

Section 1.0 SELECTION AND ADMISSION POLICIES

It is the policy of HCR to ensure that all families who express an interest in housing assistance are given equal opportunity to apply and are treated in a fair and consistent manner. This section describes the policies and procedures for selecting and admitting families to the Statewide Section 8 Housing Choice Voucher (HCV) Program including completion of an application for assistance, placement and/or denial of placement on the waiting list and limitations on who may apply.

Unless otherwise approved by HCR (and HUD if regulatory waiver is required), these selection and admission processes apply to all local program areas in HCR's Statewide Program jurisdiction.

1.01 Hiring a Housing Choice Voucher Participant as an Employee of the Local Administrator's Organization

HUD rules and regulations do not prohibit a PHA from hiring as an employee a person who is also a participant in the PHA's HCV program. However, when hiring such person, the LA should apply the same Section 8 standards and policies set forth in HUD rules and regulations and HCR's Administrative Plan. The standards and policies currently used to safeguard the privacy and confidentiality of tenant information and tenant files should apply equally to the employee. Special efforts should be taken to assure that the employee/recipient is not receiving preferential treatment. This policy also applies to program participants who are relatives of employees.

Where feasible, the LA should utilize the services of another PHA/LA to conduct inspections, interim and annual reexaminations.

The LA **must submit, within 90 days of initial participation,** the names of all employees and known relatives of employees who are participants in their Housing Choice Voucher program to their HCR Statewide Section 8 Voucher Program Representative. A relative for the purpose of this requirement is defined as follows (and includes the same for relationships created by marriage): spouse, child, sibling, parent, grandparent, grandchild, aunt, uncle, niece, nephew, cousin.

1.02 Eligibility of Local Administrator's Employees for Housing Choice Voucher Program Assistance

HUD rules and regulations do not prohibit an employee (*who is otherwise qualified*) of a PHA from applying and receiving HCV program assistance from the PHA with whom he/she is employed.

Therefore, when an employee of the LA applies for Housing Choice Voucher Program assistance, the LA should apply the same Section 8 standards and policies set forth in HUD

rules and regulations and HCR's Administrative Plan. The standards and policies currently used to safeguard the privacy and confidentiality of tenant information and tenant files should apply equally to the employee. Special efforts should be taken to assure that the employee/applicant is not receiving preferential treatment. This policy also applies to relatives of employees.

The word "relative" as used in this section pertains to parent, child, grandparent, grandchild, sister, or brother of any employee.

1.03 Preferences

HCR has established local preferences for tenant-based vouchers within the Housing Choice Voucher Program to further objectives towards improved residential stability, expanding housing opportunities and alleviating homelessness within New York State.

Each LA must give preference to applicants on their general tenant-based waiting list for the Housing Choice Voucher Program, as described below:

First priority shall be given to the following:

Households defined as Homeless.

A qualified household must fall under one of the two categories listed below as defined by HUD (10% of each LA's general allocation of regular vouchers must be dedicated to this preference - additional information below):

Category 1: An individual or family who *lacks a fixed, regular, and adequate nighttime residence*, meaning:

a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; *or*

b. An individual or family living in a supervised publicly or privately operated shelter designated to provide **temporary** living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); *or*

c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

Category 4: Any individual or family who:

a. Is *fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking*, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; *and*

- b. Has no other residence; *and*
- c. Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

In addition to identifying as one of the categories listed above, **HCR requires** the applicant provide or obtain written verification from a coordinating shelter, housing provider, service agency or institution (for those being discharged) confirming the same.

Second priority will be given to the following (No limitation):

Households identified as Elderly and/or Disabled (as defined by HUD) or Families with Dependent Children.

Third priority (No limitation):

All applicants who do not meet the criteria to claim one of the preferences described above but meet all other eligibility criteria as described in HUD regulations and this Administrative Plan.

As allowed under HUD regulations, HCR has exercised its' discretion to limit the number of applicants that may qualify for a local preference, therefore, 10% of each LA's general allocation of regular vouchers, not including those programs with a separate project number (i.e., Mainstream, VASH), must be designated for the above stated homeless preference. As long as the maximum threshold of 10% for each LA has not been reached, the homeless preference remains active within their jurisdiction. Once an LA has reached the maximum allowable participants for this preference, all remaining applicants will be chosen in order of remaining priorities and by position on the waiting list. Once a participant's voucher, that was initially qualified for assistance under the homeless preference has been terminated or relinquished, the LA must re-activate the homeless preference until the maximum allowable threshold is reached. Each LA will be responsible for maintaining their tenant-based waiting list in accordance with these requirements.

For the PBV program, while the homeless preference stated above is not applicable, each project sponsor is encouraged to consider a homeless preference for their project as allowed by and through the competitive selection process, funding requirements and any additional programmatic requirements applicable at the time of award.

All LA's with closed waiting lists must first offer current applicants on the waiting list who qualify to receive the benefit of the preference to move up on the waiting list accordingly. The notice to applicants must include how to successfully apply and establish themselves with the homeless preference status which would include the same format we implement for new applicants including contacting the partnering agencies for referrals and/or determination of preference eligibility. If a closed waiting list is opened to establish homeless applicants, the LA should specify on any public notice that current waiting list applicants will also be given the benefit of the preference.

HUD regulations currently require mandatory prohibitions to the HCV program. Policies regarding sex offender status, meth production, evictions within 3 years from federal assistance and those family members currently engaged in illegal drug use or threatening activity are all still mandatory prohibitions to the program. In addition, as no policy, whether mandated by HUD or discretionary as set forth in HCR's administrative plan, can be limited to or excluded from any one population (i.e. homeless population), all policies and/or available opportunities within the program must be followed, enforced and made available to all participants, as applicable.

Any additional special purpose programs with preferences or a targeted population as required by HUD are listed in Section 3.0 of this Administrative Plan and will be provided under separate notice.

1.04 Opening the Waiting List

Each LA will utilize the following procedures for opening any waiting list, including opening a waiting list solely for the purpose of a limited scope and/or a targeted population:

When the LA determines that there are an insufficient number of applicants on its local waiting list, the LA will advertise through public notice in local media of general circulation and any available minority media in the LA jurisdiction. The public notice should provide information on income and other general eligibility requirements; and should also contain the following:

- The dates, time, location, and other relevant contact information regarding where families may apply;
- The program(s) for which applications will be taken (general list, PBV, mainstream, etc);
- The specified period (if any) for which applications will be received by the LA; and
- A brief description of the program;
- A statement that individuals with disabilities are eligible for the program and that reasonable accommodations will be made where necessary to ensure equal participation in housing assistance;
- A statement affirming compliance with equal housing opportunity requirements; and affirming compliance with equal housing opportunity requirements; and
- The federal Equal Housing Opportunity Logo.

Within 30 days of closing the waiting list, if an application is requested or submitted by a person with a disability, such request will be granted/accepted as a reasonable accommodation.

In conjunction with opening the waiting list, the LA is required to prepare an Affirmative Fair Housing Marketing Plan which addresses:

- Conducting outreach to advocacy groups (i.e., disability rights groups) on the availability of housing assistance;

- Identifying and outreaching to the population that is least likely to apply, both minority and non-minority groups, through various forms of media (i.e., radio stations, posters, newspapers) within the marketing area and through various community groups.

1.05 Closing the Waiting List

The LA may discontinue receiving applications if there are enough applicants to fill anticipated openings for the next **24** months. A local waiting list may **not** be closed if to do so would have a discriminatory effect inconsistent with applicable civil rights laws.

The LA will announce the closing of the waiting list by public notice.

1.06 Updating and Purging the Waiting List

The LA will update and purge its waiting list (*including any active PBV waiting lists*) at least annually to ensure that the pool of applicants reasonably represents families still actively interested in Section 8 HCV assistance. Updating enables the LA to update information regarding address, family composition, income category and preferences. The number of applicants on the waiting list should be at least equal to 50% of the LA's current program size or sufficient to cover the next 24 months of anticipated available vouchers, whichever is greater.

Prior to updating the waiting list:

- The LA must retain a copy of the pre-updated waiting list report.
- All applicants who are affected by the update must be notified by mail.

The updating/purging process must be performed at minimum for those applicants considered reachable within a 12 month period for each active waiting list. All correspondence must include the name and address of the applicant notified.

The LA should advise applicants to provide updated contact information in writing. Applicants will be advised that they will be removed from the waiting list if they cannot be reached at the address provided on the initial application.

The letter will indicate that the purpose of the contact is:

- to determine applicant interest in remaining on the waiting list; and
- to offer the family an opportunity to update any information previously provided to the LA.

The contact letter will require the applicant to provide return correspondence in the following circumstances:

1. The applicant wishes to be removed from the waiting list, or
2. The applicant wishes to update information currently on file provided by the LA to expedite return of requested information.

Contact letters returned by the Post Office as undeliverable will be grounds for removing an applicant from the waiting list. However, if a letter is returned by the Post Office with a forwarding address, the LA should update the information on the computer and re-mail the letter to the new address. In such cases, an applicant's name should not be removed from the active waiting list and determined ineligible unless the applicant fails to respond to this notice.

In addition, and if applicable, the LA should also notify the contact person or organization provided by the applicant on **Form HUD-92006**, "Supplement to Application for Federally Assisted Housing (see section of form entitled "Reason for Contact")", before removing the applicant's name from the active waiting list.

The LA will compare results of the update to regular annual program participant attrition rates. If the initial update results in an inadequate number of applicants to offset regular program attrition rates, the LA will conduct additional outreach until it is determined that there are sufficient numbers of active applicants.

1.07 Removal of Applicants from the Waiting List

The LA will remove an applicant's name from the waiting list under the following conditions:

- The applicant requests, in writing, that his/her name be removed;
- The applicant fails to respond to a written request for information;
- Correspondence is returned to the LA by the Post Office as undeliverable;
- The applicant misses two or more scheduled appointments/briefings; or
- The applicant does not meet either program eligibility or screening criteria.

Before removing an applicant from the waiting list due to the applicant's failure to respond to a written request, a second letter must be mailed to the applicant. If the applicant does not respond to the second notice within ten (10) business days, the name of the applicant will be removed from the waiting list.

When an extenuating circumstance prevents an applicant from responding to an LA's correspondence which resulted in the applicant being removed from the active waiting list and determined ineligible, reinstatement of the applicant shall be granted by the LA subject to acceptable documentation verifying the extenuating circumstance. If reinstatement is granted, the applicant will retain his/her original position on the waiting list.

Requests for reinstatement to the waiting list due to extenuating circumstances must be made within 60 days of the LA's notice informing the applicant that his/her name will be removed from the active waiting list. **Requests that are received after the 60 days period must be denied.**

Extenuating circumstances include, but are not limited to the following:

- When a death has occurred in the family;
- Hospitalization;
- Illness;
- Incarceration; and
- Other circumstances determined by the LA

In no event will an applicant's name be held in abeyance on the active waiting list based on his/her representation that he/she is not ready to be processed when reached on the list.

Applicants' files must be retained for at least three years after the date an application is closed, withdrawn from the waiting list, or determined ineligible.

1.08 Screening of Applicants

As part of LA processes for determining eligibility for participation, the LA will conduct criminal background checks on all adult household members, including live-in aides. These checks will be used to identify circumstances under which assistance must be denied in accordance with the requirements of Section 1.9.

All adult applicant family members will be required to sign a release of information which will authorize the LA to access criminal records.

This check may be made through state or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three years. If the individual has lived outside the local area, the LA may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). The LA will also check with the State sex offender registration program to determine if an individual is subject to a lifetime registration requirement as a State sex offender.

Additional screening is the responsibility of the owner. Upon the written request of a prospective owner, the LA will provide any factual information or third party written information they have relevant to a voucher holder's history of, or ability to, comply with material standard lease terms.

The LA will not screen family behavior or suitability for tenancy. The LA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before LA approval of the tenancy, the LA will inform the owner that screening and selection for tenancy is the responsibility of the owner. The owner is responsible for screening families based on their tenancy histories, including such factors as:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- Compliance with other essential conditions of tenancy.

All screening procedures will be administered uniformly, fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups under federal, New York State or local fair housing laws.

To the maximum extent possible, the LA will involve other community and governmental entities in the promotion and enforcement of this policy. This policy will be posted on the LA's bulletin board and copies made readily available to applicants and participants upon request.

1.09 Grounds for Denial of Assistance

There are two automatic bars for which the LA will permanently deny assistance:

1. The LA **will** permanently deny assistance to a family if any member of the family has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally-assisted housing.
2. The LA **will** permanently deny assistance to anyone subject to a lifetime registration requirement as a State sex offender.

The LA will also deny assistance to applicants who:

1. do not meet any one or more of the eligibility criteria;
2. do not supply information or documentation required by the application process;
3. fail to complete any aspect of the application or lease-up process;
4. have a history of criminal activity by any household member involving crimes of physical violence against persons or property, or any other criminal activity, including drug-related criminal activity that **would adversely affect the health, safety or well-being of other participants or staff, or cause damage to the property**. The LA may only consider prior criminal convictions or pending arrests and may not consider arrests and/or accusations that did not result in a conviction. Even where convictions exist, those convictions cannot be an automatic bar to the applicant being granted assistance unless they are one of the two automatic bars discussed above. However, such history will not serve as the basis to

deny assistance if it has been at least five (5) years since the conviction or service of sentence whichever is later, where there has been no other such intervening criminal activity during that period that would serve as the basis to deny assistance.

5. have engaged in illegal drug use or a pattern of alcohol abuse (as specified below) within one (1) year of initial lease-up of an applicant:
 - A member of the household has demonstrated a pattern of drug or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and/or persons in the immediate vicinity of the premises.

The LA may waive the decision to deny assistance if:

- the person responsible for the prohibited action demonstrates successful completion of or are participating in a credible rehabilitation program approved by the LA, or
- the circumstances leading to the violation no longer exist because the person who engaged in prohibited drug-related or alcohol-related activity is no longer in the household due to death or incarceration.
- The LA may approve assistance to an eligible family, provided that the household member(s) determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the LA may consider individual circumstances with the advice of Juvenile Court officials.

If assistance is to be denied because of criminal activity, drug or alcohol abuse as outlined above, the denial will be based upon either of the following:

- Preponderance of evidence – defined as “*evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.*”
 - Credible Evidence – defined as “*evidence provided by police and court systems such as drug raids, drugs found in the dwelling unit, evidence which is tied to the activity, warrants issued, arrests made, etc.*”
6. currently owe rent or other obligations to any housing authority in connection with the public housing or Section 8 programs;
 7. have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;

8. have a family member who was evicted from federally-assisted housing within the last five (5) years;
9. have a household member who has been evicted from federally-assisted housing for drug-related criminal activity within the last three (3) years prior to anticipated date of admission. “Drug-related criminal activity” is defined as the illegal manufacture, sale, distribution or possession with the intent to manufacture, sell or distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802. However, an eviction within the last 3 years for drug-related criminal activity is not an automatic bar since the LA will provide assistance if:
 - The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the LA; or
 - The circumstances leading to the eviction no longer exist (for example, the household member has died or is incarcerated);
10. have a family member who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The LA may waive this requirement if:
 - the person demonstrates to the LA’s satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
 - the person has successfully completed a supervised drug or alcohol rehabilitation program;
 - the person has otherwise been rehabilitated successfully; or
 - the person is participating in a supervised drug or alcohol rehabilitation program.
11. have engaged in or threatened abusive or violent behavior towards any LA staff member;
12. have a family household member who has been terminated under the Pre-Merger Certificate or Voucher Programs or Housing Choice Voucher Program during the last three years. This three-year prohibition does not apply to a family member who voluntarily withdrew from the program, and was in good standing at that time;
13. have a family member who has been convicted of manufacturing or producing methamphetamine;
14. have a family member with a lifetime registration under a State sex offender registration program; or
15. is a welfare-to-work (WTW) family that willfully and persistently failed to fulfill its obligations under the welfare- to-work voucher program within the last three years.

In considering whether to deny or terminate assistance because of any actions or failure to act by the members of the family, the LA must look at relevant circumstances such as the seriousness of the case the extent of participation or culpability of the individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial on the other family members who were not involved in the action or failure.

These circumstances governing denial of assistance to applicants shall also be applicable to any and all instances wherein a participant family wishes to admit an additional family member who meets any of the above conditions.

1.10 Confidentiality of Criminal Records

The LA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and must be destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed, will be housed in a locked file with access limited to LA staff individuals responsible for screening and determining eligibility for initial and continued assistance. Misuse of the above information by any employee of the LA will be grounds for termination of employment.

If the family is determined eligible for initial or continued assistance, the criminal report must be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information must be shredded immediately upon completion of the review or hearing procedures and the final decision.

The LA will document in the family's file the circumstances of the criminal report and the date the report was destroyed.

1.11 Notification of Negative Actions

Any applicant whose name is being removed from the waiting list will be notified in writing by the LA that he/she has ten (10) business days from the date of the written correspondence to request an informal review. The letter will also indicate that the applicant's name will be removed from the waiting list if he/she fails to respond within the time limit specified.

If an applicant's criminal record was obtained from a state or local agency under section 24 CFR 5.903 or 5.905 (that is, obtained a criminal conviction or sex offender record of an adult household member from a law enforcement agency using the approved consent form) showing that a household member has been convicted of a crime relevant to applicant screening, the

family must first be provided with the subject record and an opportunity to review and dispute the accuracy and relevancy before a denial of admission is communicated if based on the same information. Written notification indicating the applicant has (10) days from the date of the written correspondence to review and/or dispute must be provided prior to a notice of denial.

The LA's system of removing applicants' names from the waiting list will not violate the rights of persons with disabilities. If an applicant's failure to respond to a request for information or updates was caused by the applicant's disability, the LA will provide a reasonable accommodation. If the applicant indicates that he/she did not respond due to a disability, the LA will verify that the applicant is disabled.

An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

1.12 Application Procedures

Each LA will utilize a standardized application form approved by HCR. The applicant will be responsible for completing all sections of the application. If an applicant with a disability requests assistance as a reasonable accommodation, the LA will arrange for it.

The primary purpose of the application intake function is to gather pertinent eligibility information on applicants. This process will also be utilized by LAs to provide such information to applicants as may be necessary to ensure accurate and timely decisions concerning eligibility and to expedite provision of assistance to eligible families.

Prospective applicants may either complete the application at the LA's office or request that one be sent to them for completion and return.

Each application must be accompanied by proof of the applicant's current address. The only exceptions to this requirement are:

- a. Project-based applicants; however, if an applicant applies to both waiting lists (project-based and Housing Choice Voucher), proof of residency is required for the HCV waiting list.
- b. Applicants who are not residing in the LA's jurisdiction at the time of application.

Should an applicant be unable to provide the required proof of residency at the time of initial application, they will be considered a "non-resident" applicant as defined in Section 1.17.

At a minimum, the application will contain the following information:

1. Head-of-household name, address, and phone number;
2. Dates of birth for all family members;

3. Social Security numbers for all family members in accordance with HUD regulations and guidance, and HCR policy notices.
4. Racial and ethnic designation of the head of household;
5. Preferences either authorized by HCR or required by HUD;
6. Annual gross income for each family member;
7. Date application was submitted; and
8. Form HUD-92006, Supplement to Application for Federally Assisted Housing. *Note: While HUD requires that this form be included as a Supplement to the PHA's Application for Federally Assisted Housing, the applicant has the option of providing additional contact information, or declining to do so. Regardless of the option chosen, the signed and dated form must be maintained in the applicant's file.*
9. Veteran status for Head of Household, Co-Head, and Spouse.

Upon receipt in the LA's office, the date and time of each application will be recorded on the application form. Persons submitting applications will not be required to attend an interview; information on the application will be accepted on a "self-certified" basis until the applicant is contacted for a pre-selection final eligibility determination. Incomplete applications will be returned to a family, together with a statement of what information is necessary to complete the application.

Each person submitting an application will receive written acknowledgment of receipt of the application from the LA. As further described below, the acknowledgment will indicate the applicant's tentative eligibility status.

Applicants who have submitted a complete application and have been determined to be preliminarily eligible for Section 8 HCV assistance will be placed on the waiting list until assistance is available. In the acknowledgment letter, the LA will briefly indicate the steps that will follow after the applicant's name has been placed on the waiting list.

While documents verifying date of birth may be requested at the time of submission of the application, an applicant should not be denied placement on the waiting list if this documentation is not provided. Such verification is only required at the time of the final eligibility determination.

Disclosure of Social Security numbers by applicants must conform to HUD regulations and guidance, and to HCR policy notices. Accordingly, applicant(s) have up to 180 days to meet HUD's Social Security documentation requirements before being removed from the waiting list.

If an applicant is determined ineligible based on the information provided in the application, the LA will notify the family in writing (in an accessible format upon request as a reasonable

accommodation), state the reason(s), and inform the family of its right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as a reasonable accommodation.

1.13 Applicant Status While on Waiting List

All applicants who are placed on the waiting list will be informed of their responsibility to report changes in address in writing within 30 days of occurrence. Applicants will also be required to report changes in income, family composition and/or other items potentially affecting applicant eligibility.

Applicants will be notified that, if the LA is unable to contact the family due to its failure to promptly submit a change of address notification, it may result in its name being dropped from the waiting list. Applicants will also be dropped from the waiting list if they fail to respond to written requests for information or action within LA-specified time frames.

Exceptions will be granted for applicants with disabilities, as defined in 24 CFR §5.403 who were not able to respond within the time frame due to their disability. Exceptions may also be granted for applicants hospitalized for sufficient duration if the failure to respond is/was due to the hospitalization.

1.14 Time of Selection

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

1.15 Income Targeting Requirement

The same income targeting rule that applies to participant-based vouchers also applies to project-based vouchers (PBV). The 75% targeting requirement is a combined factor for any LA with both participant-based and project-based vouchers.

LAs are responsible for ensuring that, in any given year, of the **combined total** of participant-based and project-based admissions, not less than 75% of admissions must be families with incomes at or below 30% of area median.

HCR's "targeting year" is the same as its program fiscal year of April 1 through March 31. LAs should look at the previous year's admission activity to determine the overall percentage of families admitted who were at or below 30% of median. No adjustments to administrative practices will be necessary if it is considerably above 75%.

HCR does not grant waivers of the income targeting policy for which an owner or landlord can apply.

In order to ensure that the targeting requirements are met on an overall basis, it is necessary that LAs meet these requirements on an individual basis. However, HCR may exercise its discretion to modify this requirement on an “as needed” or individual basis, in view of the initial impact on targeting that may result from PBV move-ins.

For PBV vacancies, LAs must continue doing everything possible to admit families with incomes at or below 30% of median. However, the LA is permitted to raise the targeting income ceiling to 50% of area median income if the LA can demonstrate that sufficient families at the 30% of area median income level are not available. In this situation, LAs should primarily, **if not solely**, admit families having incomes at or below 30% of area median income to tenant-based HCV openings, until the overall percentage of the LAs annual admissions equals or exceeds 75% of families at this income level.

1.16 Selection of Families from the Waiting List

Unless otherwise approved by HCR (and HUD if such approval is necessary), the selection of participants in all LA Program jurisdictions will be according to the following local selection order:

- For participant households with more than one family member, selection will be based on date and time of application (*or in the case of an LA using a lottery selection process, in the order generated by the lottery selection process.*)
- For single person households, persons who are elderly, disabled, handicapped or displaced will be selected before other single person households.

The qualification for the above listed preference and/or any subsequent preferences that may be added is based solely on an applicant’s status **at the time of selection from the waiting list**. LAs must not ask an applicant claiming disability to specify the exact nature of (or state or explain) his/her disability, nor does the applicant have to submit proof of said disability; documentation can only state that the applicant is disabled.

Notwithstanding the above, if necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year be extremely low-income families (unless a different target is agreed to by HUD), the LA retains the right to skip higher income families on the waiting list to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, HCR and each LA will monitor incomes of newly admitted families and the incomes of the families on the waiting list.

If there are an insufficient number of extremely low-income families on the waiting list, the LA will conduct outreach on a non-discriminatory basis to attract sufficient numbers of extremely low-income families in order to reach the statutory requirement.

1.17 First-Year Limitation on Where Family Can Lease a Unit at Initial Participation in the Program

A “non-resident” applicant is required to utilize the voucher for the first 12 months in the initial Local Administrator’s jurisdiction.

For the purposes of this provision, a “non-resident” applicant is one where neither the head of household or spouse had a “domicile” (legal residence) in the jurisdiction of the Local Administrator at the time the family submitted an application for participation in that LA’s program. This section does not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims 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 any family member who 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.

The term “Legal Domicile” is defined as follows: *“The legal residence of the household head or spouse as determined in accordance with State and local law.”* New York State case law defines “domicile” as *“one’s [the household head or spouse] principal and permanent place of residence where he/she always intends to return to from wherever he/she may be temporarily located and from which he/she has no present intention of moving. In other words, the ‘domicile’ is the location where a person intends to make his or her home indefinitely.”*

Families will be advised that, if contacted for admission to the local program wherein they were a “non-resident” at the time of application, they must utilize the assistance for 12 consecutive months in the jurisdiction of the program where they are being admitted before portability may be granted. In order to exercise their right to port, the family must provide supportive documentation establishing 12 consecutive months of residency with assistance. All documentation received must completely and sufficiently support the family’s residency claim. If there is insufficient evidence to support the residency claim, the portability request must be denied. If any documentation submitted to establish residency is determined fraudulent, the family must be terminated. All “non-resident” applicants must be advised of this policy upon acceptance of their application by the LA and at the time the family is contacted to establish an eligibility certification interview.

Conversely, if the family was a resident in the LA’s jurisdiction at the time of application, they will be eligible for portability at the time of initial issuance of the voucher.

The legal residence reported by the applicant at the time of application is the determining factor in the implementation of these provisions.

1.18 Eligibility of Students for Assisted Housing under Section 8

An LA should apply 24 CFR 5.609(b)(9) when determining the eligibility of a student and calculating income.

An LA shall deny Section 8 assistance if the head of household is enrolled as either a part-time or full-time student at an institution of higher education unless one or more of the following circumstances applies:

- The head of households is over the age of 23;
- The head of households is a veteran of the United States military;
- The head of household is married;
- The head of household has at least one dependent child;

The above exceptions do not apply to a student residing in a Section 8 assisted unit with his or her parent(s) or who lives with his/her parent(s) who are applying to receive Section 8 assistance. Students who are living with their parents who are, individually or jointly, ineligible for assistance may not apply.

Tuition and Fees

LAs should evaluate income verification for students on a case-by-case basis. Typically, financial aid amounts exceeding tuition, fees, and other required educational expenses must be included when calculating the household's annual income. This rule applies except where the head of household falls into one of the exceptions listed above, in which case any income received from an Institution of Higher Education, including student stipends, work study, etc., is excluded. This exclusion only applies if the LA determines that the head of household is a full-time student at that Institution.

When evaluating whether a head of household qualifies as a full-time student, an LA should review the student's bill, account statement, IRS Form 1098-T, or any official documentation from the school directly. As a guide, the school's website may assist in providing an itemized list of tuition and fees typically charged students. Student loan proceeds are also excluded from income calculations.

If a program participant is seeking an income exclusion, the burden of proof is on the applicant. If the applicant provides inconsistent, conflicting, or non-credible information, it is appropriate for the LA to seek clarity and request additional supporting documentation as needed. While the LA may ask the participant, among other things, if they are a student and where they are enrolled in an educational program, 24 CFR 5.609(b)(9) does not provide a standard for determining when a participant qualifies as a student or what qualifies as an educational program.

Questions the LA may ask when evaluating student eligibility and calculating income may include:

- 1) Is the participant charged tuition and/or any other required fees and charges? If yes, what are itemized charges?

2) Is the financial assistance being provided intended to cover, in whole or in part, the tuition and/or other required fees and charges as are defined in PIH Notice 2015-21 and Housing Notice 2015-12?

3) Is the financial assistance provided under the Higher Education Act of 1965 from private sources or higher education institutions (as defined by the Higher Education Act of 1965)?

1.19 Initial Eligibility Certification

At the point of selection from the waiting list, all adult household applicants will be required to participate in an initial eligibility certification interview. Single persons who claim that they are elderly, disabled, handicapped or displaced must have that status verified prior to the LA's scheduling of the initial eligibility certification interview.

Information used to verify an applicant's eligibility at initial certification for the HCV program must be current, that is within 60 days of the issue date of a voucher. Upon verification of the applicants' information, the LA must update the electronic "Wait List Applicant Report" for each applicant. A copy of the "Wait List Data Sheet" must be maintained in each applicant's file.

After the above preference is verified, applicants will be required to participate in a full eligibility certification interview with an LA representative in accordance with 24 CFR 982.301. The certification and briefing interview afford the LA an opportunity to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that all required information is accurate and complete. The briefing phase of the interview is used as a vehicle to provide information about the certification and verification process, as well as to advise the family of other PHA services or programs which may be available.

At the certification interview, the applicant will be required to furnish complete and accurate information requested by the interviewer. The LA representative will initially complete the certification based on written and/or verbal information provided by the applicant.

At the conclusion of the certification interview, the applicant will sign and certify that all information is complete and accurate.

1.20 Requirement to Attend Briefing Interview

All adult family members are required to attend the interview and sign the eligibility certification. Exceptions may be made for students attending school out of state or for members for whom attendance would be a hardship. Interviews must be held in a manner which meets the requirements set forth by HUD and this Administrative Plan. They may be conducted in person, remotely via video-teleconferencing, or through other virtual platforms. To conduct a briefing remotely, the methodology must be consistent with the requirements in Section 14.05 (Hearing Procedures) of this Administrative Plan. It is incumbent on the LA to ensure the same equal

opportunity and nondiscrimination requirements for individuals with disabilities and limited English proficient (LEP) persons under Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964, and the Fair Housing Act are followed.

The head of household or the head and spouse are required to attend the interview. If the head of household cannot attend the interview, the spouse may attend to complete the certification and certify for the family. However, the head of household will be required to attend an interview within three days to review the information and to certify by signature that all of the information is complete and accurate.

If an applicant misses a scheduled appointment, does not contact the LA to reschedule, cannot be contacted by the LA to reschedule or misses two scheduled meetings, the LA will reject the application and the applicant will be removed from the waiting list.

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

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

The head of household and spouse will be required to sign the certification form and/or a supplemental form/worksheet containing the family composition, income, asset and allowance information for the family. As required by the LA, other adult members may also be asked to sign these forms.

All adult members must sign:

- HUD Form 9886 (Release of Information);
- any supplemental forms and/or documents required by the LA;
- declarations and consents related to citizenship/immigration status; and
- a consent form to release criminal conviction records and to allow the LA to receive records and use them in accordance with HUD regulations.

Applicants may also be required to sign specific verification forms for information which is not covered by HUD form 9886. Failure to do so when required will be cause for denial of the application for Section 8 assistance.

If the LA determines during or after the interview that additional information is needed directly from the applicant, the LA will specify in writing what information is required and what kind of documentation must be provided by the applicant to verify it. The family will be given ten business days to supply requested information. If the information is not supplied in this time period, the LA may deny assistance.

1.21 Portability Moves from Other PHAs

Local Administrators are required to adhere to HUD’s portability requirements for initial and receiving PHAs, as set forth in HUD regulations and PIH Notices.

Policies related to absorption or billing of portability moves are established by HCR as PHA. HCR reserves the right to revise its portability billing guidelines based on budget authority granted by HUD and unit baseline allocations established by HCR for each local program.

The term of a receiving PHA’s voucher may not expire before 30 calendar days from the expiration date of the initial PHA’s voucher, including any extensions the initial PHA may have granted on the voucher. For example, if the initial PHA extends the voucher until 11/30/2016, the receiving PHA’s voucher may not expire before 12/30/2016. As a receiving PHA, an LA may extend the voucher up to an additional 180 days beyond the initial PHA’s expiration date, including any extensions the initial PHA has already granted, in accordance with Section 2.0 of this Administrative Plan.

1.22 Income Verification

All income and asset information provided by the applicant must be verified using HUD’s income verification hierarchy (See below and Section 20 of this Administrative Plan). The file must be documented to leave a clear audit trail. Any documentation requested directly from the applicant must be provided within the time specified by the LA.

Annual income criteria (including definition and exclusions) can be found at 24 CFR 5.609.

HUD Verification Hierarchy and Techniques

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	Highest (Mandatory use for all participants and new admissions within 120 days)
5	Upfront Income Verification (UIV) using non-HUD system	Highest (Optional) (i.e., The Work Number, other databases)
4	Written Third-Party Verification	High (Mandatory use for all applicants where non-HUD UIV system is not available; Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.)

3	Written Third-Party Verification Form	Medium-Low (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third-Party Verification	Low (Mandatory if written third party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. EIV is not available for verifying income of applicants until after they have been admitted. Verification Hierarchy and Techniques illustrates six levels of verification starting with 6 as the highest category of Upfront Income Verification using HUD’s EIV system, then 5 Upfront Income Verification (UIV) using non-HUD system, 4 Written Third Party Verification, 3 Written Third Party Verification Form, 2 Oral Third Party Verification and 1 Tenant Declaration.

1.22.01 Child Support

Periodic and determinable allowances received as child support payments must be included as annual income. However, child support payments pursuant to court order or private agreement that is nonrecurring or sporadic shall be excluded as income upon proper written verification. The LA must also obtain third party verification of income derived from child support and/or cash contribution. Request for verification of such incomes must be made directly from the contributor or the enforcement agency (family court or Department of Social services, etc.).

1.22.02 Pay Stubs as Verification of Income

Original or authentic pay stubs generated by a third-party source dated either within the 60-day period preceding the reexamination or LA’s requested date can be accepted as verification of income subject to the following:

LAs are required to obtain a minimum of four consecutive weeks of pay stubs (i.e., 4 separate weekly or 2 bi-weekly pay stubs) or 2 monthly pay stubs to determine annual income from wages. However, at its discretion, LAs are permitted to obtain additional paystubs as warranted to determine the annual income.

The average of the paystubs and the average of the year-to-date statement must be compared; the greater of the two averages must be used. Paystubs that are not consistent with (less than) an individual’s regular pay cycle (i.e.; weekly, bi-weekly, monthly, etc.) should not be used in the determination of average annual income. LAs must ascertain the reason(s) for the inconsistency and the file must be documented to leave a clear audit trail.

When the LA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal, temporary or inconsistent employment), the LA will review and analyze historical data (tax returns, EIV) for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

If the submitted paystubs or the year-to-date statement are inadequate to determine the average annual income. LAs must request/obtain third party verification of income.

1.22.03 Asset Verification

LAs are required to include in the calculation of annual income any interest or dividends earned on assets held by the family. Original or authentic documentation (i.e.; bank statements, stocks/bonds, real estate, etc.) generated by a third-party source within the most recent three (3) months. For checking accounts, LAs must obtain three (3) consecutive months of bank statements (the last statement being within the most recent three months) and use the three-month average as the cash value. For savings accounts, LAs must obtain one statement dated within 3 months and use the ending balance on that statement as the cash value. At its discretion, the LA may obtain statements that are older if there is suspicion of any irregularities.

When a family has net family assets in excess of \$5000, annual income shall include the greater of the actual income derived from the net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

For each new admission, the LA must comply with HUD's EIV income verification requirements, including:

- review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- print and maintain a copy of the Income Report in the tenant file; and
- resolve any income discrepancy with the family within 60 days of the EIV Income Report.

1.22.04 Medical Expenses

Medical expenses, as defined in 24 CFR 5.603(b) are expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

Unreimbursed medical expense deductions exceeding 3% of the household's annual income may be permitted in families where the head, spouse, or co-head is at least 62 or is disabled. If a family meets the eligibility criteria for a medical expense deduction, the

qualified medical expenses of all family members may be counted. Medical expenses must be personally incurred and not covered or reimbursed under any insurance, coverage plan or paid from any other source. In order to qualify as a medical expense deduction, it must be listed as an includable item in the most current IRS Publication 502, Medical and Dental Expenses.

*Summary of Allowable Medical Expenses from IRS Publication 502	
<ul style="list-style-type: none"> • Services of medical professionals • Surgery and medical procedures that are necessary, legal & non-cosmetic • Services of medical facilities • Hospitalization, long term care, and in-home nursing services • Prescription medicines and insulin, (all nonprescription & OTC medicines are not allowed unless they have been prescribed by a doctor) • Medical supplies, such as bandages • Substance abuse treatment programs • Psychiatric treatment 	<ul style="list-style-type: none"> • Actual transportation costs for and essential to medical care (i.e., bus, taxi, ambulance) or standard medical mileage rate for a car • The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) • Cost and continuing care of necessary service and/or guide animals as defined in the Glossary (excludes support animals) • Medical insurance premiums or the cost of a health maintenance organization (HMO) • Amounts paid for the prevention and alleviation of dental disease
<p>*This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502.</p>	

1.23 Final Determination and Notification of Eligibility

After verification is completed, the LA will make a final determination of eligibility. This decision is based upon information provided by the family, verification activities undertaken by the LA and current eligibility criteria in effect. If the family is determined to be eligible, the LA will confirm eligibility via written notification to the family. If a briefing has not already been conducted by the LA, one will be scheduled to coincide with issuance of the Housing Choice Voucher.

1.24 Document Retention for Applicants and Participants

1.24.01 Applicants

Applicant files and documents must be retained for at least three years after:

- the date an application is closed;
- the applicant has withdrawn from the waiting list; or
- the applicant is determined ineligible.

When an applicant is admitted to the program, the application and associated verification of eligibility documents must be transferred to the participant's file and must be retained in that file according to the rules for program participant files (see below).

Special rules apply to retention of U.S. Citizenship and Immigration Services (USCIS) documents. These documents must be retained for at least five years.

1.24.02 Participants

Documents for participants must be retained during the term of the assisted tenancy and for at least three years thereafter. However, **except** for the documents listed below, ***all other documents may be destroyed after the three-year period.***

- Birth certificates or other verification of DOB
- Social security cards
- Initial application
- Initial income eligibility verification
- Initial voucher
- Initial 50058
- Initial HAP contract
- Initial lease and tenancy addendum

Note: USCIS documents must be retained for at least five years.

When a new or additional folder is created for an existing participant, the documents specified above must be transferred to the new folder.

1.24.03 Criminal Records

Special retention rules pertain to criminal records for both applicants and participants. Criminal records must be maintained confidentially until the purpose for which they were obtained has been accomplished including any informal reviews, if requested, have been completed. At that time all criminal records obtained are **required** to be destroyed. The file should be documented with a reference to the type of screening and the date the screening was performed.

1.25 HAP Contract Term and Terminations

The HCV HAP contract (HUD 52641) is a written agreement between the LA and the owner of the unit occupied by the assisted family. The HAP contract, in a format prescribed by HUD, stipulates the terms in which the LA agrees to make housing assistance payments on behalf of the assisted family. The term of the HAP contract must be the same as the term of the lease, however, no HAP contract may be executed until all program requirements are met and no payments made until the HAP contract has been fully executed. Therefore, the LA must first ensure the following program requirements have been met: owner eligibility, unit eligibility, HQS, signed lease and lease addendum, rent reasonableness, and for new admissions the family share must not exceed 40% of their adjusted income.

Once approved, the LA and owner may execute an HCV HAP contract. Each LA must make its best effort to ensure each HAP contract is executed before the start of the lease term, however, it must be executed no later than 60 calendar days from the beginning of the lease term. If the HAP contract is fully executed within 60 calendar days of the lease, the LA is instructed to pay the owner the portion withheld. Any HAP contract executed after the 60-day period is considered void, and the LA may not pay any of the housing assistance payment to the owner.

During the term of the HAP contract, the LA must make monthly housing assistance payments to the owner on behalf of the family. The initial amount of the housing assistance payment made by the LA to the owner is reflected on the HAP contract at the time of HAP contract execution. This amount is subject to change during the term of the HAP contract based on family's income, household composition, rent increases or other changes affecting the housing assistance payments but does not require a newly executed HAP contract.

The LA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant occupies the unit and the HAP contract is not violated. HAP payments end when either the HAP contract is terminated or tenancy ends in accordance with the terms of the lease.

The HAP contract and the housing assistance payments made under the HAP contract automatically terminate when:

- The owner or the family terminates the lease;
- The lease expires without extensions and/or renewals;
- The LA terminates and/or NYS HCR instructs the LA to terminate the HAP contract;
- The LA terminates assistance for the family;
- The family moves from the assisted unit. The owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the LA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by NYS HCR as stated in Section 11 of this Administrative Plan;
- The Annual Contributions Contract (ACC) between NYS HCR and HUD expires.

The LA may also elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program;

- The unit does not meet HQS (due to inspection failure or change in family composition);
- The family breaks up and no determination can be made under Section 12 of this Administrative Plan;
- The owner breaches the HAP contract.

If the LA terminates the HAP contract, the LA must give both the owner and family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract. In any of the situations above, should the family remain otherwise eligible, a new HAP contract must be executed to continue their assistance.

If the owner has initiated eviction proceedings against the family, they must inform the LA. If the HAP contract is still in force in this scenario, the LA must continue to make housing assistance payments. The owner should keep the LA apprised of the status of a court judgment or other determination allowing the owner to evict the tenant. Once decided, the owner must provide a copy of the court's determination. Once the family either subsequently voluntarily moves or is physically evicted from the unit, only then must the LA stop payments on behalf of the tenant.

In any situation, the owner is not entitled to receive housing assistance payments beyond the month in which the contract is terminated. The owner must return any and all housing assistance payment received in error to the LA.