective date of the first lease covering a contract unit occupied by an assisted family. The

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<sup>524</sup> 24 C.F.R. 983.102.

<sup>525</sup> 24 C.F.R. 983.202(a).

<sup>526</sup> 24 C.F.R. 983.203.

<sup>527</sup> 24 C.F.R. 983.211.

<sup>528</sup> 24 C.F.R. 983.204(a).

Housing Authority shall not pay any HAP to the Owner until the HAP Contract is effective.<sup>529</sup>

- e. The initial term of the HAP Contract shall not be less than one (1) year nor more than twenty (20) years. Any extension of the HAP Contract shall not be more than twenty (20) years. At no time shall the remaining term of the HAP Contract exceed forty (40) years.<sup>530</sup>
- f. By executing the HAP Contract, the Owner is deemed to have made the certifications specified in 24 C.F.R. 983.210.
- g. The Housing Authority may terminate a HAP Contract for insufficient funding if it determines that it lacks sufficient funding to continue to make HAPs for all voucher units currently under a HAP Contract, it has taken cost-saving measures specified by HUD, it notifies HUD of its determination and provides the information required by HUD, and HUD confirms the determination and notifies the Housing Authority it may terminate HAP Contracts.<sup>531</sup>
- h. The Housing Authority may terminate a HAP Contract for breach by the Owner.<sup>532</sup>
- i. The Housing Authority shall issue an HCV to each family occupying a contract unit at least sixty (60) calendar days prior to the planned termination or expiration of the PBV HAP Contract, unless the HAP Contract will terminate or expire due to a determination of insufficient funding or other extraordinary circumstances determined by HUD, or the family chooses to accept an alternative housing option offered by the Housing Authority.<sup>533</sup>
  - i. If the family vacates the contract unit following the issuance of the HCV and prior to the contract termination or expiration date, the Housing Authority shall remove the unit from the PBV HAP contract at the time the family vacates the unit.

## 5. Rent to Owner

- a. Generally, the rent to owner must not exceed the lowest of: (1) an amount determined by the Housing Authority, which shall not exceed 110% of the

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<sup>529</sup> 24 C.F.R. 983.204(d).

<sup>530</sup> 24 C.F.R. 983.205.

<sup>531</sup> 24 C.F.R. 983.206(c)(1).

<sup>532</sup> 24 C.F.R. 983.206(c)(2).

<sup>533</sup> 24 C.F.R. 983.206(b).

applicable FMR for the unit bedroom size minus any utility allowance; (2) the reasonable rent; or (3) the rent requested by the Owner.<sup>534</sup>

- i. The rent to owner may be further restricted based on receipt of tax credits, receipt of other subsidies, or local rent control.<sup>535</sup>
- b. The Housing Authority shall redetermine the rent to owner: (1) when there is a 10% decrease in the published FMR; (2) upon the Owner's request; or (3) at the time of the automatic adjustment by an operating cost adjustment factor (if provided for in the HAP Contract).<sup>536</sup>
- c. A rent increase may occur through automatic adjustment by an operating cost adjustment factor (if provided for in the HAP Contract) or as the result of an Owner request for an increase.<sup>537</sup>
  - i. Any approved rent increases shall go into effect at the anniversary of the HAP Contract.<sup>538</sup>
  - ii. Requests for rent increases shall be submitted via certified mail or hand delivery to the Housing Authority's offices no later than ninety (90) days prior to the anniversary date of the HAP Contract.<sup>539</sup>
  - iii. Requests for rent increases shall not be approved while there are outstanding (i.e. unabated) HQS violations.
  - iv. Whenever there is a change in rent to owner, the Housing Authority shall provide written notice to the Owner specifying the amount of the new rent to owner. The notice constitutes an amendment to the HAP Contract.<sup>540</sup>
- d. The Housing Authority shall redetermine the reasonable rent: (1) whenever there is a 10% decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP Contract) as compared with the FMR in effect 1 year before the contract anniversary; (2) whenever the Housing Authority approves a change in the allocation of responsibility for utilities between

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<sup>534</sup> 24 C.F.R. 983.301(b).

<sup>535</sup> 24 C.F.R. 983.301(c),(d); 24 C.F.R. 983.304; 24 C.F.R. 983.305.

<sup>536</sup> 24 C.F.R. 983.302(a).

<sup>537</sup> 24 C.F.R. 983.302(b)(2).

<sup>538</sup> 24 C.F.R. 983.302(b)(1).

<sup>539</sup> See 24 C.F.R. 983.302(b)(5).

<sup>540</sup> 24 C.F.R. 983.302(d).

the Owner and the tenant; (3) whenever the HAP Contract is amended to add a contract unit or substitute a different contract unit in the same building or project; (4) whenever the Housing Authority accepts a completed unit after development activity that is conducted after HAP Contract execution; and (5) whenever there is any other change that may substantially affect the reasonable rent.<sup>541</sup>

- i. The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units.<sup>542</sup>
- ii. In determining the reasonable rent, the Housing Authority must consider factors that affect market rent, such as: (i) the location, quality, size, unit type, and age of the contract unit; and (ii) amenities, housing services, maintenance, and utilities to be provided by the Owner.<sup>543</sup>
- iii. The reasonable rent determination must be based on the condition of the assisted unit at the time of the determination and not on anticipated future unit conditions.<sup>544</sup>
- iv. For each unit, the Housing Authority comparability analysis shall use at least three comparable units in the private unassisted market, which may include comparable unassisted units in the premises or project.<sup>545</sup>
- v. The Housing Authority shall retain a comparability analysis that shows how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.<sup>546</sup>
- vi. By accepting a HAP from the Housing Authority, the Owner certifies that the rent to owner is not more than rent charged by the Owner for comparable unassisted units in the premises. The Owner must provide any information requested by the Housing Authority on rents charged by the Owner for other units in the premises or elsewhere.<sup>547</sup>

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<sup>541</sup> 24 C.F.R. 983.303(b).

<sup>542</sup> 24 C.F.R. 983.303(c)(1).

<sup>543</sup> 24 C.F.R. 983.303(c)(2).

<sup>544</sup> 24 C.F.R. 983.303(c)(3).

<sup>545</sup> 24 C.F.R. 983.303(d)(1).

<sup>546</sup> 24 C.F.R. 983.303(d)(2).

<sup>547</sup> 24 C.F.R. 983.303(e).

## 6. Housing Assistance Payments

- a. Each month during the term of the HAP Contract, the Housing Authority shall make a HAP to the Owner for each contract unit that complies with HQS and is leased to and occupied by an eligible family.<sup>548</sup>
  - i. The amount of the HAP shall be the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).<sup>549</sup>
  - ii. The HAP shall be paid to the Owner on or about the first day of the month for which payment is due, unless the Owner and the Housing Authority agree on a later date.<sup>550</sup>
  - iii. Unless the Owner complies with all the provisions of the HAP Contract, the Owner does not have a right to receive HAPs.<sup>551</sup>
- b. HAPs shall continue until the tenant rent equals the rent to owner. The cessation of HAPs on this basis will not affect the family's other rights under its lease, nor will it preclude the resumption of HAPs as a result of subsequent changes in relevant circumstances (provided such changes occur within 180 days following the date of the last HAP).<sup>552</sup>
- c. The HAP shall be withheld for any contract unit with outstanding HQS violations during the applicable cure period. The HAP shall be abated for any contract unit with outstanding HQS violations following the applicable cure period.<sup>553</sup>
  - i. The Housing Authority shall notify the family and the Owner of any HAP abatement. The notice shall advise that the unit will be removed from the HAP Contract (or the HAP Contract will be terminated) and that the family will have to move if they wish to receive continued assistance if the deficiencies are not cured within the timeframe established by the Housing Authority (which shall be at least sixty (60) days).
  - ii. If the HAP is abated for multiple contract units, and the Housing Authority determines that the Owner has not made sufficient progress in curing the deficiencies and achieving HQS compliance, then the Housing Authority may abate the HAP or terminate the HAP Contract for all contract units.

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<sup>548</sup> 24 C.F.R. 983.351(a)(1),(b).

<sup>549</sup> 24 C.F.R. 983.351(c).

<sup>550</sup> 24 C.F.R. 983.351(d).

<sup>551</sup> 24 C.F.R. 983.351(e).

<sup>552</sup> 24 C.F.R. 983.258.

<sup>553</sup> 24 C.F.R. 983.208(d).

- d. If an assisted family moves out of the unit, the Owner may keep the HAP payable for the calendar month when the family moves out unless the Housing Authority determines that the vacancy is the Owner's fault.<sup>554</sup>
- e. The Housing Authority may approve vacancy payments in the amount of the most recent HAP for up to two months if the Owner: (1) submits a request for vacancy payments in the form and manner required by the Housing Authority; (2) gives the Housing Authority prompt, written notice certifying that the family has vacated the unit and containing the date when the family moved out (to the best of the owner's knowledge and belief); (3) certifies that the vacancy is not the fault of the Owner and that the unit was vacant during the period for which payment is claimed; (4) certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and (5) provides any additional information required and requested by the Housing Authority to verify that the owner is entitled to the vacancy payment.<sup>555</sup>

## 7. Tenant Rent

- a. The tenant rent is determined by the Housing Authority in accordance with HUD requirements. Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the Housing Authority to the family and the Owner.<sup>556</sup>
  - i. The tenant rent is the maximum amount the Owner may charge the family for rent of a contract unit. It includes payment for all housing services, maintenance, equipment, and utilities to be provided by the Owner.<sup>557</sup>
  - ii. The Owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the Housing Authority. The owner must immediately return any excess payment to the tenant.<sup>558</sup>
  - iii. The Housing Authority is not responsible for paying the tenant rent, or for paying any other claim by the Owner. The Housing Authority shall not use HAPs or other program funds to pay any part of the tenant rent or to pay any other claim by the owner.<sup>559</sup>
  - iv. If the amount of the utility allowance exceeds the total tenant payment, the Housing Authority shall pay a utility reimbursement (either to the

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<sup>554</sup> 24 C.F.R. 983.352(a).

<sup>555</sup> 24 C.F.R. 983.352(b).

<sup>556</sup> 24 C.F.R. 983.353(a).

<sup>557</sup> 24 C.F.R. 983.353(b)(2).

<sup>558</sup> 24 C.F.R. 983.353(b)(3).

<sup>559</sup> 24 C.F.R. 983.353(c).

family or directly to the utility supplier) and the tenant rent to the Owner shall be zero. If the Housing Authority elects to pay the utility supplier directly, it shall notify the family of the amount paid to the utility supplier.<sup>560</sup>

- b. The Owner shall maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance.<sup>561</sup>
  - i. The Housing Authority shall inspect a unit before providing assistance to a new family in a contract unit.<sup>562</sup>
  - ii. At least biennially during the term of the HAP Contract, the Housing Authority shall inspect a random sample, consisting of at least 20% of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. If more than 20% of the sample units in a building fail the initial inspection, then the Housing Authority shall reinspect 100% of the contract units in the building.<sup>563</sup>
  - iii. The family may be held responsible for a breach of the HQS that is caused by any of the following: the family fails to pay for any utilities which are required to be paid by the tenant; the family fails to provide and maintain any appliances which are required to be provided by the tenant; or any household member or guest damages the dwelling unit or premises (beyond ordinary wear and tear).<sup>564</sup>
  - iv. The Owner may undertake substantial improvement to a contract unit if approved by the Housing Authority pursuant to 24 C.F.R. 983.212.
  - v. For any Housing Authority owned units, an independent entity shall determine rent to owner, perform unit inspections, determine unit completion (for newly constructed or rehabilitated units), and determine whether to approve substantial improvements to contract units.<sup>565</sup>

## 8. Admissions

- a. The Housing Authority shall select applicants from the PBV waiting list to occupy PBV assisted units.<sup>566</sup>

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<sup>560</sup> 24 C.F.R. 983.353(d).

<sup>561</sup> 24 C.F.R. 983.208(a)(1).

<sup>562</sup> 24 C.F.R. 983.103(d).

<sup>563</sup> 24 C.F.R. 983.103(e).

<sup>564</sup> 24 C.F.R. 983.208(c).

<sup>565</sup> 24 C.F.R. 983.57(b).

<sup>566</sup> 24 C.F.R. 983.251(c).

- i. The Housing Authority shall ensure that in-place families (families that occupied a unit before it was added to a PBV HAP Contract) receive all HUD-mandated protections.<sup>567</sup>
  - ii. Families who require particular accessibility features for persons with disabilities shall be selected first to occupy PBV units with such accessibility features.<sup>568</sup>
  - iii. Generally, the Housing Authority shall only select families determined eligible using information received and verified by the Housing Authority within a period of 60 days before commencement of PBV assistance.<sup>569</sup>
- b. The Housing Authority shall use a separate waiting list for the RAD/PBV project known as Daniel Towers. The Housing Authority shall use the same waiting list for the HCV program and any PBV projects that use the same preferences. There shall be separate waiting lists for any PBV projects with different preferences.<sup>570</sup>
  - i. If the Housing Authority chooses to use a separate waiting list, it shall offer to place applicants who are listed on the HCV waiting list on the PBV waiting list.<sup>571</sup>
  - ii. The Housing Authority may merge the waiting list for PBV assistance with its waiting list for admission to another assisted housing program.<sup>572</sup>
  - iii. All waiting lists shall be maintained by the Housing Authority.<sup>573</sup>
- c. A family shall be removed from a PBV waiting list if they reject an offered unit without good cause or they are rejected by the Owner of a PBV unit.<sup>574</sup>
  - i. A family's position on the HCV waiting list shall not be affected by refusing a PBV unit or being rejected by the Owner of a PBV unit.<sup>575</sup>

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<sup>567</sup> 24 C.F.R. 983.251(b).

<sup>568</sup> 24 C.F.R. 983.251(c)(9).

<sup>569</sup> 24 C.F.R. 983.251(a)(2).

<sup>570</sup> See 24 C.F.R. 983.251(c)(2),(3).

<sup>571</sup> 24 C.F.R. 983.251(c)(6).

<sup>572</sup> 24 C.F.R. 983.251(c)(4).

<sup>573</sup> See 24 C.F.R. 983.251(c)(7).

<sup>574</sup> See 24 C.F.R. 983.251(e)(2).

<sup>575</sup> 24 C.F.R. 983.251(e)(1).

- ii. Good cause for unit refusals must be supported by appropriate documentation and demonstrated to the satisfaction of the Housing Authority. Examples of good cause for refusal of a unit offer include, but are not limited to, the following: (1) the unit does not meet a household member's disability-related needs (e.g. accessibility); (2) the unit has HQS deficiencies; (3) the family is unable to accept the offer due to circumstances beyond the family's control (e.g. hospitalization, temporary economic hardship, or natural disaster); and (4) the family determines that the unit presents a health or safety risk to a household member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.<sup>576</sup>
- d. The Housing Authority shall ensure that none of the following actions are taken against an applicant solely because they have applied for, received, or refused an offer of PBV assistance: (i) refuse to list the applicant on an open waiting list for HCV or PBV assistance; (ii) deny any admission preference for which the applicant is currently qualified; (iii) change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection; (iv) remove the applicant from the waiting list for HCV assistance.<sup>577</sup>
- e. When a family accepts an offer of PBV assistance, the Housing Authority shall provide the family with an oral briefing and an information packet, and the Housing Authority and the family shall sign a statement of family responsibility.<sup>578</sup>
- f. During the term of the HAP Contract, the Owner shall only lease contract units to eligible families selected from the PBV waiting list.<sup>579</sup>
  - i. The Owner shall adopt written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.<sup>580</sup>
  - ii. The Owner shall promptly notify in writing any rejected applicant of the grounds for any rejection. The Owner shall provide a copy of such rejection notice to the Housing Authority.<sup>581</sup>
  - iii. The Owner shall comply with VAWA.<sup>582</sup>

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<sup>576</sup> See 24 C.F.R. 983.251(e)(2).

<sup>577</sup> 24 C.F.R. 983.251(e)(3).

<sup>578</sup> 24 C.F.R. 983.252.

<sup>579</sup> 24 C.F.R. 983.253(a)(1).

<sup>580</sup> 24 C.F.R. 983.253(a)(2).

<sup>581</sup> 24 C.F.R. 983.253(a)(3).

<sup>582</sup> 24 C.F.R. 983.253(a)(4).

## 9. Occupancy

- a. The Housing Authority shall not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the Housing Authority determines that approving the unit would provide reasonable accommodation for a family member who is a person with a disability.<sup>583</sup>
- b. The contract unit leased to each family must be appropriate for the size of the family under the Housing Authority's subsidy standards.<sup>584</sup>
- c. The lease shall have an initial term of at least one (1) year and provide for automatic renewal thereafter.<sup>585</sup>
  - i. The lease shall terminate if the Owner terminates the lease for good cause in accordance with 24 C.F.R. 983.257, the tenant terminates the lease, the Owner and the tenant agree to terminate the lease, the Housing Authority terminates the HAP Contract, or the Housing Authority terminates assistance to the tenant.<sup>586</sup>
  - ii. The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by Housing Authority policy.<sup>587</sup>
  - iii. The Owner shall notify the Housing Authority in advance of any proposed change in lease requirements governing the allocation of tenant and Owner responsibilities for utilities. Such changes may be made only if approved by the Housing Authority and in accordance with the terms of the lease relating to its amendment.<sup>588</sup>
- d. The Housing Authority and the Owner shall make reasonable good-faith efforts to minimize the likelihood and length of any vacancy in a contract unit.<sup>589</sup>
  - i. The Owner shall promptly notify the Housing Authority of any vacancy or expected vacancy in a contract unit, and the Housing Authority shall, after receiving the Owner's notice, make every reasonable effort to promptly

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<sup>583</sup> 24 C.F.R. 983.251(a)(4).

<sup>584</sup> 24 C.F.R. 983.253(b).

<sup>585</sup> 24 C.F.R. 983.256(f)(1),(2).

<sup>586</sup> 24 C.F.R. 983.256(f)(3).

<sup>587</sup> 24 C.F.R. 983.256(g).

<sup>588</sup> 24 C.F.R. 983.256(e)(2).

<sup>589</sup> 24 C.F.R. 983.254(a)(1).

refer a sufficient number of families for the Owner to fill such vacancies within 30 calendar days.<sup>590</sup>

- ii. The Owner shall only lease vacant contract units to families determined eligible by the Housing Authority.<sup>591</sup>
- iii. If any contract units have been vacant for 120 days or more since the Owner's notice of vacancy, then the Housing Authority may give notice to the Owner amending the HAP Contract to remove such units.<sup>592</sup>

#### **10. Moving with Continued Assistance**

- a. A family may move with continued assistance if the Housing Authority determines that the family is occupying a wrong-size unit or a unit with accessibility features that the family does not require (but another family does require).<sup>593</sup>
  - i. The Housing Authority shall notify the family and the Owner within thirty (30) days of the determination.<sup>594</sup>
  - ii. The Housing Authority shall offer the family continued assistance within sixty (60) days of the determination.<sup>595</sup>
- b. A family may move with continued assistance if: (1) it submits a written request to the Housing Authority for an HCV; (2) it has received PBV assistance for at least one year; and (3) it provides the Owner and the Housing Authority advance written notice of its intent to vacate in accordance with the lease.<sup>596</sup>
  - i. If a family terminates their assisted lease before one year of PBV assistance, they shall relinquish the opportunity for continued assistance.<sup>597</sup>
  - ii. The length of assistance requirement shall not apply to a family that qualifies for protection under VAWA.<sup>598</sup>

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<sup>590</sup> 24 C.F.R. 983.254(a)(1).

<sup>591</sup> 24 C.F.R. 983.254(a)(2).

<sup>592</sup> 24 C.F.R. 983.254(b).

<sup>593</sup> 24 C.F.R. 983.260(a)(2).

<sup>594</sup> 24 C.F.R. 983.260(a)(2).

<sup>595</sup> 24 C.F.R. 983.260(a)(2).

<sup>596</sup> 24 C.F.R. 983.261(a),(b),(c).

<sup>597</sup> 24 C.F.R. 983.261(d).

<sup>598</sup> 24 C.F.R. 983.261(f).

- iii. The notice requirement shall not apply to a family that qualifies for protection under VAWA or that has been the victim of a sexual assault occurring on the premises during the 90 calendar day period preceding the family's request to move.<sup>599</sup>
- c. If a family is eligible to move with continued assistance, the Housing Authority shall offer the family an HCV.<sup>600</sup> If an HCV is not immediately available, the Housing Authority shall give the family priority to receive the next available opportunity for an HCV.<sup>601</sup>
  - i. The Housing Authority shall maintain a list of families who are eligible to move with continued assistance and awaiting an HCV. HCVs will be provided to families on this list in order of their lease termination date.
  - ii. The Housing Authority shall terminate the HAP for a wrong-sized or accessible unit at the earlier of the expiration of the HCV term or the date upon which the family vacates the unit.<sup>602</sup> If the family does not vacate the unit by the expiration of the HCV term, the Housing Authority shall remove the unit from the PBV HAP Contract.<sup>603</sup> The Housing Authority may reinstate the unit to the PBV HAP Contract after the family vacates the property.<sup>604</sup>
- d. If an HCV is offered to a family and the search term expires, the Housing Authority shall issue the HCV to the next eligible family.<sup>605</sup>
- e. The Housing Authority shall facilitate moves by families that qualify for protection under VAWA in accordance with its Emergency Transfer Plan.<sup>606</sup>

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<sup>599</sup> 24 C.F.R. 983.261(e).

<sup>600</sup> See 24 C.F.R. 983.260(b); 24 C.F.R. 983.261(b).

<sup>601</sup> 24 C.F.R. 983.261(c).

<sup>602</sup> 24 C.F.R. 983.260(c)(1).

<sup>603</sup> 24 C.F.R. 983.260(c)(1).

<sup>604</sup> 24 C.F.R. 983.260(d).

<sup>605</sup> 24 C.F.R. 983.261(b).

<sup>606</sup> 24 C.F.R. 983.261(f).

## **XVIII. CLOSING AND PURGING FILES**

The Housing Authority shall purge inactive files in accordance with the Housing Authority's Record Retention and Disposition Policy, which incorporates the State of New Jersey's current Municipal Housing and Development Records Retention and Disposition Schedule.