

**LOUDOUN COUNTY
DEPARTMENT OF FAMILY SERVICES
(DFS)**

**ADMINISTRATIVE PLAN
FOR
TENANT BASED RENTAL ASSISTANCE**

Loudoun County Department of Family Services

**Administrative Plan for Tenant Based Rental Assistance under the
Housing Choice Voucher Program**

This document combines the Loudoun County Department of Family Services (DFS) Administrative Plan and Equal Opportunity Plan. This Administrative Plan is part of the Public Housing Agency (PHA) Plan for DFS and has been approved by the DFS governing board and the Loudoun County Board of Supervisors.

The Department of Housing and Urban Development (HUD) allows public housing agencies (PHAs) broad discretion to adopt local policies for operation of the tenant-based program. This plan reflects the exercise of those policy choices by DFS. DFS policies and procedures articulated herein are subject to change in accordance with all applicable HUD requirements; changes that are adopted to reflect changes in HUD regulatory requirements will not be considered significant amendments requiring implementation of a public hearing process. This plan is not a comprehensive statement of DFS' procedures for program administration but is intended to provide applicants, participants, and owners with a basic understanding of DFS' Housing Choice Voucher Program.

For more information applicants, participants, and owners, are directed to the following:

- HUD' s program regulations found in Title 24 of the Code of Federal Regulations (CFR)
- The owner information packet available upon request from DFS.
- The information packet for participants available upon request from DFS.

A copy of this plan is on file at the U.S. Department of Housing and Urban Development (HUD),
Office of Public Housing

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A copy of this Administrative Plan is available for public review at the following address:

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1. Definitions & Clarifications

These definitions and clarifications are provided for the reader's convenience. They do not supersede the definitions found in HUD's program regulations for the same terms.

Absorption In portability, the point at which a receiving PHA stops billing the initiating PHA for assistance on behalf of a family living in the receiving PHA's jurisdiction.

ACC Annual Contributions Contract A written contract between HUD and the PHA through which HUD agrees to provide funding to operate the Housing Choice Voucher Tenant Based Rental Assistance (Housing Choice Voucher) program and the PHA agrees to operate according to HUD requirements.

ACC Reserve Account An account established by HUD and funded from the amounts by which the annual maximum payment to the PHA under the consolidated ACC exceeds the amount actually approved and paid. This account is used as a source for additional payments for the Housing Choice Voucher program.

Adjusted Income Annual income minus the dollar amount of the allowances for which a participating family qualifies. Adjusted income is calculated to determine the amount a family can afford to contribute for their housing costs. Regulations governing the calculation of adjusted income are found in 24 CFR Part 5.

Administrative Fee Fee paid by HUD to the PHA for administering the Housing Choice Voucher program.

Administrative Fee Reserve Account established by the PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

Administrative Plan The Administrative Plan describes PHA policies for administering the Housing Choice Voucher program. The Administrative Plan is part of the PHA Plan.

Admission The effective date of the first Housing Assistance Payment (HAP) contract providing housing assistance payments for a family to an owner. This is the point at which a family becomes a participating family in the Housing Choice Voucher program.

Annual Income Gross income projected to be received by all family members during the twelve months following an initial certification or recertification. Income used by an PHA to determine a family's initial eligibility for the Housing Choice Voucher program. HUD regulations instruct an PHA to include some income sources and to exclude other income sources when projecting a family's annual income. Regulations governing the calculation of annual income are found in 24 CFR 982.516.

Applicant A family that has applied for admission to the program, but is not yet a participant. A family becomes a participant on the effective date of the first HAP contract executed for the family (first day of initial lease term).

***Bedroom** A room large enough for a bed with a locking door to the hallway with a closet and pole to hang clothes. Room must conform to Virginia Maintenance Code and 1993 revised Loudoun County zoning ordinance for a bedroom. **amended 7/2009*

Brief Period Thirty days or less.

Budget Authority For each funding increment in the Housing Choice Voucher program, the maximum amount HUD may pay the PHA for program expenses.

Child A family member, other than the head, co-head or spouse, under 18 years old.

Citizen A citizen or national of the United States.

Companion See “Live-In Aide”

Consolidated Annual Contributions Contract Includes the funding for all program increments in effect. Although separate ACCs must be created for each funding increment, the consolidated ACC states HUD’s commitment to fund each increment identified in the ACC exhibits constitutes a separate ACC.

Contiguous MSA In portability, a Metropolitan Statistical Area (MSA) that shares a common boundary with the jurisdiction of DFS.

Continuously Assisted A family is continuously assisted if the family is already receiving assistance under any program established under the United States Housing Act of 1937, as amended, when the family is admitted to the Housing Choice Voucher program.

Contract Agreement between the owner and the PHA through which the PHA agrees to provide housing assistance payments to the owner on behalf of the tenant, and the owner agrees to abide by HUD and PHA requirements. Generally referred to as the housing assistance payment (HAP) contract. For all new agreements, the PHA will execute a Housing Choice Voucher Program contract.

Contract Authority The maximum annual payment by HUD to a PHA for a funding increment.

Conviction Found guilty by a court of law.

Disabled Person See definition for Person with Disabilities.

Displaced Person A family in which its sole member, or each member has been displaced by government action. A person or family 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.

Domicile The legal residence of the head of the household, co-head or spouse as determined in accordance with state and/or local law.

Drug Related Criminal Activity The illegal manufacture, sale or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance (as defined in Section 102 of the Controlled Substance Act, 21 United States Code (U.S.C.) 802); or the illegal use, or possession for personal use, of a controlled substance.

Drug Trafficking The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Earned Income Disallowance (EID), also referred to as Earned Income Disregard is an incentive that allows a disabled tenant who was previously unemployed or under-employed, to work without an immediate increase in rent. (*amended July 2010*)

Elderly Family A family whose head, co-head, spouse or sole member is a person who is at least 62 years old. Two or more persons who are at least 62 years old living together. One or more persons who are at least 62 years of age living with one or more live-in aids.

Elderly Person A person who is at least 62 years of age.

Eviction A termination of a tenancy by a court of law, as evidenced by a Judgment for Possession.

Evidence of Citizenship or Eligible Immigration Status The documents required of family members claiming U.S. citizenship or eligible immigration status.

Exception Payment Standard In the voucher program, an initial payment standard in excess of the PHA established payment standard. If the PHA had a HUD approved area exception rent in effect on October 1, 1999, the PHA may establish an exception payment standard amount up to the amount of the HUD approved area exception rent.

Extension of Time (*for Housing Quality Standards (HQS) inspection repairs*) With approval of DFS, this allows additional time, usually not more than 30 days, to complete the required repairs, during which time the HAP payment may:

- continue to be paid in full;
- be withheld and retroactively repaid in full; or
- be withheld and reduced appropriately when payments resume or HAP contract is terminated.

Extremely Low Income Family A family receiving income at or below 30% of the median annual income for their area.

Fair Market Rent (FMR) The rent, including the cost of utilities that would be required to be paid in the PHA jurisdiction to lease privately owned, existing, decent, safe and sanitary housing of modest (non-luxury) nature with suitable amenities. HUD establishes FMRs for housing units of varying sizes and are published in the Federal register.

Family 1) Two or more persons sharing residency whose income and resources are available to meet the family's needs and are either related by blood, marriage, or act of law. 2) A family which evidences a stable family relationship such as an unmarried couple sharing residency, one or both who are the parents or parent of any child or children living with them and whose income and resources are held in common and are available to meet the needs of the family. This relationship would have been established prior to applying for or receiving the Housing Choice Voucher Rental Housing Payments Program, and one that has not been created for the sole purpose of receiving such assistance. 3) Any two or more individuals, one or both who are handicapped or disabled and whose incomes and resources are available to meet the needs of the family will be considered evidencing a stable family relationship. 4) Any two or more able bodied individuals who are not related by blood, marriage or act of law, and who do not come under the definition of family composition as listed above, will not be considered to be eligible and will not be included in this program.

Family Self-Sufficiency Program (FSS Program) A program established by a PHA to promote self-sufficiency for assisted families. Program often includes the provision of or coordination of supportive services to encourage education, job training, mental health counseling, drug counseling, etc., as necessary for program participants.

Family Unit Size The appropriate number of bedrooms for a family. The family unit size is based on the PHA established subsidy standards.

HAP Contract Housing assistance payment contract. The contract between DFS or administering agency and the owner that allows housing assistance payments to be made directly to the owner on a program participants' behalf.

HAP Payment The subsidy paid to the owner, by DFS or an administering agency on behalf of a program participant.

HAP-Abated Payment Stops the HAP payment to an owner for a period during which the condition of a unit did not confirm to HQS standards. An abated payment is not repaid after the HQS violation is corrected.

HAP-Suspended Payment The HAP payment is not being made e.g., either terminated or withheld regardless of the reason.

HAP-Terminate Payment Stop housing assistance payments to the owner for a specific Housing Choice Voucher/Housing Choice Voucher participant permanently. DFS will provide the owner with written notice of its intent to terminate the HAP payment in accordance with the HAP contract.

Homeless When a person or family lives in places not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings (on the street); in an emergency shelter; in transitional or supportive housing for homeless persons who originally came from the streets or emergency shelters; in any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution.

Housing Opportunities for Person with Aids (HOPWA) Program specifically for person with Aids or are HIV positive.

Housing Staff (HS) Employees of Loudoun County Department of Family Services.

Housing Quality Standards (HQS) HQS refers to both HUD's HQS and DFS' supplemental inspection requirements. Properties must meet HQS at all times. Once a property is under a HAP contract, a primary contractual obligation of the owner and the administering agency is to ensure that the property continues to meet all HQS requirements.

Household See "Family".

HUD The United States Department of Housing and Urban Development.

HUD Requirements HUD requirements for administering the Housing Choice and Moderate Rehabilitation Voucher programs. HUD issues new requirements as regulations, rules and notices in the Federal Register, and other binding program directives.

Informal Hearing The method of appealing the decision of DFS staff to change the amount of rent a participant is paying for rent or terminating a participant's assistance. This does not apply to expired vouchers.

Informal Review The method of appealing the decision of DFS staff to rescind or not issue a voucher to an applicant. This does not apply to expired vouchers.

Initial Housing Authority In portability, the term refers to (1) a PHA that originally selected a family that subsequently moved out of its jurisdiction; and (2) a PHA that absorbed a family that subsequently decides to move out of its jurisdiction.

Initial Rent to Owner The monthly rental amount to owner at the beginning of the initial lease term.

INS Immigration and Naturalization Service (now known as ICE).

Jurisdiction The area in which the PHA has authority under state and local law to administer the Housing Choice Voucher program.

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 of occupancy of the dwelling unit by the family. The lease establishes the rights and responsibilities for both the owner and the tenant.

Live-In Aide A person or companion who resides with one or more elderly, near-elderly or disabled persons and who: 1) Is determined to be essential to the care and well-being of the persons; 2) Is not obligated for the support of the persons; 3) Would not be living in the unit except to provide the necessary supportive services; and 4) Would not be entitled to Housing Choice Voucher in the event of death of Housing Choice Voucher client.

Local Preference A preference established by the PHA used to select among applicant families on the waiting list.

Low Income Family A family receiving an annual income at or below 80% of the median for their area. A low income family may receive Housing Choice Voucher assistance under special conditions.

Maximum Initial Rent Burden The total family contribution for a Housing Choice Voucher family must be less than 40% of the adjusted income when the family first moves into any unit or signs the first assisted lease for the unit.

Minimum Rent Established by the PHA somewhere between \$0 and \$50.00. The minimum rent for DFS is \$25.00.

Mixed Family A family whose members include citizens and/or persons with eligible immigration status, as well as persons without eligible immigration status.

MSA Metropolitan Statistical Area

Near-Elderly Family whose head, co-head, spouse or sole member is a person who is at least 50 years old but not yet 62 years old. Two or more persons who are least 50 years of age but not yet 62 years old, living together. One or more persons who are at least 50 years old but not yet 62 years old, living with one or more live-in aides.

Non-Citizen A person who is neither a citizen or national of the United States.

Occupant – An occupant is considered to be any person staying in an HCV residence for 30 or more days or nights per year. *(amended July 2010)*

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

Participant A family that has been admitted to the Housing Choice Voucher program, and is currently assisted in the program. A family becomes a participant on the effective date of the first HAP contract executed by the administering agency for the family (first day of initial lease term).

Payment Standard An amount established by the PHA and used to calculate the housing assistance payment for a family participating in the voucher program. The PHA establishes the payment standard anywhere between 90% and 110% (may go to 120% with HUD approval) of the HUD established FMRs for the jurisdiction. The payment standard is the maximum monthly subsidy payment for a unit size.

Person with Disabilities A person with a disability may have a physical, sensory, mental or developmental disability as defined in federal legislation. A person with a disability is one who meets at least one of the following three definitions. 1) Has a disability as defined in Section 223 of the Social Security Act. This Act defines disability as an inability to engage in any substantial

gainful activity because of any physical or mental impairment that is expected to result in death or has lasted or can be expected to last continuously for at least 12 months; or, for a blind person at least 55 years old, inability because of blindness to engage in any substantial gainful activities comparable to those in which the person was previously engaged with some regularity and over a substantial period. Has a physical, sensory, mental or emotional handicap which is expected to be of long and indefinite duration; substantially impedes his/her ability to live independently; or has a history of such an impairment or is perceived by others of having such an impairment and is of such a nature that the person's ability to live independently could be improved by more suitable housing. or 3) Has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act. Developmental disability is defined as a severe, chronic disability which is attributable to a mental and/or physical impairment; was manifested before the age of 22; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following areas; capacity for independent living; self-care; receptive and expressive language; learning; mobility; self-direction; and economic self-sufficiency; and requires special interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

PHA Public housing authority or public housing agency. A state, county or municipal agency authorized to engage in or assist in the development or operation of low-income housing. DFS is a PHA.

Preponderance of Evidence Evidence as a whole shows that the facts are more probable and credible than not. It is evidence which is of greater weight or more convincing than the evidence offered in opposition.

Programs Established Under the United States Housing Act of 1937 1. The Public Housing program or Indian Housing program; 2. Any program operated as part of the Housing Choice Voucher Program; 3. The Section 23 Leased Housing program.

Project Reserve See definition for ACC Reserve Account.

Public Housing State and federally assisted public housing.

QHWRA Quality Housing and Work Responsibility Act of 1998.

Reasonable Rent A rent to owner that is not more than rent charged for comparable units in the private unassisted market.

Receiving Housing Authority In portability, a PHA that receives a family selected for participation in the Housing Choice Voucher program by another housing authority. The receiving PHA issues a voucher and provides program assistance to the family.

Recovering Addict A person that: 1) has completed a supervised drug rehabilitation program and is not currently engaged in the illegal use of a controlled substance; or has otherwise successfully been rehabilitated and not currently illegally using drugs; or, 2) is involved in a

supervised rehabilitation program and not currently illegally using drugs; and 3) is involved in a self help group, such as Narcotics Anonymous, and not currently illegally using drugs.

Rent to Owner Previously referred to as the Contract Rent. Total amount the owner is entitled to collect based on the lease and the subsidy contract.

Repairs Completed The repairs have been completed and found to be satisfactory by DFS and in compliance with HQS.

Request for Tenancy Approval (RFTA) At the time a family has selected a unit to lease, it must submit the required HUD Request for Tenancy Approval form to initiate the process of placing the unit under lease and contract.

Residency Preference A PHA established preference for admission of families that reside or work or have been hired to work in the jurisdiction of the PHA.

Section 214 Section 214 of the Housing and Community Development Act of 1980. Section 214 restricts HUD from making financial assistance available to noncitizens unless they belong to one of the categories for eligible immigration status specified in Section 214.

SEMAP Section 8 (Housing Choice Voucher) Management Assessment Program. A method used by HUD to audit management of the Section 8/Housing Choice Voucher program.

Special Admission Admission of an applicant that is not on the PHA waiting list, or without considering the applicant's place on the waiting list.

Subsidy The amount of rental assistance given under the Housing Choice Voucher program.

Subsidy Standard Established by a PHA to determine the appropriate number of bedrooms and subsidy amount for families of various sizes and compositions.

Suspension Also referred to as tolling. Stopping the clock of the term on a family's voucher while a PHA determines whether or not to approve the family selected unit for the Housing Choice Voucher program. The suspension begins when DFS receives a Request for Tenancy Approval.

Tenant Rent to Owner The amount the tenant must pay the owner each month based on the lease, tenancy agreement and HAP contract.

Total Family Contribution The full amount the tenant pays for rent and utilities. The total tenant payment and the total family contribution differ in the Housing Choice Voucher program when a family selects a unit with a gross rent exceeding the payment standard.

Total Tenant Payment Minimum amount a tenant can pay for rent and utilities.

Utility Allowance PHA estimate of the average amount a tenant will pay each month for utilities considering the size and type of unit selected by the tenant.

Utility Reimbursement The amount, if any, by which the utility allowance exceeds the total family contribution. The PHA issues a check in this amount to either the family or to the appropriate utility company.

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

Very Low Income Family A family receiving an annual income at or below 50% of the median for their area.

Voucher A document issued by a PHA to a family selected for admission to the Housing Choice Voucher program. The voucher describes the program, and the procedures for receiving PHA approval for a unit selected by the family. The voucher also states the family obligations under the Housing Choice Voucher program. All new program participants receive a voucher through the Housing Choice Voucher program.

Waiting List Admission An admission from the PHA waiting list.

***Welfare-to-Work** A program which allows some applicants who are on Temporary Assistance for Needy Families (TANF), have been on TANF in the past 3 years, or are TANF eligible to receive their voucher earlier than others on the waiting list in exchange for the client's agreement to work or be in training full-time, or look for work full-time. **amended 7/2009*

2. Roles and Responsibilities

2.1 RECORD KEEPING

Applicant records must be kept for three years after a family is notified it is not eligible for the Housing Choice Voucher program, or three years after the conclusion of any lawsuit, whichever is later. Participant records must be kept for three years from the end of program participation, or after the conclusion of any lawsuit, whichever is later.

Should an applicant or program participant take advantage of their right to appeal to the Immigration and Naturalization Service (or ICE) regarding their citizenship/immigration status, their records must be kept at least three years after a family is notified they are not eligible for the program, or from the end of program participation, or after the conclusion of any lawsuit, whichever is later.

DFS shall use the following filing system.

<u>Method of Filing</u>	<u>Title of File</u>
By Date & Time of Receipt	Preliminary Applications Received
Alpha	Applications Rejected/Cancelled
By Date & Time of Receipt	Waiting List
Alpha	Applications Pending Verifications
Alpha	Pending Voucher Issuance
Alpha	Vouchers Issued but not Under Contract
Alpha	Vouchers Expired/Canceled
Alpha	Pending Lease Approval
Alpha	Vouchers under Contract
Alpha	HAP Contracts Terminated/Canceled
Alpha	Inactive Status Classification
Date/Numerical	Advertising/Outreach
Town/Subdivision or Complex	Rent Reasonableness Information

2.2 OUTREACH

Outreach is best described as the efforts of DFS to interest and inform owners and families of the Housing Choice Voucher program by utilizing paid media advertising, public service announcements, community contacts and other methods outlined in the locality's Equal Housing Opportunity Plan.

Outreach is one of the most important responsibilities of DFS and should be conducted in a comprehensive manner.

It is important that whatever staff member(s) that meet with the public for outreach activities have a comprehensive knowledge of the program. They must be able to discuss the benefits of participating in the program for both owners and tenants.

2.3 OWNER RESPONSIBILITIES

An Owner is responsible for:

- Screening tenants;
- Complying with the HAP contract;
- Maintaining the unit in compliance with HQS; and
- Enforcing lease requirements.

For a further description of owner responsibilities refer to 24 CFR parts 882, 982, and 983.

2.4 FAMILY RESPONSIBILITIES

2.4.1 Applicant responsibilities

While on the waiting list an applicant must notify DFS of any changes in address and preference status.

Upon selection, an applicant must provide DFS with complete and accurate information necessary to determine program eligibility.

Upon determination of eligibility, an applicant must conduct and complete a housing search within time allowed by DFS. This shall be a sixty (60) day period from voucher issuance. Two (2) 30 day extensions may be allowed provided a (1) client provides written list of owner/manager contacts approximately equal to the number of days of the prior period or (2) other extenuating circumstances are provided to the counselor in writing.

For a further description of applicant responsibilities refer to 24 CFR parts 882, 982, and 983.

2.4.2 Participant Responsibilities

Family (participant) responsibilities are included on the Housing Choice Voucher. For a further description of family responsibilities refer to 24 CFR parts 882, 982, and 983.

Families participating in a Family Self-Sufficiency (FSS) program should refer to the FSS contract and 24 CFR part 984 for more information.

2.4.2.1 Family Obligations

For the complete text of family obligations see the Housing Choice Voucher, the tenancy addendum, and the lease signed by the tenant and owner. Violation of Family Obligations may be cause for program termination as discussed in section 10.

3. Eligibility and Intake (24 CFR 982 Subpart E)

Generally, only very-low income and extremely low income families are eligible for assistance through the Housing Choice Voucher program. The Quality Housing and Work Responsibility Act of 1998 established new income targeting requirements. At least 75% of all new program admissions in each fiscal year must be families with income levels at or below 30% of the area median income. The remaining 25% of new admissions may be families with income levels at or below 50% of the area median income. DFS must track new admissions so it can demonstrate that it meets the income targeting requirements.

In some circumstances, a low-income family that has been continuously assisted is eligible for assistance (24 CFR 982.201). A family is considered to be continuously assisted if the family is already receiving assistance under any housing program covered under the 1937 Housing Act when the family is admitted to the Housing Choice Voucher program. Housing programs covered under the 1937 Housing Act include:

- The Public or Indian housing program.
- Any program assisted under Housing Choice Voucher of the 1937 Act, including assistance under a Housing Choice Voucher tenant-based or project-based program.
- The Section 23 leased housing program.
- The Section 23 housing assistance payments program.

Brief interruptions in assistance caused by transitioning from one form of assistance under one 1937 Act program to another will not be considered to break the continuity of assistance where the reason for the transition was through no fault of the family, such as termination of a HAP contract for owner breach. DFS has elected to allow a 30 day break in assistance. Therefore, if an applicant for the Housing Choice Voucher program has income below the low income limit, and is not currently receiving assistance but did receive assistance during the previous 30 days, DFS will consider that family to be continuously assisted.

Only very-low income families may be admitted to Moderate Rehabilitation projects with HAP contracts effective on or after October 1, 1981 unless an exception is granted by HUD. Low income families may be admitted to Moderate Rehabilitation projects with HAP contracts effective prior to October 1, 1981. (24 CFR 882)

At Moderate Rehabilitation properties and projects with project-based certificates at least 40% of new admissions in each fiscal year must be families with income levels at or below 30% of the area gross median income. (QHWRA, 1998)

3.1 PREFERENCES

When applying for the Housing Choice Voucher program, an applicant may claim qualification for one or all of DFS approved local preferences. However, eligibility for a preference does not automatically make an applicant eligible for Housing Choice Voucher assistance. The household must also qualify under DFS eligibility factors. A preference affects how soon an applicant will

be issued a voucher. An applicant with a preference will be selected to receive a voucher before an applicant without a preference, even if the applicant without a preference applied for the program first.

3.1.1 DFS Approved Preferences in order of weight

DFS uses the following waiting list preferences for all Housing Choice Voucher applicants on the waiting list. Applications are processed based on date and time received and the following:

- 1) Applicants who are handicapped and/or disabled, elderly (over 62 head of household), families or homeless (using the HUD definition) and who meet all other qualifications for the Housing Choice Voucher Rental Assistance program and who live or work in Loudoun County. (revised 10/2/13)
- 2) All applicants (families, handicapped, disabled, and elderly) who meet all other qualifications for the Housing Choice Voucher rental assistance program who live or work in the Commonwealth of Virginia.
- 3) All other eligible applicants (families, handicapped, disabled, and elderly) who are residents of the United States.
- 4) Single Able Bodied applicants who live or work in Loudoun County, then Virginia, then the United States and who otherwise meet all other qualifications for Housing Choice Voucher rental assistance.

Applicants who are issued a voucher due to a preference, and who do not use (lease up) the voucher before its' expiration must wait one year from date of voucher expiration to reapply for the Housing Choice Voucher/Housing Choice Voucher Waiting List.

3.1.2 Change in preference status

A family's situation may change while on the waiting list. The family must provide DFS with information about changing circumstances that may affect preference to enable DFS to make appropriate selections. Upon selection, the family may be considered for any preferences for which it may be eligible. If it is determined that a family is not eligible for a preference it has claimed, the application will be returned to the waiting list based on time and date application.

3.1.3 Denying a preference

At any time DFS determines an applicant does not qualify for a preference the family has claimed, DFS must notify the family in writing providing the reason the preference is denied and informing the family of its right to an informal review.

3.1.4 Moderate Rehabilitation Tenants

Moderate Rehabilitation is a project-based program and vouchers are not issued to families in Moderate Rehabilitation units except under certain circumstances. Frequently, Moderate

Rehabilitation tenants must relocate through no fault of the household, such as a change in family size or for accommodation under Section 504 of the Rehabilitation Act of 1973. In these instances, DFS must first refer the household to any suitable comparable Moderate Rehabilitation unit that may be available. If there is a suitable unit within the same project that unit should be referred before units in other projects. If the household rejects a unit for good cause, it should be issued a voucher, regardless of availability. If the family cannot provide a good reason for rejecting an offer of a suitable Moderate Rehabilitation unit, DFS should take steps to terminate the family from the Housing Choice Voucher program.

A Moderate Rehabilitation tenant may request a voucher in accordance with the reasonable accommodation principle contained in Section 504 of the Rehabilitation Act of 1973. If a Moderate Rehabilitation tenant can demonstrate that to remain in the Moderate Rehabilitation unit would pose a hardship because of that tenant's disability, and where the owner is not legally obligated to make the necessary accommodations, the tenant may request a voucher. DFS must determine whether, due to the tenant's disability, the Moderate Rehabilitation unit is inappropriate housing for that tenant. The fact that the disability existed when the tenant originally agreed to live in the Moderate Rehabilitation unit may not be considered when making this decision.

At the time of annual recertification, DFS must determine whether a family is overcrowded or underutilizing a Moderate Rehabilitation unit. If a family needs to move to a unit of different size, DFS will require the family to move to an available unit of appropriate size in the same Rehabilitation development. If no suitable unit is available in the same development, DFS may require the family to move to a suitably sized unit in another Moderate Rehabilitation development in the same community. If there are no available suitable Moderate Rehabilitation units in the same community, DFS will provide the family with a voucher to look for a suitable unit. If necessary, DFS may over issue in order to provide the voucher.

If DFS is unable to fill a vacant Moderate Rehabilitation unit from its waiting list after 30 days (or if the owner has rejected, with good cause, applicants referred from the list), the agency may approve for Moderate Rehabilitation subsidy a Housing Choice Voucher eligible applicant selected by the owner.

3.2 VERIFICATION REQUIREMENTS APPLICABLE TO ALL ADMISSIONS

DFS must verify all family characteristics that affect program eligibility; adjusted income and qualification to receive DFS approved preferences. (24 CFR 5, Subparts B, D, E and F and 24 CFR 982.516) DFS must verify the information using the following methods.

3.2.1 Oral or Written Third Party Verification (*EIV/UIV*)

DFS must verify all information affecting an applicant's eligibility, preference or total Tenant Payment. Wherever possible verification must be from third party sources. *The HUD EIV (Enterprise Income Verification)/ UIV (Upfront Income Verification) will be used as the method

of verifying income. Standard third party verification (as listed in this administrative plan) will be used if EIV/UIV information is not available, known to be inaccurate, not up-to-date (more than 12 months old), or if the tenant disputes the information provided by the EIV/UIV system. EIV/UIV information is to be considered confidential and may only be utilized for the intended purpose of verifying income for eligibility and continued eligibility. The EIV/UIV data is subject to the provisions of the Federal Privacy Act (5 USC 522, as amended by Public Law 104-231, 110 Stat 3048) and any related amendments. **amended 7/2009*

Each applicant and participant must sign a form or forms authorizing DFS to obtain the required verification. Signed forms must be sent directly to the third party verification source by fax or mail. Verification forms must not be hand carried by participating families. However, DFS may accept third party information by telephone, fax, or mail. Telephone verifications must be recorded in the tenant file with the information provided the person who provided the information, the date of the call, and the name of the staff member who took the call.

3.2.2 Review of Documents

If repeated attempts to obtain third party verification have failed, or if no third party verification is possible, DFS may review documents to verify family information. However, whenever documents are used for verification, the tenant file must be documented to explain the reason third party verification was not used or the efforts made to obtain it.

DFS should make a copy of all documentation used to make eligibility determinations and retain the documents in the tenant file. Examples of such documents include employee pay stubs, receipts for medication, contracts, tax returns and benefit award letters.

3.2.3 Family Certification

Only when there is no responsive third party and no reliable documentation, may DFS accept the family's certification of the accuracy of submitted information. DFS will accept notarized statements on rare occasions and only after documenting the tenant file to indicate why obtaining third party verification or reviewing documents was not possible.

3.2.4 Age of verifications

All information must be verified within 60 days prior to issuing a voucher to a new voucher holder. If the voucher is not issued within 60 days, DFS must re-verify the information. (24 CFR Part 5). For recertifications, all information must be verified within 120 days prior to recertification action.

3.2.5 HUD Release of Information/Privacy Act Form

All applicants and participants must sign the form HUD-9886 Release of Information/Privacy Act Notice as part of the initial certification and at every annual recertification thereafter. The form must be signed by the head of the household, co-head and spouse, and by every other family member who is at least 18 years old. The form need not be signed at interim recertifications so long as it has been properly signed at the previous annual recertification. Any

adult joining the family after the initial certification must begin signing the form at the annual or interim recertification through which they join the family.

3.3 VERIFICATION SOURCES

3.3.1 Verification of disability

The definition of a person with disabilities for purposes of determining program eligibility and preference status for the Housing Choice Voucher programs is found in Section 3(b)(3)(E) of the United States Housing Act of 1937 and in the Section 1 glossary of this policy.

Receipt of SSI or Social Security Disability payments is a sufficient demonstration that an applicant is disabled. In the absence of such income, a qualified individual, such as a medical professional, must confirm whether or not an applicant meets HUD's definition. DFS must have a verification form for use in these cases.

Disability status must be verified annually and, if after admission, the family member no longer meets the definition of a person with a disability, the household may continue to receive assistance but the calculations of adjusted income may change.

NOTE: Employment is not an indication of whether or not a person has a disability.

3.3.2 Verification of age

For purposes of determining program eligibility, adjusted income and eligibility for preferences, age may be evidenced by an original or notarized copy of a birth certificate, baptismal certificate, census record, official record of birth, or other authoritative document including evidence of receipt of Social Security benefits. *If the applicant was born in a country in which no official records are kept or are not available, other government issued documentation such as (but not limited to) a driver's license, non-driver's identification, ICE or social security establishing age will be acceptable proof of age. *amended 7/2009

Age needs to be verified only at the initial certification unless DFS discovers a discrepancy.

3.3.3 Verification of zero income

Participant households claiming zero income must submit to DFS a signed notarized statement officially claiming zero income. In addition, the family members are required to sign verification forms allowing DFS to verify the receipt of no income through unemployment compensation, child support, welfare, and social security/disability programs. Family members may at DFS discretion be required to sign releases for this agency to obtain state and federal tax returns. The authorization for release of information is used to obtain the individual's wage record from the Virginia Employment Commission. DFS, at their discretion, may elect to perform re-verification of participant zero income status every month.

3.3.4 Verification of income from self-employment

Verification of income from self-employment will be based on a 12-month period that is measured by the family's federal and state income tax returns. Any self-employed person must submit a copy of their most recent tax return. Along with the form 1040 tax return, the applicant must include a Schedule C that documents his or her business expenses deducted from business revenue. If the Schedule C includes an expense for depreciation, the applicant must submit a calculation of the depreciation expense.

When a self-employed individual has not been self-employed long enough for there to be a completed tax return, DFS should obtain at least one of the following documents:

- 1) An audited or unaudited financial statement for the business for the current or previous year;
- 2) A completed loan application for the business listing income derived from the business during the previous 12 months; or
- 3) A notarized statement or affidavit as to the net income realized from the business during the previous year.

When an applicant submits a notarized affidavit, DFS must request additional backup information from the applicant including any logs, receipts, reports that help document the information verified by the notarized statement.

3.3.5 Verification of drug or alcohol rehabilitation

In accordance with the Housing Opportunity Extension Act of 1996 DFS may require any family member who has engaged in drug related activity within three years or has a pattern of illegal use of a controlled substance or pattern of alcohol abuse that contributed to a pattern of behavior that may interfere with the health or safety of other residents or their right to peaceful enjoyment of their unit, to submit evidence of participation in or successful completion of a supervised treatment program as a condition of being allowed to participate in the Housing Choice Voucher program.

DFS shall have discretion to consider all of the circumstances in each case to determine the extent of participation by family members in the illegal activity. In appropriate cases, DFS may permit the remaining family members to receive assistance and may impose a condition that the family member(s) determined to have engaged in the illegal activities not reside in the family unit.

3.4 WAITING LIST ADMINISTRATION (24 CFR 982.204 AND 982.206)

- *When the HCV waiting list is open, an applicant can complete a preliminary application online, have a preliminary application mailed to them, or pick up a preliminary application at DFS at the advertised date and time. All preliminary applications will be date/time stamped upon receipt. If more than one wait list application is received at the

same exact time and date, applicants will be entered onto the wait list based on the alphabet first using the last name then, if necessary, the first name (*added 7/1/11*).

The preliminary application will be screened for Income Eligibility, Family Status, Bedroom Size and County Residency/Employment In or Out of County. Preliminary application sent by mail or picked up at DFS must be received by DFS within 2 weeks of the day sent/given. The preliminary application will be kept in the applicant's file. **amended 7/2009*

*An applicant who reaches the top of the waiting list will be given two (2) opportunities to attend a meeting in which they will receive their voucher when funds/vouchers are available. If they fail to attend either meeting, their case will be closed (taken off the waiting list). Exceptions can be made on a case-by-case basis by the PHA Executive Director or their designee. Exceptions will be made as a reasonable accommodation for a disabled person and on a case-by-case basis for others as determined by the PHA Executive Director or their designee. Any applicant that is removed from the waiting list will have the right to an Informal Review to appeal the decision. **amended 7/2009*

3.4.1 Selection

DFS must select participants from the waiting list in accordance with the admission policies in this Administrative Plan, all HUD requirements, and Federal, state and local fair housing laws.

The preliminary application will be ranked based on date and time applied. The selection is done according to the ranking and whether an applicant lives or works in Loudoun County, and is a single person or family with a disabled person in it, elderly, or family status living or working in Loudoun County, then Virginia, then elsewhere in the United States, in that order. After all eligible applicants are served in the categories above, Single Able Bodied persons shall be served who live or work in Loudoun County, then Virginia, then elsewhere in the United States, in that order. All applicants must meet "very low" or "extremely low" income requirements to be served.

3.4.2 Opening and closing the waiting list

If DFS determines that the waiting list contains an adequate pool of applicants, and that applicants at the bottom of the list will have to wait at least three years before receiving subsidy, DFS may close the waiting list.

DFS must give public notice through publication in a local newspaper of general circulation. The notice must comply with the Equal Housing Opportunity requirements of this Administrative Plan and comply with all HUD fair housing requirements. DFS must maintain a copy of all advertisements announcing the opening and closing of the waiting list.

Whenever a closed waiting list is opened, DFS must issue public notice through the local newspaper under contract with County, and through other methods as described in the Equal Housing Opportunity Plan. The notice must inform the public where and when to apply for a voucher and include basic information on the Housing Choice Voucher program.

3.4.3 Waiting list information

The preliminary application must include at a minimum the following information:

- Applicant name;
- Current applicant address and phone number;
- Family unit size;
- Age and gender of family members who will live in the unit;
- Any local preference(s) the applicant claims;
- Racial or ethnic designation of the head of household (See 24 CFR 982.204);
- Social Security Number for all members of household (except children under 6 months old);
- Date and time application received; and
- If applicant lives or works in Loudoun County.

Applications missing any of this information will not be processed, and the applicant will be so notified by mailing to the address provided on the application. Corrected applications will not be accepted after the waiting list is closed unless the applicant can demonstrate mitigating circumstances.

DFS will not verify the family characteristics, including total family income, until the applicant is selected off the waiting list. In accordance with 24 CFR 982.201(e) DFS must verify all pertinent family characteristics within the period of 60 days before issuing the voucher.

3.4.4 Waiting list application restrictions

Families who have lost their voucher because of utility turn off, eviction for cause, or any minor infraction may not apply for the waiting list for one (1) year from date of voucher termination. Families that abandon their rental property, have been in possession or use controlled substances (and have completed rehab) or have suspected major abuse of their rental property shall wait three (3) years from date of offense to apply to waiting list. Any member of a family who is on any state or federal sex offender registry or has committed any major violent criminal act (murder, rape, etc.), or has assaulted staff at any Housing Agency/Authority will not be eligible to receive services from DFS.

Applicant convicted of illegal manufacture, sale or distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance or conspiracy to commit these actions may apply to the waiting list 10 years after the conviction date, not including time incarcerated (For instance- if the person was incarcerated for one year, the waiting time to apply the HCV wait list would be 11 years). (*changed 7/1/11*).

All restrictions listed will be considered for those trying to join existing HCV households (*added 7/1/11*).

3.4.5 Change in preference status—effect on waiting list position

An applicant's preference status may change while on the waiting list. A standard applicant may become preference eligible or vice versa, and request that his or her preference category be changed. The applicant will retain his/her place on the waiting list and the preference status will be changed. If upon selection and verification it is determined that the family does not qualify for a preference claimed, the family remains on the waiting list in the position held prior to claiming the preference.

If DFS denies an applicant preference opportunity to request a meeting with appropriate agency personnel. (See Section 12, Informal Hearings status, DFS must provide the applicant with written notice of the preference denial and Reviews)

3.4.6 Removing names from the waiting list

DFS may remove applicants from the waiting list if they:

- Do not respond to a request for information or updates within the time frame required;
- Refuse the offer of a Housing Choice Voucher to search for a unit;
- Have failed to verify eligibility upon selection from the waiting list; or
- Have committed drug related or violent criminal activity.

When an applicant's name is removed for failure to respond to requests for information or updates, DFS must send the applicant a letter informing him/her that his/her name is being removed from the waiting list. In these instances, an informal review is not required to be offered, however a 3 month appeal period shall apply. When an applicant wishes to appeal, they should contact DFS and an appeal form will be sent. The DFS Director or their designee shall decide each appeal on a case by case basis. The procedures for removing applicants from the waiting list may not violate the rights of persons with disabilities. If an applicant's failure to respond to DFS' requests to update information was caused by the applicant's disability, DFS must provide a reasonable accommodation to give the applicant an opportunity to respond.

DFS must maintain documentation sufficient to demonstrate those families removed from the waiting list for failing to respond to a request for information, including all correspondence showing that DFS followed correct procedures prior to removing the family's name from the waiting list. DFS will maintain a separate file containing the applications and all correspondence for all families removed from the waiting list for failing to respond to a request to update their information. DFS must maintain a separate file for each client and files must be kept for three calendar years.

DFS must maintain documentation sufficient to demonstrate that those families who are selected from the waiting list but are not issued a voucher (because they are determined ineligible, withdrawn, fail to respond to a call in letter or their applications are closed for another reason) were selected in the proper sequence based on preferences claimed and the date and time on the original application. DFS will maintain a master list for this purpose.

Whenever an applicant is denied admission to the program, DFS must send the applicant a letter informing him/her that he/she is being denied admission to the program and offered the opportunity for an informal review. DFS maintains a file for each applicant containing the application and all correspondence for families denied admission to the program. Included with the applicant information, DFS must keep a print out of the waiting list at the time the applicant was selected from the list for an eligibility determination. DFS must maintain a separate file for each fiscal year. The DFS fiscal year runs from July 1st through June 30th. (Revised 10/2/13)

3.5 APPLICANT SELECTION PROCESS

The Program Manager and Financial Team will determine when vacancies exist that can be filled. The Program Manager will then call in the number of applicants for which there are vouchers and funding.

The Harmony computer program keeps track of applicant waiting list position based on preference criteria and time and date the applicant entered the waiting list. An audit will be performed by a DFS supervisor not in the HCV program to insure that the applicants being chosen to receive a voucher are in the proper wait list order. Auditor will sign the Harmony generated wait list showing which cases were considered in the audit. (Revised 10/2/13)

Once vacancies and number to be called in have been determined, pull preliminary application in order by date, time and preference indicated. Compare to computer status ranking for verification.

When a client reaches the top of the Waiting List, a letter stating date and time for initial certification and family briefing will be mailed. The client will bring with them the verifications requested in the letter. *All family members must provide verification of Social Security number, regardless of age (proof that a social security card has been applied for will be accepted for a reasonable time period). *amended 7/2009 If these documents are not provided the applicant may be denied.

*Applicants who have been invited to receive their voucher shall receive no more than 30 days to produce all documentation required. Applicants that do not comply with this requirement will be closed and will have to re-apply to the waiting list. Exceptions will be made as a reasonable accommodation for a disabled person and on a case-by-case basis for others as determined by the PHA Executive Director or their designee. *amended 7/2009

3.6 CALCULATION OF ANNUAL INCOME (24 CFR 5 Subpart F)

After selecting a family off the waiting list, DFS must verify the annual income of the applicant household to make a final program eligibility determination. Annual income is the gross amount of income a family is projected to receive during the next 12 months. A family's annual income may not exceed the applicable income limit by any amount if they are to receive assistance through the Housing Choice Voucher program.

HUD has established rules, which govern how a PHA must calculate annual income. DFS must follow these rules as found in the DFS Policy Manual.

3.7 CALCULATION OF ADJUSTED INCOME (24 CFR 5 Subpart F)

After completing a program eligibility determination, DFS must calculate the adjusted income of an applicant to then calculate their minimum total tenant payment. An eligible family may qualify to receive five allowances/deductions from their annual income before DFS determines how much the family must contribute to their own housing costs. A family's annual income minus their deductions equals their adjusted annual income. The allowances are as follows:

- Childcare expenses paid by family;
- Medical expenses paid by family if head of household is disabled;
- Medical expenses paid by family if head of household is elderly (62 or older);
- Dependent allowance for children under 18; and/or
- Dependent allowance for full-time students over 18.

A family is eligible for a medical expense allowance for all members of the family if the head of household, co-head or spouse is elderly or disabled. The previous year's third party documentation of recurring expenses may be used to determine the next year's recurring expenses. Money owed for medical expenses for which there is a payment plan and payments are still to be made may be included in this adjustment. Medical expenses that have been paid in the past year for non-recurring medical expenses may not be included as an adjustment. Medical expenses are allowed after meeting a threshold of 3% of the total household income. *(amended July 2010)*

HUD has established rules that govern how a PHA must calculate a family's allowances and adjusted income. DFS must follow these rules as found in the DFS Administrative Plan. *(amended July 2010)*

3.7.1 Third Part Verification Limit

Loudoun County DFS will not require third party verification for any assets under \$5,000.00 because the cost to LCDFS is more than the difference it would make to the tenant portion of the payment. Clients may not be required to pay the cost of obtaining such verification and DFS does not have the funds to pay for them. *(amended July 2010)*

Based on HUD Public and Indian Housing notice 2013-03(HA), DFS will temporarily allow households to self-certify as to having assets of less than \$5,000 until March 31, 2014. If HUD allows this rule to become permanent, than DFS will adopt this permanently with no additional action needed. (Adopted 10/13)

3.7.2 Life Insurance Asset Cash Value

The cash value of life insurance will be determined by consulting the table of value attached to the policy or, if that is not available, by obtaining cash value directly from the insurance

company. The cash value is treated as an asset. (*amended July 2010*)

3.7.3 Real Estate Asset Cash Value

When making a determination of the cash value of real estate for assets, 10% should be subtracted from market value for real estate commissions and closing costs. (*amended July 2010*)

3.7.4 Financial Account Asset Cash Value

DFS uses the most current ending balance available to determine the asset value of financial accounts. (*amended July 2010*)

3.7.5 Child care expenses

The Virginia Department of Social Services child care expense chart for Loudoun County shall be used as the maximum amount of child care allowance limit. (*Added 7/1/11*)

3.8 NON-CITIZEN RULE (24 CFR 5 Subpart E)

Effective June 19, 1995 HUD implemented Section 214 of the Housing and Community Development Act of 1980, as amended. Section 214 prohibits PHA's from making financial assistance available to persons other than U.S. citizens, nationals or eligible noncitizens.

*DFS verifies immigration status of non U.S. citizens through the INS SAVE system or other approved system.**amended 7/2009* Every member, including all minors, must be verified as a citizen or national of the U.S., or fall into one of the approved categories of eligible noncitizens. DFS must complete this verification process at the same time they complete the program eligibility determinations discussed above.

For an entire family to be eligible to receive assistance through the Housing Choice Voucher program, every member must be a citizen or national of the U.S. or an approved noncitizen. However, if a family includes one or more ineligible noncitizens, they may receive a portion of the assistance they would have otherwise received based on the portion of the family that is eligible for housing assistance provided there is an eligible adult within the household who is of legal age to enter into a contract (lease).

3.9 DENIAL OF ASSISTANCE TO APPLICANTS (24 982.552)

Denial of assistance to an applicant may include any or all of the following actions:

- Denying the family an application to fill out for placement on the waiting list if the waiting list is closed;
- Refusing to issue a voucher to the applicant;
- Withdrawing a voucher;
- Refusing to enter into a Housing Choice Voucher or approve a lease or a unit; and/or
- Refusing to process or provide assistance under portability procedures.

When assistance is denied the family must be notified in writing of the reason and offered an informal review.

HUD requires DFS to deny assistance if any family member refuses to sign or submit the required consent forms in accordance with HUD regulation (24 CFR 5.230). Section 5.230 pertains to verification of income and includes computer matching.

The Housing Opportunity Program Extension Act of 1996, signed into law on March 28, 1996 requires that persons evicted from Public Housing, Indian Housing, Section 23, or any Housing Choice Voucher program because of drug-related criminal activity are ineligible for admission to Housing Choice Voucher programs for a three-year period beginning on the date of such eviction. DFS may waive this requirement if: 1) the person demonstrates successful completion of a rehabilitation program approved by DFS; or, 2) the circumstances leading to the eviction no longer exist. For example, the individual involved in drugs is no longer in the household.

If an applicant owes money to any PHA from a previous tenancy in a state- or federally-assisted unit, DFS will require that the applicant satisfy the full reimbursement prior to receiving Housing Choice Voucher assistance. At minimum DFS must require that the applicant establish and maintain a reasonable payment agreement based on available income and a family budget to reimburse the money due the PHA.

3.9.1 Grounds for denial of assistance

There are circumstances where an applicant's past performance in a state-or federally-assisted housing program will disqualify the family for admission to DFS' Housing Choice Voucher programs. However, DFS may not automatically deny assistance to a family without having conducted an independent investigation into the circumstances of each case, including the seriousness of the offense, how long ago it occurred, and whether the family composition is the same.

DFS has discretion to consider mitigating factors presented by the family when deciding whether or not to deny assistance. (See section 13 for more information about mitigating circumstances.)

In the absence of mitigating circumstances, DFS may deny assistance to an applicant for the following reasons:

- If the family has violated any Family Obligations as listed in HUD regulations for the Housing Choice Voucher program;
- If any family member has ever been evicted from public housing;
- If any PHA has ever properly terminated assistance under the certificate or voucher program for any family member;
- If any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program, e.g., withholding information about income

during a required reexamination, or misrepresenting the family's income in a previous federal-or state-assisted tenancy within five (5) years of reaching top of the Housing Choice Voucher Waiting List;

- If the family currently owes rent or other amounts to DFS or to another administering agency in connection with Housing Choice Voucher, public housing or any other federal or state housing assistance program;
- If the family has not reimbursed any PHA or administering agency 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;
- If the family has breached an agreement with DFS to pay amounts owed to DFS, or amounts paid to an owner by DFS;
- If the family has ever engaged in or threatened abusive or violent behavior toward DFS personnel;
- If any family member has committed drug related or violent criminal activity within five (5) years of reaching top of Section 8 Waiting List;
- If any household member has been evicted from public housing, Indian housing, Section 23, or any Housing Choice Voucher program because of drug-related criminal activity within five (5) years of the date of admission;
- If DFS determines that there is reasonable cause to believe that any household member abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents; and/or
- If any family member has ever been convicted of murder or rape. (*changed 7/1/11*)
- If any family member has ever been convicted of illegal manufacture, sale or distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance or conspiracy to commit these actions within 10 years after date of conviction of reaching the top of the HCV waiting list (not including time incarcerated). (*added 7/1/11*)
- These rules and regulations also apply to those trying to join an existing HCV household. (*added 7/1/11*)

3.9.2 Income Requirement

Applicant family must show some income from any source before they are issued a voucher. If the family has no income, proof must be provided that at least one member of the family has the promise of income within 30 days.

3.10 APPLICANT BRIEFING (24 CFR 982.301)

The first time a family is issued a voucher, DFS will conduct a detailed briefing session to explain the program to the family. The briefing will be a group session held at DFS' office. If the family (any adult in the household) cannot attend a briefing because of illness or disability, DFS may conduct individual briefing sessions at a location convenient to the family; or, the family may send a proxy to the briefing with approval of DFS management. The family must sign a release form authorizing the proxy to attend the briefing on its behalf. All forms distributed at the briefing that require a signature must be signed by the family, not the proxy, and returned to DFS.

Topics to be discussed at the briefing will include:

- A description of the program;
- Discrimination and fair housing issues;
- Family and owner responsibilities;
- An explanation of portability;
- An explanation of DFS subsidy standards;
- Where the family may lease a unit, both within and out of DFS jurisdiction;
- What agency should administer the subsidy out of the jurisdiction of DFS;
- For families that live in high poverty areas, an explanation of the advantages of moving to an area that does not have a high concentration of poor families;
- An explanation of the materials included in the briefing packet, including a discussion of DFS' policies for expanding housing opportunities for Housing Choice Voucher participants;
- How to submit a Request for Tenancy Approval (RFTA);
- The possible impact of a Criminal Offender Registry Information (CORI) check on an applicant's ability to transfer to another PHA jurisdiction, where the HA has chosen to implement CORI procedures;
- Restrictions on moving with continued assistance if the family owes money to DFS;
- Explanation of exception payment standards and their appropriate use as mechanisms to enable the family to further their housing opportunities. DFS must explain that as a reasonable accommodation for a person with disabilities;
- DFS may authorize a payment standard higher than the standard currently in use. If the exception payment standard for a person with a disability is to go above 120% of the FMR, DFS must seek HUD approval; and
- DFS' policy on granting reasonable accommodations for persons with disabilities.

At the briefing, the family will be provided with an information packet that contains, at a minimum, the 15 items required by HUD regulations, and the required letter explaining portability and the consequences of voluntarily giving up the subsidy to be signed by the applicant.

DFS is responsible for providing a briefing to all families selected for a Housing Choice Voucher moderate rehabilitation unit. The purpose of the briefing is to explain the Moderate Rehabilitation program and to appraise the family of its responsibilities and those of the owner.

DFS must explain that the project-based Moderate Rehabilitation contract will be expiring in the near future and that at the current time HUD is issuing vouchers to families in projects with expiring contracts.

3.11 SUBSIDY STANDARDS (24 CFR 982.402)

Subsidy standards determine the family unit size. The family unit size is the number of bedrooms needed for families of different sizes and compositions, and is used to determine the maximum subsidy the family may receive through the Housing Choice Voucher program.

Subsidy size	Minimum number of persons	Maximum number of persons	Minimum number of bedrooms ¹
SRO	1	1	0
0	1	1	0
1	1	2	1
2	2	4	1
3	3	6	2
4	4	8	3
5	5	10	4
6	6	12	5

¹Min. # of bedrooms may include other rooms that could be used for sleeping.

The subsidy standards must provide for the smallest number of bedrooms needed to house a family without encouraging overcrowding.

The subsidy standards must be consistent with the space requirements established by Housing Quality Standards.

The subsidy standards must be applied consistently for all families of like size and composition.

The head of household should be allocated one bedroom. If the head of the household has a partner, the partner should share the bedroom.

Children and adults of the same gender who are no more than five years of age apart shall be allocated one bedroom per two children/adults. (*amended July 2010*)

Children of different gender who are under eight years old shall be allocated one bedroom per two children.

Single pregnant women with no other children in the household should be allocated two bedrooms. Proof of pregnancy must be established.

Pregnant women with other family members should be allocated sufficient bedrooms to accommodate the new baby if the birth would result in the family being under-housed. Proof of pregnancy must be established.

Live-in aide or companion residing with the family should be allocated a separate bedroom.

A child who is temporarily absent because of placement in a foster home is considered a family member in determining the family unit size. As used in this section, temporarily means that the Department of Family Services (DFS) goal for the family is reunification with their children within one year of the date the subsidy is issued.

When the goal for children in foster care is adoption, the children are not considered temporarily absent and the family will be issued a subsidy size that does not include the children in foster care. Should DFS change a family's goal from adoption to reunification DFS will increase the family's subsidy size as appropriate, and when appropriate. In any case, DFS will not terminate a HAP contract unless HQS space standards are violated. The family must sign a release for the purpose of obtaining relevant information from DFS. If a planned reunification does not occur within the first year after the subsidy is issued the family will be considered over-housed.

A child who is away at school but returns to live with the family during breaks and school closings may be included in determining the appropriate subsidy standard for the family if the child is included in the household for income calculation purposes.

Families who are in the process of securing legal custody of children and can document the custody process can ask DFS to include those children when determining the appropriate subsidy standard for the household.

Children who are subject to a joint custody agreement but live with the family at least 50% of the time may be counted in determining the appropriate subsidy standard for the family.

Independent Group Residences (IGR) require DFS to approve a zero-bedroom or one-bedroom subsidy standard for each eligible person who will reside in an IGR.

Housing Choice Voucher Moderate Rehabilitation properties use the same occupancy standards as other Housing Choice Vouchers.

**If there is an additional charge (not included in regular rent) by a landlord due to the tenant's request for a pet or washer/dryer, the amount will not be paid by the HCV program. *amended 7/2009*

3.11.1 Exceptions to subsidy standards

Exceptions to these standards may be granted by DFS for documented reasons critical to the household's health or if justified by handicap, relationship of family members, or other personal circumstances. Documentation must come from appropriate third party sources such as a doctor, psychiatrist, or psychologist. It is the responsibility of the applicant or participant to obtain such documentation.

3.11.2 Application of subsidy standards to determine maximum rent subsidy

A family may lease a unit with more or fewer bedrooms than indicated on the subsidy. The family may choose to use a living room, or other general living area, as a bedroom. This is allowable provided the applicable HQS space requirements are met, i.e., there is enough square footage in the living/sleeping area for the number of persons who will use such space for sleeping, and there is adequate light and ventilation.

When a family leases a unit with more or fewer bedrooms indicated on the voucher, DFS uses the payment standard that is the lower of the unit size indicated on the voucher or the actual unit size rented by the family.

Example: A six person family is issued a 3BR voucher and rents a 2BR apartment, choosing to use the living area as a bedroom. The 2BR payment standard must be used.

The utility allowance for the actual unit selected is always used regardless of the size of the family's voucher (see Housing Choice Voucher.9).

3.11.3 Adjustments in family unit size due to changes in family composition

3.11.3.1 Unit does not meet HQS

When DFS determines that a unit does not meet HQS because of an increase in family size or a change in family composition, the family will be issued a larger subsidy size. The family and DFS must try to find an acceptable unit as soon as possible. If an acceptable unit is available, DFS must terminate the HAP contract. The higher payment standard will not be applied until the family moves. There shall be no more than two people per bedroom or sleeping room. (Revised 10/2/13)

3.11.3.2 Family is under-housed

If a family is entitled to a larger subsidy because of the application of DFS subsidy standards (but the unit meets HQS), the larger subsidy standard is applied at the family's next annual reexamination or when the family moves to a new unit. The family is not required to move because it is not in violation of HQS.

3.11.3.3 Family is over-housed

When a family becomes over-housed, DFS must issue a smaller voucher at the family's next annual reexamination or at the family's next move whichever is sooner.

When the voucher is issued DFS must recalculate the family's minimum total tenant payment under the smaller voucher size and inform the family of its options. This will enable the family to determine if it can afford to remain in place.

3.11.4 Termination notice and effective date

When the HAP contract is terminated due to violation of HQS, DFS must notify the family and the owner of the termination. The termination is effective at the end of the calendar month that follows the calendar month in which DFS gives notice to the owner.

3.11.5 DFS role in identifying acceptable units

An acceptable unit may be one that is within the same school district, within easy access to employment, or within the family support network. If a family is required to locate another unit, the agency will assist the family in its housing search to the greatest extent possible. This will include providing the family with current listings of known available units and appropriate referrals to housing search agencies. However; it is the responsibility of the family to find the new unit.

3.11.6 Uniform statewide building code

Number of occupants includes adults and children

<i>Bedroom Size (Square Feet)</i>	<i>Maximum Number of Occupants per Room</i>
70	1
100	2
150	3
200	4

- Bedrooms must contain at least 70 square feet of floor area plus an additional 50 square feet per individual if occupied by more than one person.
- Bedrooms must not be the only access to other bedrooms or habitable space and must not constitute the only exit from other habitable space.
- Every bedroom must have access to a bathroom without having to pass through another bedroom.
- Kitchens and other non-habitable space must not be used for sleeping purposes.
- Bedrooms must provide light, ventilation, room area, ceiling height and room width in conformity with the code, and conformity with fire safety requirement.
- Two means of exit must be available from a bedroom, with one being a door or window leading directly to the exterior.
- The window sill must be at a maximum height of 44 inches from the floor.
- An exit must not lead through another sleeping area of a bathroom.
(added 7/1/11)

4. Issuing and Leasing Vouchers

4.1 ISSUING (24 CFR 982.302 AND 982.303)

4.1.1 Initial term

The initial term of a voucher is 60 days.

4.1.2 Extensions

DFS may grant a family an extension upon written request. Extensions may be granted in 30-day increments. DFS must grant an extension of the search time as a reasonable accommodation for a person with a disability. 24 CFR 982.303 (2). A voucher may not be extended over 120 days except under special circumstances granted by the HCV Program Manager or DFS Assistant Director to whom the HCV program is assigned. (Revised 10/2/13)

At any time during an extended search term, DFS will require the family to report its progress in leasing a unit. At a minimum, the report should indicate where the family looked for a unit and why it was rejected. The submission of a detailed, written, progress report to DFS is mandatory when the family requests to extend the search period beyond 60 days or is required to move due to HQS violations. There should be at least one inquiry for every day the voucher is valid (i.e. 60 days = 60 inquiries). Exceptions may be made on case by case basis.

*Voucher deadlines will not be extended for applicants receiving their voucher for the first time beyond the initial 60 days for which it is issued. Exceptions will be made as a reasonable accommodation for a disabled person and on a case-by-case basis for others as determined by the PHA Executive Director or their designee. *amended 7/2009

4.1.3 Suspensions

The term of a family's subsidy will be suspended upon submission of a Request for Tenancy Approval (RFTA). DFS will allow suspensions during both the initial or extended term after submission of a RFTA.

4.1.3.1 How the length of suspension is determined

Suspension will be for the period of time between the date the RFTA is submitted and the date of the letter in which the result of the final inspection is communicated to the family. If the suspension is for a reason other than delay in unit preparation, DFS will determine an appropriate period not to exceed 120 days.

4.1.3.2 How suspensions are granted or denied

In all cases, the voucher term will automatically be suspended upon submission of an RFTA. Suspensions for other reasons will be granted provided the family can provide documentation acceptable to DFS that after the subsidy was issued circumstances occurred that halted its housing search.

Suspensions may be granted for the following reasons:

- A lead inspection or removal of lead based paint is pending;
- A family member becomes temporarily confined to a hospital, nursing home, etc.;
- The family is detained pending trial;
- The family is admitted to a drug Rehabilitation or other Rehabilitation program;
- Any other situation that is beyond the family's ability to control, and prevents the family from conducting a housing search.

Suspensions shall be no longer than 6 months except by approval of Assistant Director or Director of Family Services.

A subsidy will not be issued to a single individual who is unable to undertake a housing search in the first place, e.g., is in the hospital or in prison. Where circumstances prevent the individual from accepting a subsidy, he or she may be held at the top of the waiting list for a period not to exceed one year, but not if the individual is in prison. DFS will work with a person confined to a hospital, and any authorized representative to issue the voucher as soon as possible.

4.1.3.3 Participant suspensions

In situations where a participant currently under lease is not terminated from the program but voluntarily chooses to enter a substance abuse or mental health treatment program, DFS may suspend the subsidy for a period not to exceed 12 months provided the participant:

- Is in compliance with program regulations at the time the suspension is requested;
- Provides advance notice to DFS prior to entering a substance abuse program; and,
- Agrees to the DFS' terms and conditions for the suspension.

The terms and conditions agreement may be extended up to an additional six months at the discretion of DFS provided the participant has complied with the terms of the contract, and the extension is to continue in a treatment program.

If a participant is issued a new voucher because she/he must move, and is prevented from conducting or completing a housing search for medical reasons or other good cause, DFS may suspend the subsidy.

4.1.4 Expiration

If the subsidy expires the family may file a new application if the waiting list is open.

4.2 LEASE APPROVAL

4.2.1 Submission of RFTA (24 CFR 982.302)

The first item to be received in the leasing process is the Request for Tenancy Approval. The form (HUD-52517) will be completed by the landlord. The form will contain information about the rent, the security deposit, date of lease, address of unit, year constructed, information about the utilities and appliances. The form must be signed by the landlord and the prospective tenant.

4.2.2 Disapproval of owners

DFS has discretion to reject an owner in accordance with this policy and by considering the circumstances of each individual case.

DFS must require a prospective landlord to disclose information on the ownership entity prior to approving the owner for program participation. The term “owner” is not merely the nominal entity that holds legal title to the property to be rented, but also covers other persons with an actual interest in the property. Owners are responsible for those they employ, such as agents and management companies; therefore, DFS should consider the practices and past performance of agents and management companies in their decision to reject an owner.

DFS must disapprove the owner, when directed by HUD, if:

- The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending;
- A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements;
- The owner is subject to certain federal sanctions and DFS has been informed of this fact by HUD or some other source; or
- The owner has been the subject of equal opportunity enforcement proceedings and DFS has been directed by HUD to deny approval.

DFS may deny owner participation if the owner has:

- Violated obligations under a housing assistance payments contract under Housing Choice Voucher of the 1937 Act (42 U.S.C. 1437(f));
- Committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- Engaged in drug-related criminal or violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Housing Choice Voucher assistance or leased under any other Federal housing program;
- A history or practice of renting units that fail to meet State or local housing codes; or
- Not paid real estate taxes, fines or assessments.

4.2.3 Providing information about a family to owners

The selection of a family for program participation is not a representation by DFS about the family's expected behavior or suitability for tenancy. Determining tenant suitability is the property owner's responsibility. Owners are permitted and encouraged to screen families on the basis of their rental history, cash flow, and credit history. An owner may consider a family's background with respect to such factors as:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of others to the peaceful enjoyment of their housing;
- Drug/alcohol related criminal activity or violent criminal activity;
- Safety or property of others (criminal convictions are a matter of public record); and/or
- Compliance with other essential conditions of tenancy.

To assist the owner in obtaining this information DFS **must** give the owner:

- The family's current address, as shown in the housing agency records; and,
- The name and address, if known, of the landlord at the family's current and prior address.

DFS **may** offer the owner other information in the PHA possession, about the family, including information about the tenancy history of family members, or about drug-trafficking by family members. This information will include at a minimum:

- Information on amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease; and
- Information on the tenant rent portion that is not paid to the owner

This information may also be provided to a person authorized by the owner to screen tenants and/or lease the unit.

In certain types of admissions, such those involving persons moving due to domestic violence or participation in the witness protection program, DFS must exercise caution and discretion in the release of this information. Only when information is a matter of public record or when the client has signed a specific release will housing staff give information to a prospective landlord/property manager.

DFS must provide a copy of this policy to all owners via the inspection results which are sent directly to owners. This policy must be provided to applicants at the briefing session.

4.2.4 Renting to relatives

DFS must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister or brother of any member of the family unless DFS determines that approving the unit would provide a reasonable accommodation for a family member who is a person with disabilities. This prohibition applies to new admissions and to moves with continued assistance. Leases between such relatives with an effective date of May 8, 1998 or earlier remain valid. The following model language shall be used as either an attachment to the current Request for Tenancy Approval forms or a newly-inserted paragraph in RFTA forms.

Prohibition of Relationship to Owner

We certify that no legal or beneficial owner of this unit is the parent, child, grandparent, grandchild, sister or brother of any member of the tenant family.

4.2.5 Property Management Agreement

If unit is managed by Property Manager then DFS must be given a copy of the Management Agreement showing the property manager's right to represent/sign document and/or receive funds for the property owner.

4.2.6 Transfer of Ownership

A REVISED LEASE PROVISION (Housing Assistance Payments Contract Assignments Assumption & Consent Agreement) must be prepared and signed by the new owner and the tenant family. The language to be inserted on the form should read "Landlord is hereby amended by deleting (previous owner) and by substituting therefore (new owner)."

DFS must be provided proof from whom and to whom the property transferred. A copy of the deed transferring ownership, signed by all parties, and notarized shall be sufficient proof.

A cover letter OWNERSHIP CHANGE should be mailed along with these documents which will explain to the owner how the forms are to be executed and what constitutes proof of ownership.

4.2.6.1 Owners' changes involving several tenants.

Only one HOUSING ASSISTANCE PAYMENTS CONTRACT ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT and one FAMILY-OWNER-PAYEE ACCOUNT REQUEST will be required. A change of this type should coordinate between Housing Counselors to address all units involved. The owner should provide a list of all families under lease with him.

The multiple clients will be identified on an attachment by Leasing Control Number, Name and Date of HAP for the individual case. On both forms when the Leasing Control Number is requested, in the blank would be typed “see the attached list”.

A separate REVISED LEASE PROVISION will be required for each family involved. The REVISED LEASE PROVISION must be signed in original signatures on all three copies by both the tenant family and the owner. A copy should go to the tenant, landlord, and DFS.

4.2.7 Head of Household

Head of Household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The Head of Household is responsible for insuring that the family fulfills all its responsibilities under the program, alone or in conjunction with a co-head or spouse. The Head of Household must have legal capacity to enter into a lease under state and local law. A minor is emancipated under state law may be designated as Head of Household. (Adopted 10/2/13)

5. Voucher Payment Standards

5.1 ESTABLISHING AND REVISING PAYMENT STANDARDS

The Voucher Payment Standard may change when new Fair Market Rent (FMR) figures are issued by HUD.

Before making revisions to the payment standard, DFS will consider the ability of participants to obtain decent, affordable housing given the current market conditions, vacancy rates, and other market factors.

5.1.1 Effective date

The effective date of a change in a payment standard will usually be October 1st, but may be at other times. The new payment standard must be applied as of the effective date unless the effective date is in the middle of a month in which case the operative date will be no later than the first of the following month.

5.2 EXCEPTION PAYMENT STANDARDS (Final Merger Rule, 10/21/99)

Where HUD has granted area-wide exception rents for the Housing Choice Voucher program, DFS may implement an area-wide exception payment standard equal to the HUD-approved exception rent.

DFS should approve a higher payment standard than normally used as an accommodation for a person with a disability. DFS does not need HUD approval if the payment standard used is at or

below 110% of the FMR and it is granted as a reasonable accommodation for a person with a disability. Before approving the higher payment standard, DFS must document the disability and the need for the higher payment standard.

If DFS wants to utilize a payment standard higher than that normally used, up to 110% of the FMR, and it is not due to a reasonable accommodation for a person with a disability, DFS must obtain HUD approval.

If DFS wants to use a payment standard higher than 110% of the FMR for any reason, DFS must provide information to HUD for approval.

According to HUD PIH notice 2013-03(HA) DFS opts to allow the limit of 120% of the published fair market rent in the case of a reasonable accommodation for a disability. This will be in effect until March 31, 2014 and will become permanent if HUD elects to make this new regulation permanent. (Adopted 10/2/13)

5.3 APPLYING THE PAYMENT STANDARD

DFS is to use the lower of the payment standards that apply to the size of unit indicated on the voucher, or the actual unit size rented by the family.

The utility allowance for the actual unit size selected is always used regardless of the family's voucher size.

5.3.1 When changes in the payment standard apply to an existing housing payment.

The payment standard that is applied to a family will be changed at regular reexamination, when a family moves, or at other times as determined by DFS.

When a family moves to another unit, DFS must apply a different payment standard if one of the following circumstances applies:

- If the payment standard has increased or decreased, the new payment standard is used;
- If DFS has adopted new subsidy standards, the payment standard for the appropriate unit size under the new occupancy standard is used; or
- If the family's size or composition has changed the payment standard for the appropriate unit size is used.

A family may request an interim redetermination of the housing assistance payment at any time, based on a change in the family's income, adjusted income, size or composition. Redetermination of the housing assistance payment as a result of an interim reexamination for these reasons does not affect the payment standard applicable to the family if the family remains in place.

A participant receives a utility reimbursement only if the family pays some or all of its utilities and the rent to the owner is less than the housing assistance payment.

6. Rent Reasonableness Determinations (24 CFR 982.507)

DFS shall follow the procedures in this section for making rent reasonableness determinations in accordance with HUD regulations and Section 8 Management Assessment Program (SEMAP) requirements. The rent reasonableness requirements apply to all new applicants and program participants.

DFS must determine a reasonable rent under the following conditions.

- Before the initial lease of any unit;
- Before granting any increase in the rent to owner; or
- If there is a 5% or greater decrease in the published FMR in effect 60 days before the contract anniversary as compared with the FMR in effect one year before the contract anniversary.

DFS may, at its discretion, re-determine reasonable rent at any time (982.507(a)(3), for any or all units.

Even if there is a substantial decline in the local market rents, signaled by a fall in the FMR, rent for the particular assisted unit is not reduced unless the comparability analysis shows that the current unit rent exceeds rent for comparable unassisted units. If a rent reduction is warranted, it would be done at the next annual recertification.

DFS must keep records to document the basis for each determination. In the tenant-based programs, this comparability determination must be kept for at least 3 years. DFS must keep these records in the tenant file attached to the documentation associated with any approved rent increase for future reviews.

6.1 FACTORS CONSIDERED IN VALUING UNIT

The PHA must compare characteristics of the contract unit with characteristics of comparable unassisted units. The rule provides that the PHA must compare:

- Location
- Quality
- Size
- Unit type
- Age of the contract unit
- Amenities
- Provided Services
- Maintenance
- Utilities to be provided by the owner in accordance with the lease

In accordance with 24 CFR 982.521, the PHA must also consider whether or not the contract unit is receiving other subsidies. These units may be subject to limits in addition to rent reasonableness.

DFS rent reasonableness procedures are guided by HUD's program requirements as set forth in SEMAP. DFS considers: 1) market rent information obtained from the real estate agents (multiple listing service), and/or apartment complexes; and/or 2) rental information obtained from classified advertisements in newspapers.

DFS shall use Metropolitan Realtor's Information Service online and/or other available resources to determine rent reasonableness. (*amended July 2010*) In addition, DFS produces an apartment guide updated at least once a year which contains information on all rental apartment complexes in the County. These resources, serve as our data collection system to compare all nine factors for unassisted units and units to be assisted. DFS may not use data for the purpose of determining a reasonable rent if it has been more than twelve months since the information was entered in the data collection system.

7. Special Housing Types (24 CFR 982 Subpart M)

7.1 INDEPENDENT GROUP RESIDENCES

An Independent Group Residence (IGR) is a group home living situation that provides residential and Social Services for persons with disabilities. Typically an IGR provides services for persons with a specific type(s) of disability. Persons eligible for the Housing Choice Voucher program may utilize their vouchers to rent bedrooms in an IGR.

When preparing and approving the Request for Tenancy Approval for an Independent Group Residence, the form should reflect the actual bedroom size of the entire structure. The gross rent, including rent reasonableness determinations, is based on the number of bedrooms included in the structure, plus the services provided by the Service Agency.

To determine the portion of the gross rent to be allocated to each individual receiving Housing Choice Voucher assistance in an IGR/Supported Living, DFS must divide the gross rent by the total number of occupants occupying the IGR, other than the Resident Assistant, who will occupy no more than one bedroom.

For persons residing in an IGR, a separate subsidy contract is signed for each individual program participant. If a Service Agency is subleasing and operating the IGR, the Service Agency will sign the subsidy contract as owner.

DFS must execute an agreement for Independent Group Resident Supportive Services with the Service Agency. This agreement outlines the services to be provided by the Service Agency for the program participant.

DFS must not to execute any agreement that would require it to terminate housing assistance payments as a result of the Service Agency's failure to provide services for the program participant. The program participant may use his/her rights to find another place to live that may or may not provide such services, or may use portability and move out of DFS' jurisdiction.

7.2 Congregate Housing

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided. If approved by the Public Housing Authority (PHA), a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and Housing Assistance Payment (HAP) contract are executed for each assisted family, and the standard form of the HAP contract is used.

- **PHA Policy:**

A voucher may be used in congregate housing provided its use will make a difference to the individual; e.g., enable the applicant to change and improve their housing situation. An applicant residing in congregate housing may not use a voucher to lease in-place if the primary change for the applicant would be in the state or federal agency that is paying for their housing assistance.

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom payment standard. The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the Total tenant Payment (TTP) or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

- HQS requirements as described in Section 16 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not

provided by the residents themselves.
(Added 7/1/11)

7.3 Group Home

- A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care. A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides. If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.
- When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.
- PHA Policy
A voucher may be used in a group home provided its use will make a difference to the individual; e.g., enable the applicant to change and improve their housing situation. An applicant residing in a group home may not use a voucher to lease in-place if the primary change for the applicant would be in the state or federal agency that is paying for his housing assistance.
- Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.
- PHA Policy
If the applicant will have private facilities, such as a private bedroom and sanitary facilities, the family unit size is one; otherwise the family unit size is zero.
- The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home. The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below:

- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
 - Dangerous walks or steps
 - Instability
 - Flooding, poor drainage
 - Septic tank back-ups
 - Sewage hazards
 - Abnormal air pollution
 - Smoke or dust
 - Excessive noise
 - Vibrations or vehicular traffic
 - Excessive accumulations of trash
 - Vermin or rodent infestation, and
 - Fire hazards.

(added 7/1/11)

7.4 Shared Housing

- Shared housing is a single housing unit occupied by an assisted family and another resident. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family. An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage or domestic partnership ties to the assisted family. If approved by the PHA, a live-in aide may reside with the family to care for a person with

disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

- When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.
- PHA Policy
 - Two or more assisted families may enter into a shared housing arrangement provided that each family has private use of its family unit size number of bedrooms.
- The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size. The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit. The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the pro-rata share of the utility allowance for the shared housing unit. The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, DFS should consider whether sanitary and food preparation areas are private or shared.
- The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards. HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below:
 - Facilities Available for the Family: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
 - Space and Security: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

(added 7/1/11)

7.5 Assisted Living Facility

- HUD defines an assisted living facility as a facility designed for residents who have the physical ability to live independently but need assistance with some activities of daily living, such as personal care, transportation, meals, nursing care, laundry, medication monitoring, security, and housekeeping. A public, proprietary or private nonprofit corporation or association may own an assisted living facility.
- A voucher may be used in assisted living facilities in accordance with HUD Notice PIH 2000-41(HA) provided its use will make a difference to the individual; e.g., enable the applicant to change and improve their housing situation. An applicant residing in an assisted living facility may not use a voucher to lease in-place if the primary change for

the applicant would be in the state or federal agency that is paying for his housing assistance.

(added 7/1/11)

8. Annual and Ongoing Functions

8.1 ANNUAL REEXAMINATION (24 CFR 5 SUBPART F AND 982.516)

DFS must conduct an annual reexamination of family income, size and composition, and all family characteristics affecting eligibility and total family contribution. Adjustments will be made to reflect any changes in the total family contribution, rent to owner, utility allowance, tenant rent to owner, and housing assistance payment. The family's unit must be inspected as part of the reexamination process.

Reexamination activities will begin 120 days prior to the anniversary date of the lease and subsidy contract. Both the owner and tenant must be notified of their responsibilities during the reexamination process. The anniversary date will be the first day of the next month in which the lease is started. (Adopted 10/2/13) Examples:

- When a HAPC begins on the first of a month, recertification will take place after one year (i.e., 8/1/00 - 7/31/01; recertification date will be 8/1/01).
- When a HAPC does not begin on the first of a month, recertification occurs the first of the same month (e.g., 1/4/00 - 1/31/01; recertification date will be 1/1/01). (Revised 10/2/13)

DFS allows a streamlined annual reexamination for elderly or disabled families on fixed incomes. Per HUD PIH notice 2013-03(HA), this shall be a temporary measure until March 31, 2014. If HUD allows this to become a permanent option then this change will also become permanent with no further action required.

In a streamlined reexamination DFS will recalculate family incomes by applying the published cost of living adjustments to the previously verified income amounts.

Fixed income includes income such as social security payments, pension plans, other periodic payments received from annuities, insurance policies, disability, or death benefits and other similar types of periodic receipts that are substantially the same amounts from year to year.

(Adopted 10/2/13)

8.1.1 Disallowance of Earned Income from Rent Determinations for Persons with Disabilities

For purposes of rent determination, the annual income for qualified disabled families may not be increased as a result of increases in earned income of a family member who is disabled. This exclusion of income begins on the date on which the increase in earned income begins and continues for a cumulative 12-month period. After the disabled family receives 12 cumulative months of the exclusion, the annual income will include a phase-in of half the increase in earned income previously excluded from annual income.

To qualify for the earned income exclusion a disabled family must be receiving tenant-based rental assistance under the Housing Choice Voucher Program and must be a family whose annual income increases as a result of:

- Employment of a family member who is a person with disabilities, and who was previously unemployed for one or more years prior to employment;
- Increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- New employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for TANF, provided that the total amount over a six-month period is at least \$500.00.

“Previously unemployed” includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the state minimum wage.

An economic self-sufficiency program is any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Amounts to be excluded include any increases in earned income of a family member who is disabled during participation in an economic self-sufficiency or job training program, but not increases that occur after participation in the program, unless the program provides assistance, training or mentoring after employment.

The amount of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies and transportation assistance. The amount of income that may be excluded is the amount of the incremental increase in the disabled family member’s income. The incremental increase in income is calculated by comparing the amount of the disabled family member’s income before beginning the qualifying employment or receiving the increase in earned income with the amount of income after beginning the employment or receiving the increase in earned income.

Initial 12-Month Exclusion:

During the cumulative 12-month period beginning on the date a disabled family member in a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, any increase in income received by a disabled family member as a result of employment of that family member will be excluded from the annual income of a qualified family.

Second 12-Month Exclusion and Phase-in:

During the second cumulative 12-month period after the expiration of the initial cumulative 12-

month period referred to above, 50 percent of any increase in income of a disabled family member as a result of employment of that family member DFS be excluded from the annual income of a qualified family. The increase DFS be measured from the date immediately prior to the beginning of such employment.

Maximum 4-Year Exclusion:

The earned income disallowance is limited to a lifetime 48-month period for each disabled family member; that is, the disallowance applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting on the date of the initial exclusion.

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

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

Applicability to Child Care and Disability Assistance Expense Deductions:

The amount deducted for child care and disability assistance expenses necessary to permit employment does not exceed the amount of employment income that is included in annual income. Therefore, for disabled families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income can not be used in determining the cap for child care and disability assistance expense deductions.

Tracking the Earned Income:

The earned income exclusion will be reported on the HUD Form 50058. Documentation will be included in the family's file to show the reason for the reduced increase in rent. Such documentation will include:

1. Date the increase in earned income was reported by the family;
2. Name of the family member whose earned income increased;
3. Reason (new employment, participation in job training program, within six months after receiving TANF) for the increase in earned income;
4. Amount of the increase in earned income (amount to be excluded);
5. Date the increase in income is first excluded from annual income;
6. Date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any);
7. Date the family member has received a total of 12 months of the initial exclusion;
8. Date the 12-month phase-in period began;
9. Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any);
10. Date the family member has received a total of 12 months of phase-in exclusion; and
11. Ending date of the maximum 48-month (4-year) disallowance period (48 months from the date of the initial earned income disallowance).

DFS will maintain a tracking system to ensure correct application of the earned income disallowance.

DFS will apply the earned income disallowance at a family's annual review. The disallowance may be applied at an interim review for those families who reported zero income at their last review and who are now reporting income.

Inapplicability to Admission:

The earned income disallowance is only applied to determine the annual income of disabled families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).*(amended July 2010)*

8.2 CRIMINAL BACKGROUND CHECKS

*A criminal background and sex offender registry search will be performed by DFS for all individuals 18 years of age or older who applies for assistance as part of the intake process for the HCV program. **amended 7/2009*

A criminal and sex offender background check will be done for all adults (18 years old or over) who are transferring into Loudoun County from another jurisdiction. *(amended July 2010)*

8.3 FAILURE TO APPEAR FOR RECERTIFICATION APPOINTMENT

DFS is responsible for cases in which the family fails to appear for the first recertification appointment and will reschedule a Second Recertification Appointment.

If a second recertification appointment is missed, DFS must prepare and mail a NOTICE OF TERMINATION OF ASSISTANCE DUE TO FAILURE TO BE RECERTIFIED, along with a copy of the INFORMAL HEARING PROCEDURES FOR PARTICIPANTS to both the family and landlord. The letters will be sent both certified and regular mail, or delivered by Sheriff's service. The family will have ten days from the date of the letter or Sheriff's service delivery to schedule an informal hearing, or assistance will be terminated effective on the anniversary date of the recertification. A notice will be sent to the landlord to confirm termination if there is no appeal or DFS decision is upheld by hearing officer.

8.4 ANNUAL RECERTIFICATION

Families leasing in the Housing Choice Voucher Program must have their eligibility recertified each year. Once a month, a client recertification list is generated using HARMONY software 120 days before the lease end date. The report lists names and appointment times of tenants which must be recertified. Notice will be sent to the tenant by e-mail unless that is not possible with an appointment scheduled. It is required that all persons in the household eighteen years of age and older must attend the recertification. The landlord is also notified of the recertification. A copy of the e-mails or letters are kept in the client/tenant files. A checklist of items required at the recertification meeting includes the following:

- Social Security Verification (Social Security Card);
- Social Security Claim Number;
- Income Verification (job, benefits, pension, unemployment, or annuities);
- Assets (all members of household must provide statement copies of most recent checking accounts and saving accounts, stocks, bonds, investment accounts, CDs, and real estate property);
- Child Care Expenses;
- Handicap/Disability Expenses (statement of bills, transportation costs, special equipment needs);
- Medical Expenses (statements of bills, health insurance bills, monthly prescriptions, and over-the counter expenses); and
- Monthly Utility Expenses

All verifications are to be the most recent available and no more than 60 days old when presented to DFS (except statements issued only once a year such as for social security benefits).

If there are any changes in the family's financial or familial circumstances between the time of the annual recertification meeting and the actual recertification date, it is the responsibility of the family to notify DFS staff.

*The notice of annual recertification and change in rent breakdown shall be sent to client and landlords electronically when possible. Regular mail will be used for notification only if it is not possible to send the notice electronically. **amended 7/2009*

8.5 INTERIM REDETERMINATION OF FAMILY INCOME AND COMPOSITION

If participant family experiences an increase in income, the head of the household must notify DFS in writing within 30 days of the change unless the change is of a temporary nature lasting no more than 60 days. An interim reexamination will be performed when there is at least a \$2,000 annualized increase in income from the last annual or interim reexamination. *(amended July 2010)*

A family may request, in writing, a reexamination if it experiences a decrease in income unless the change is of a temporary nature lasting no more than 60 days. An interim reexamination will be necessary for any reported and verified decrease of income from the last annual or interim reexamination. *(amended July 2010)*

*The notice of change in rent breakdown shall be sent to client and landlords electronically when possible. Regular mail will be used for notification only if it is not possible to send notice electronically. **amended 7/2009*

8.5.1 Changes in family composition

A participant family must notify the landlord/property manager and DFS in writing of any change in family composition within 30 days of the change. Changes in family composition may affect the family's income, HQS requirements and/or lease agreement. When the change is to add an additional household member, other than by birth, adoption, or court-ordered custody, prior approval must be obtained before additional household members may be added to the lease and subsidy contract.

8.5.2 Effective date of change

The effective date of the change in the total family contribution and HAP payment as a result of an interim recertification depends upon the reason for the interim change.

For any change resulting in an increase in the total family contribution, the participant must be given a full calendar month's notice of the change so long as the family met DFS' reporting requirements. The family's portion will not increase for at least 30 days after the reported increase in income.

If a change results in an increase in the total family contribution and the family did not comply with DFS' reporting requirements, the change will take effect retroactive back to the first day of the month following the increase in income. At a minimum, the family will have to repay DFS the HUD extra subsidy the family received since experiencing an increase in income. At most, the family will be terminated from the program.

For any change resulting in a decrease in the total family contribution (loss of income), the interim recertification must become effective the first day of the next month. This may however, be done retroactively if the documentation is received late. For instance – if the last income from the source (including any severance pay, annual or sick leave payout, last paycheck, etc) is received March 30th, then the rent breakdown change must be effective April 1st. However, staff may have until the monthly check run for May to enter the change into the system making it retroactive to April 1st. (*amended July 2010*)

8.6 VOUCHER PROGRAM (Interim Merger Rule, 5/21/99 and Final Merger Rule, 10/21/99)

Annual rent adjustments are negotiated between the owner and the family. The owner must provide the tenant and DFS with a 60 day notice of intention to increase the rent. DFS must perform a rent reasonableness determination before approving the new rent level. If the proposed rent is found to be higher than those charged for comparable, unassisted units, DFS may approve the new rent at the comparable level. If the owner will not agree to this rent level, and the tenant wants to continue receiving assistance through the voucher program, the tenant must move.

8.7 SPECIAL ADJUSTMENTS (24 CFR 982.510)

Subject to HUD approval, special adjustments may be granted to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates or similar costs (e.g. assessments and utilities not covered by regulated rates) but only if and to the extent that the owner clearly demonstrates that such general increases have caused increases in the owner's operating costs which are not adequately compensated for by the annual adjustments.

8.8 FAMILY MOVES

If a participant wants to move within the area served by DFS, DFS must give the participant a voucher to look for another unit.

If a participant wants to move to another unit outside the area served by DFS, the participant must be given information on the procedures for the participant to follow under portability.

DFS must comply with any other notice requirements contained in state or federal law or regulations governing administration of the Housing Choice Voucher program; e.g. the explanation of portability as described in 24 CFR 982.353(b).

If a participant wants to withdraw from the Housing Choice Voucher program, the participant must give their Housing Counselor a written request to do so.

DFS participants may move only on the anniversary of their annual recertification. Exceptions to this may be made on a case-by-case basis as approved by the HCV Program Manager or DFS Assistant Director. (*amended July 2010*)

Refer to Subsidy Standards for appropriate subsidy size to be issued when a family moves.

If DFS does not have funding available, Participants may not move to a jurisdiction in which the payment standard is higher than those of DFS unless the receiving jurisdiction is willing to absorb them into their program using their funds. Exceptions may be made on a case by case basis by the Executive Director or their designee. (Adopted 10/2/13)

8.9 UTILITY ALLOWANCE (24 CFR 982.517)

DFS must determine a utility allowance for a family if the rent to owner for the unit does not include all necessary utilities. DFS uses the utility schedule of consumption data prepared by DFS to determine the utility allowances for all appropriate tenants.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in

the same locality. In developing the schedule, DFS will use normal patterns of consumption for the community as a whole and current utility rates.

If the unit utilizes a wood stove or inserts as a secondary source of heat, the utility allowance must be established based on the primary source of heat. Only in cases where the stove or insert is the only source of heat can a wood or coal allowance for wood or coal be allowed. In these cases, the allowance will include the estimate for the least expensive fuel source for the unit.

If a family supplies the range and/or refrigerator, then DFS must include an allowance for the appropriate appliance(s).

DFS shall update the utility allowance schedule annually.

8.9.1 Determining unit size for the purpose of applying the utility allowance.

DFS must count the actual number of bedrooms. Rooms that could be considered bedrooms according to HQS, but are not actually used as bedrooms may also be counted as bedrooms. Living/sleeping rooms are not considered bedrooms for the purpose of calculating the utility allowance since these rooms have already been included in the calculations.

To determine utility allowance, DFS must determine the type of housing, the number of bedrooms, which utilities the HCV client is responsible to pay for, the type of fuel required for those utilities and, in the case of water and sewer, the utility rate of the jurisdiction providing water and sewer.

In the case of water and sewer billed by a private company (apartment complexes), the allowance shall be based on the utility rate of the jurisdiction providing water and sewer to that area.

(Adopted 10/2/13)

The utility allowance for an Independent Group Residence (IGR) is determined based on the actual number of bedrooms for the entire structure. This figure is prorated among the eligible participants using the same methodology used to prorate the contract rent.

With HUD's permission and for as long as HUD allows, the number of bedrooms used in calculation of the utility allowance will be the lower of the voucher size or the actual number of bedrooms in the rented property. This is thought to be a temporary measure. (Adopted 10/2/13)

8.9.2 Reasonable accommodation

DFS must approve a special higher utility allowance, on a case-by-case basis, as a reasonable accommodation for a person with a disability (24 CFR 982.516(e)). DFS should document the existence of the disability and the need for a higher utility allowance.

8.10 MINIMUM TENANT PAYMENT (QHWRA, 1998)

DFS requires that participants in its Housing Choice Voucher program pay a minimum of \$50 towards rent and utilities. (Revised 10/2/13)

8.10.1 Waiver provisions

DFS may waive the minimum tenant payment in cases of financial hardship including, but not limited to, job loss, death of a family member, loss of benefits under state, local or federal assistance programs, or to avoid eviction. Waivers may be granted on an individual basis considering the circumstances of each particular family. A family must prove its hardship is of a long term nature.

9. Occupancy

9.1 WHO CAN LIVE IN THE ASSISTED UNIT (24 CFR 982 SUBPART E AND 982.53)

DFS will not discriminate on the basis of family characteristics such as:

- Unit size needed
- Unwed parents
- Children born out of wedlock
- Recipients of public assistance
- Presence of children
- Age, sex, color, religion, national origin or disability

Approval of family composition or the addition of family members, foster children, or live-in aides will not be unreasonably withheld by DFS.

9.1.1 At Admission

At admission, DFS must approve the family composition so a subsidy of the appropriate size can be issued. DFS may deny admission to a family or to individual family members as permitted by HUD regulations and as further defined in this Administrative Plan.

Family members approved by DFS will be listed on the subsidy contract and on the family's form 50058 report.

9.1.2 During the family's participation in the program

After the HAP contract is executed, family members may be added to the assisted household only with approval of both the owner and DFS. There are three exceptions to this policy:

- Birth;
- Adoption; or,

- Court-awarded custody of a child.

The family must immediately notify DFS of any change in family composition. This notification must be before the new members occupy the unit if DFS' approval is required.

A family's failure to obtain approval is a violation of family obligations that may result in termination from the program; and, is a lease violation which may result in eviction from the unit.

The addition of new household members in the first year of the lease, where the addition would cause the family to violate HQS requirements, will not be permitted. However, if the owner and the family agree to a mutual termination of the lease, and the additional occupant is approved by DFS, DFS will issue a new voucher and the family may move.

9.1.3 Live-in aide for disabled resident

DFS may refuse to approve, or may withdraw approval if a proposed live-in aide/companion:

- Has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- Has committed drug-related criminal activity or violent criminal activity; or
- Currently owes rent or other amounts to any PHA in connection with Housing Choice Voucher or public housing assistance or any other program under the 1937 Housing Act.

In instances where there are complaints about a live-in aide, DFS will investigate those complaints and deny or withdraw approval if any of the above conditions exist. Under no conditions should DFS perform a criminal background check on a live-in aide.

9.2 APPROVAL OF ADDITIONAL OCCUPANTS

To obtain approval to add occupants during occupancy, the head of the household must notify both DFS and the owner in writing prior to occupant's move-in.

Upon receipt of the family's request, DFS will obtain the necessary documentation from the individual[s] to be added to the household, and will perform a standard eligibility check that includes determination of eligible immigration status and a criminal history background check.

When the eligibility check is complete, DFS will send its decision to both the owner and family. If the additional occupant is approved by DFS, the notice to the owner must provide the owner one month to respond and state that failure to respond to the notice within one calendar month will constitute approval, and will have the effect of amending both the lease and the HAP contract. If approved, a copy of DFS approval and the owner approval, if received, will be attached to the HAP contract.

It is the responsibility of the family, not DFS, to obtain the owner's written approval for the additional family members.

9.2.1 In the Event of Conflict

Should the owner not agree to the addition of family members, DFS will abide by that decision while the assisted family remains in that unit. If the owner denies the request, the family's options are as follows:

- Move by terminating the lease in accordance with its terms; or
- Seek mutual termination if the family is in the first year of the lease; or
- Remain in unit with the family composition unchanged.

If the owner approves the request to add family members but DFS does not; e.g. unacceptable criminal history background check, the family must abide by DFS' decision and the individual(s) may not move in. If the family allows the individual(s) to move in DFS will terminate assistance to the family.

9.3 FAMILY BREAK-UP

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, DFS is bound by the court's determination of which family member continues to receive assistance in the program.

In cases where the family is not clear as to who will remain as a family and who will leave, DFS must require the family members to decide by a specified deadline. DFS will continue with the voucher holder unless the voucher holder signs a notarized statement passing the voucher to another approved member of the household. A decision must be made by the family as to who will be the remaining members, since only one voucher will be issued. If a decision is not reached by the specified deadline, then assistance cannot proceed or continue to be received by any members of the family.

10. Termination of Assistance (24 CFR 982.552)

This section states the grounds on which DFS may terminate assistance. It does not address termination of tenancy by the family or owner, or HAP contract termination for reasons other than terminating assistance to a family.

Termination of assistance may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease;
- Terminating housing assistance payments under an outstanding HAP contract; and,
- Refusing to process or provide assistance under portability procedures.

10.1 GROUNDS FOR TERMINATION OF ASSISTANCE

DFS may terminate assistance any time there are grounds justifying such action. DFS must inform families of the reasons for terminating assistance at the initial briefing and each year at reexamination. If a participant claims that she/he failed to receive such information, that claim will not prevent the participant from being terminated in accordance with HUD regulations and DFS policy.

As a temporary measure, due to federal budget cuts, DFS will have the policy that any violation of HCV rules and regulations will result in the termination of HCV rental assistance. The PHA Executive Director, Program Manager and finance team will determine when this is no longer necessary and will then return to normal processes concerning termination of HCV rental assistance. (Adopted 10/2/13)

For any terminable offense, DFS must exercise responsible discretion on a case by case basis and may consider all of the circumstances of the individual case, including the seriousness of an offense, the extent of participation or culpability of individual family members, and the effects of program sanctions on uninvolved family members.

DFS has discretion to consider mitigating factors presented by the family when deciding whether or not to terminate assistance. See Section 13.2 for a further discussion of mitigating circumstances.

In the absence of mitigating circumstances, DFS may terminate assistance for the following reasons:

- If the family violates any family obligations as listed in HUD regulations for the Housing Choice Voucher program;
- If any family member commits drug related or violent criminal activity; or
- If any family member commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- If the family owes rent or other amounts to any PHA (including 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), and either refuses to enter into a repayment agreement, or is not complying with the terms of a repayment agreement.
 - If the family has engaged in or threatened, abusive or violent behavior toward DFS personnel.

DFS will not terminate a family's assistance if a family participating in the FSS program fails to comply with the family's FSS Contract of Participation.

10.1.1 Family obligations

Family obligations are listed on the voucher provided to the family upon admission to the program and must be provided in the information packet the family receives at the briefing.

10.1.1.1 Supplying Truthful and Complete Information

DFS may terminate assistance in situations where any family member deliberately conceals information and the information withheld would have been grounds for denying assistance for the family when it originally applied for the program.

10.1.1.2 HQS Breach Caused by Family

The family is responsible for a breach of HUD's HQS that is caused by any of the following:

- Failure to pay for tenant-supplied utilities;
- Failure to provide and maintain tenant-supplied appliances; or
- Damage caused by family or guest to unit or premises (beyond ordinary wear & tear).

The family must correct the defect within:

- 24 hours for life-threatening violations; or
- 30 calendar days for other violations.

DFS may approve appropriate extensions if the HQS failure is non-life threatening and does not affect the safety of the resident or other occupants of the building. If the family fails to correct the violation within the required time frame it will be terminated from the program.

DFS must use a fair and effective system of enforcement that attempts to match the severity of the problem to the severity of the enforcement and permits a range of enforcement actions, including the use of warnings, extensions, and termination. To the extent practicable, DFS must attempt to distinguish between damage that is accidental or minor as opposed to damage caused by reckless or malicious action by the family and use that information in determining appropriate enforcement actions. DFS should distinguish between an isolated or rare instance of tenant-caused damage and a pattern of continuous tenant-caused damage. In most instances, termination of assistance is appropriate only when other compliance measures have failed.

DFS enforcement procedures must attempt to inform and educate families as to applicable HQS standards and how their action or non-action relative to HQS violations may impact their ability to continue to receive rental assistance. When a family is cited for a family-caused HQS violation DFS must provide written notice to the family and the owner. The notice must:

- Be issued promptly after the violation is cited;
- Include a clear description of the violation, including how it violates program requirements;
- Indicate the time frame for correcting the violation;

- The consequences of failing to correct the violation including actions that will be taken by DFS and actions that may be taken by the owner;
- Strongly recommend that the tenant contact the owner to discuss the repair method prior to correcting any tenant caused violation;
- Include a statement regarding a disabled person's right to request reasonable accommodation; and
- The name and phone number of the contact person.

DFS notice to the owner must:

- Inform the owner that the family may be terminated from the program if the violations are not corrected and that, if the family is terminated, the HAP contract will also be terminated with no further housing assistance payments from DFS;
- Advise the owner that she/he may make the necessary repairs and charge the family's security deposit in accordance with the lease and state law;
- Advise the owner that if the violation also constitutes a lease violation and the family refuses or is unable to make the repairs, the owner may make the repairs, bill the family, and issue notice to terminate the tenancy in accordance with the lease and state law. (For rules regarding termination of HAP payments when the owner terminates the lease see-24CFR 982.311(b); and
- Recommend that if the owner has any questions concerning the family's method or ability to correct the violation, they should contact the family directly.

Actions that may be taken by the owner should be consistent with the written terms of the lease and may include but are not limited to the following:

- No action, the family is responsible for making repairs;
- Make the necessary repairs and charge the family's security deposit for the expense at the end of the tenancy; or
- If the HQS violation also constitutes a lease violation and the tenant refuses or is unable to make the repairs, the owner may make the repair(s), bill the tenant, and issue notice to terminate tenancy.

When it is not obvious that the damage was caused by tenant action, the burden of proof is on the owner. The statement of condition provided to the family at the beginning of its occupancy or the initial inspection report will document the condition of the unit at the initial lease date. DFS may also consider whether the owner or the tenant has a history or practice of violating HQS or DFS housing standards.

If a participant is terminated for failing to correct an HQS violation and the violation is cured after the effective date of termination, generally, the participant should not be reinstated. Since termination of assistance has occurred, that would indicate that other compliance measures, such as the granting of appropriate extensions, etc., have been taken and have failed. Any request for reasonable accommodation must have been submitted by the family and addressed by DFS prior to the effective date of the termination. If DFS determines that there were mitigating

circumstances and the family is reinstated in the same unit, a new lease and HAP contract must be executed.

10.1.1.3 Allowing inspection of the dwelling unit by DFS

The family must allow DFS to inspect the dwelling unit at reasonable times and after reasonable notice.

It is the family's responsibility to arrange for access to the unit by DFS' inspector even if the family will be absent from the unit. Property owners/managers will be encouraged by DFS to attend all inspections.

Families should be notified that although inspections are required annually, as a result of follow-up inspections and audit inspections by DFS, the unit may be inspected several times in a year.

To accommodate working families DFS staff are required to schedule appointments for a specific time, when requested. If DFS is unable to keep an appointment for an inspection, the family should be notified as early as possible on the date of inspection or sooner if possible.

In instances where the unit is subject to repeated inspections due to the owner's failure to make the required repairs, an undue burden may be placed on working families. In these instances, DFS may suggest that the family ask the owner of the unit to be present for re-inspections. If the family does not wish to ask the owner to be present for an inspection, the family remains responsible to make certain an adult will be present for all scheduled inspections.

DFS may terminate assistance to a family for failure to provide access to the unit if:

- DFS is unable to gain access to the unit for at least two scheduled inspections within one reexamination period;
- The family did not cancel or call to reschedule the inspection(s) for a more convenient time; and
- DFS did not cancel the inspections without notifying the family the day of the inspection.

10.1.1.4 Violation of lease

The family may not commit any serious or repeated violation of the lease.

The lease is a contract between the family and the owner. Generally, DFS will take no action against landlord claims of tenant misbehavior, will not assume the owner's responsibility for enforcing the lease, and will not interject itself in the relationship between the family and the owner where the owner may seek remedy and/or mediation through the courts. Where an owner obtains a court-ordered eviction (Judgment for Possession) for serious or repeated lease violations, DFS may terminate that family from the program after conducting an independent investigation into the cause for eviction.

DFS, at its discretion and in situations where the owner is unable or unwilling to act, upon determining that the nature of the lease violation(s) are having a serious impact on individual

residents or the housing development as a whole, may terminate assistance to a family where DFS is able to document repeated or serious lease violations by the family. For example, police reports documenting regular disturbances at the unit.

Vermin and rodent infestation caused by trash accumulation from poor housekeeping is not a tenant-caused HQS violation but it may be a lease violation. An owner may evict if poor housekeeping creates a serious or repeated violation of the lease.

10.1.1.5 Owner eviction notice

The owner must give DFS a copy of any owner eviction notice at the same time the owner notifies the tenant. Eviction notice means a notice to vacate, or a complaint or other initial pleading used to begin an eviction action under state or local law.

10.1.1.6 Family notice of move or lease termination

Before vacating the dwelling unit, the family must notify both the DFS and the owner in writing in accordance with the terms of the lease and state law.

10.1.1.7 Use and occupancy of unit

The family must use the assisted unit for residence by the family. The unit must be family's only residence.

The composition of the assisted family residing in the unit must be approved by DFS.

The family must notify DFS within 30 days if any family member no longer resides in the unit and of the birth, adoption, or court-awarded custody of a child who will be living in the unit.

The family must request DFS approval to add any other family member, live-in aide or foster child as an occupant of the unit. Depending upon the form of lease, owner approval may also be required. Additional household member(s) will be subject to criminal history background checks by DFS.

The family must use the dwelling unit solely for residence. The family shall not assign the lease or transfer the unit.

10.1.1.8 Absence from unit (24 CFR 982.312)

The family may be absent from the unit for up to 30 days. DFS must approve longer absences on a case by case basis.

HAP payments terminate if the family is absent for longer than the maximum period permitted. The HAP contract and assisted lease also terminate.

Absence means that no member of the assisted family is residing in the unit.

The family must supply any information/certification requested by DFS to verify the residence of the family in the unit. The family must cooperate with DFS. The family must notify DFS promptly in writing of the absence from the unit.

DFS will use letters to the family, phone calls, visits or questions to landlords or neighbors to verify family occupancy in the unit.

10.1.1.8.1 Absence Due to Hospitalization/Residential Treatment Facility

If the absence is due to hospitalization or admittance to a residential treatment facility, advice from a medical source will be required as to the length of the anticipated stay. If the medical source states the family is expected to be hospitalized or in the treatment facility for 120 consecutive days or more, the family will be considered absent and assistance will terminate. If the absence is expected to be less than 120 consecutive days, assistance may continue for a brief absence.

Hospitalization or admittance to a residential treatment facility is a situation whereby DFS policy permits reinstating assistance or resuming assistance without reapplying for the program. In all cases there is a 120-day limit on eligibility for reinstatement, measured from the date the termination is effective. Reinstatement is subject to the availability of subsidy.

10.1.1.8.2 Absence for Incarceration

If incarceration is for drug related or violent criminal activity, the participant may be terminated in accordance with that policy. See Section 11.2.

If an absence is due to incarceration, termination of assistance would not occur until verification of the length of incarceration is received. If the length of incarceration is longer than 90 consecutive days, assistance will be terminated.

Assistance will not be reinstated or resumed after termination. A family must reapply for the program after incarceration is completed.

10.1.1.8.3 Absence Due to Other Documented Reasons

Absence due to a documented reason other than hospitalization, incarceration or participation in a residential treatment facility, (e.g., employment, active duty/reserves, vacation, or to care for another individual, etc.), is permitted for 90 consecutive days. Termination will occur if the absence exceeds 90 consecutive days.

A family must reapply to the program after termination occurs. Assistance will not be reinstated or resumed. If the period of absence will be for more than 30 days, the family must submit a request for DFS approval of extended absence as soon as possible, but not less than 21 days before the first date the family will be absent from the subsidized unit.

10.1.1.9 Interest in unit

The family must not own or have any interest in the dwelling unit (other than in a manufactured home). If the owner is a cooperative, the family may be a member of the cooperative.

10.1.1.10 Fraud and other program violation

The family members must not commit fraud, bribery or any other corrupt or criminal act in connection with any federal or state housing assistance program. HUD regulations pertaining to fraud are found at 24 CFR part 792.

10.1.1.11 Crime by family members

The family members must not engage in drug related criminal activity or violent criminal activity. See section 11.2.

10.1.1.12 Other housing assistance

An assisted family or members of the family, will not receive Housing Choice Voucher tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative Federal, state or local housing assistance program.

10.1.2 When a family owes money to an HA

HUD's policy regarding the payment of damage claims and vacancy loss changed effective October 2, 1995. HA's may not pay damage claims and vacancy loss on behalf of families that entered into a lease after that date. However, a family under a new lease and HAP contract may have an outstanding claim from a previous tenancy.

A family is obligated to pay money owed to the HA as a condition of continued participation in the program. When a HA has paid a vacancy loss, damage claim, or unpaid rent claim to a property owner the family must repay this money to the HA or face termination.

An HA may refuse to allow a family to move if it is in arrears. If the family has a history of damage or vacancy claims, or if the family had previously signed a repayment agreement but failed to make payments or stopped making payments, the HA may:

- Require the family to repay the full amount prior to moving; or
- Require the family to come current on the agreement and sign a new agreement that permits termination in place after three consecutive missed payments.

10.1.2.1 Impact of bankruptcy on tenant debt

Generally, if a participant files for bankruptcy for debts owed to DFS for fraud or damage claims due to willful or malicious acts by the tenant, these debts are not dischargeable. Other types of debt will be considered by the County Attorney on a case by case basis.

10.1.3 Termination for drug or alcohol abuse

In accordance with the Housing Opportunity Extension Act of 1996, DFS may terminate the Housing Choice Voucher assistance of any person if DFS determines that the person's abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. DFS may also terminate the Housing Choice Voucher assistance of any person who DFS determines is illegally using a controlled substance. See section 11.2.

10.2 TERMINATION NOTICE TO FAMILY

Notice to the family that assistance is to be terminated must be sent by certified mail return receipt requested and by regular mail or by service by Loudoun County Sheriff's Office. Allegations by the tenant that she/he did not receive the notice of termination will not be considered by DFS as a reason for failure to submit a request for an informal hearing or otherwise respond to the notice.

Assistance payments must continue to be made until the hearing process has been concluded at DFS.

11. Drug-related and Violent Criminal Activity (24 CFR 982.553)

Drug related criminal activity is:

The illegal manufacture, sale or distribution; or the possession with intent to manufacture, sell or distribute a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

Illegal use, or possession for personal use, of a controlled substance.

The possession, use, or distribution of marijuana is illegal by state and federal law. DFS will treat the possession, use, or distribution of marijuana as an offence that can lead to termination of rental assistance even if the client has a prescription or they have obtained it legally outside of Virginia. (Adopted 10/2/13)

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

The term criminal activity includes both drug related and violent criminal activity. The term drug related will be used only if it is necessary to distinguish between the two.

11.1 NOTIFICATION

Applicants and participants must be formally notified of DFS' drug policy. At the time of application, families will be required to indicate on their application whether any family member has been involved in any drug related or violent criminal activity. The application will also provide the family with information concerning the DFS drug policy.

At family briefings, applicants and participants are to be formally notified of DFS policy regarding family members abusing alcohol in a way that may interfere with the health or safety of themselves or other residents or that may interfere with the rights of others to peaceful enjoyment of the premises.

11.2 GROUNDS FOR DENIAL OR TERMINATION OF ASSISTANCE

DFS may deny assistance to an applicant or terminate assistance to a participant family if any member of the family commits:

- Drug related criminal activity;
- Violent criminal activity; or
- Abuses alcohol in a way that may interfere with the health or safety of themselves or other residents or may interfere with the rights of others to peaceful enjoyment of the premises.

To deny or terminate assistance for illegal use or possession for personal use of a controlled substance, or for abusing alcohol, such use or possession must have occurred within three years before the date DFS provides the notice of denial or termination of assistance for this reason.

DFS may not terminate assistance for past use of drugs by a rehabilitated user who has not used drugs in the last year. DFS may not terminate assistance for prior alcohol abuse by an individual who has not abused alcohol in such a way to be a danger to himself, herself or others in the last year.

DFS may deny assistance for an addict who currently uses or possesses drugs.

DFS may deny assistance for a person who currently abuses alcohol in such a way to be a danger to himself or others. However, prior to denying assistance due to alcohol abuse, DFS must be careful to determine that there is reasonable cause to believe that:

- A member of the family abuses alcohol in a way that may interfere with the health or safety of the other residents or their right to peaceful enjoyment of the premises; or
- A member of the family has a pattern of abuse of alcohol that may interfere with the health or safety of the other residents or their right to peaceful enjoyment of the premises.

DFS may not deny assistance for an addict who is recovering, or has recovered from an addiction. DFS may require a family member who has engaged in the illegal use of drugs or abused alcohol in a way to be a danger to themselves or others, to submit evidence of participation in, or successful completion of, a treatment program as a condition of being allowed to reside in the unit.

There is no time limit on denial or termination of assistance for violent criminal activity .

DFS has the option to accept participation for clients with criminal history, drug history, or alcohol abuse if positive recommendation(s) are provided by a third party in a position of authority and knowledge of the client such as, but not limited to, a probation officer or treatment program.

DFS must deny or terminate assistance to any family member who is on any state or federal sex offender registry

11.2.1 Convictions, Evictions and Preponderance of Evidence for Drug-Related and Violent Criminal Activities

DFS may deny or terminate assistance if it obtains information that:

- An applicant has been convicted or evicted for a drug-related activity or a violent criminal activity;
- A participant is convicted or evicted for a drug-related or violent criminal activity; or
- A preponderance of evidence indicates that a family member has engaged in drug-related or violent criminal activity regardless of whether the family member has been arrested or convicted.

Proof of conviction or eviction is evidenced by written documentation from a court of law, district attorney's office, or other agencies or sources that have legitimate access to this information.

11.2.2 Preponderance of Evidence (see glossary for definition)

HUD regulations do not require that DFS establish beyond a doubt the guilt of an applicant or participant prior to taking steps to deny or terminate assistance. DFS may deny or terminate assistance if the preponderance of evidence indicates that a family member has engaged in criminal activity, regardless of whether the family member has been arrested or convicted (on or off the site).

DFS may determine, on a case-by-case basis, whether to deny or terminate assistance when there is no conviction or eviction for drug related or violent criminal activity. If the agency can obtain written documentation that a preponderance of evidence exists that a family member(s) is involved in criminal activity DFS may deny or terminate assistance. Written documentation may include but is not limited to police reports, arrests/disturbance reports, neighborhood complaints that indicate that a Housing Choice Voucher tenant is trafficking a controlled substance from his unit, etc.

11.2.3 Limitation on DFS Authority

DFS' authority to deny or terminate assistance is limited to criminal activity by family members.

An owner may evict the assisted family for criminal activity on or near the premises by any member of the household or a guest or another person under the tenant's control. To the extent that the criminal activity is a serious or repeated violation of the assisted lease DFS may terminate assistance.

11.3 DFS RESPONSE TO ALLEGED CRIMINAL ACTIVITY

DFS must respond to drug and criminal activity information in a uniform and objective manner and except where a preponderance of evidence suggests otherwise, give the family the benefit of the doubt, particularly when a conviction or eviction has not been obtained.

No one individual at DFS may have sole discretion to initiate denial or termination proceedings. DFS recommends a two-tiered approach that requires the review and concurrence of a number of personnel before any notification steps are taken.

Program staff will gather information from numerous sources and report in writing any alleged drug related and/or violent criminal activity of applicants or participants to the Fraud Investigator/Housing Choice Voucher Team Leader. The Fraud Investigator/Housing Choice Voucher Team Leader will determine if the information presented is relevant to the applicant's eligibility or program participant's ongoing assistance based upon DFS' drug policy and HUD regulations.

The Fraud Investigator/Housing Choice Voucher Team Leader will review all the information gathered by program staff and either make a recommendation to deny or terminate, or determine that the information is insufficient to make such recommendation. The Fraud Investigator/Housing Choice Voucher Team Leader will issue a written recommendation to the Family Services Assistant Director that gives specific reasons for the decision and identifies whether it is based on a conviction and/or eviction, or on a preponderance of evidence. The DFS Assistant Director is responsible for informing the family of its denial or termination of assistance in writing, citing the reasons for the decision, and informing the family of its right to appeal the decision. If an appeal is requested, the assigned counselor will develop information and present department's case with the help of the DFS Fraud Investigator.

DFS shall have discretion to consider all of the circumstances in each case to determine which family members have abused illegal drugs or alcohol in a way to be a danger to themselves or others. In appropriate cases, DFS may permit the other or remaining family members to receive assistance. In such cases, DFS will impose a condition that the family members determined to have engaged in the proscribed activities not occupy the assisted unit.

11.4 DFS POLICY AND PROCEDURE

When DFS receives information from any source concerning drug, criminal, and/or fraudulent activity involving and DFS client or a member of their family living in the premises, they will fill

out a “Possible Program Violation” or “Telephone Referral” form and submit to the Fraud Investigator for investigation.

The Fraud Investigator will contact the complainant (if possible) as well as law enforcement, courts, probation offices, and/or Postal Inspector’s office as necessary. Other tools of investigation such as credit reports, DMV records, tax records, surveillance, and any other method available shall be used as necessary. Signed releases not more than one year old shall be used or new releases obtained as necessary. A recommendation will be made to DFS as to recommended action. If the recommended action is termination of the voucher, the Assistant Director of DFS will be informed and asked for concurrence or denial.

The list of families terminated will be maintained in Housing Choice Voucher “HARMONY” software and will be available to housing counselors and management of DFS.

12. Informal Hearings and Reviews (24 CFR 982.554 and 982.555)

12.1 GENERAL REQUIREMENTS

The term appeal, as used herein, refers to both informal reviews and informal hearings. The terms review and hearing are used only when necessary to distinguish between the two.

Applicants and participants are provided an opportunity to present objections to certain DFS decisions through informal reviews and hearings. Depending on the decision she/he objects to, an individual may be entitled to either a review or hearing. Generally reviews are for decisions pertaining to applicants while hearings are for decisions pertaining to participants (see definitions section).

Informal hearing provisions for the denial or termination of assistance on the basis of ineligible immigration status is contained in 24 CFR 5.514.

If a decision may be appealed, DFS must give the family prompt written notice. The notice must state:

- The reasons for the decision;
- That if the family does not agree with the decision, it may request an appeal;
- The procedure for the family to request an appeal;
- The deadline for the family to request an appeal; and
- The date the decision is effective.

12.2 INFORMAL REVIEW PROCESS

DFS’ review procedures must comply with the following:

- An applicant must be notified in writing by DFS of the decision and the reason for the denial. The letter must reference and include a copy of the form Informal Review Procedures For Applicants;
- The letter will state that the applicant may request the review within 10 days of the date of the letter by contacting DFS;
- Applicants who fail to respond within the ten day timeframe to request a review waive all rights to a review;
- The review may be conducted by any person or persons designated by DFS, other than a person who made or approved the decision under review or a subordinate of this person;
- The applicant must be given an opportunity to present written or oral objections to DFS' decision; and
- The written decision must be mailed to the family within 14 days of the review date.

12.2.1 Evidence

DFS and the family must 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. Any information or evidence can be admitted during the hearing – all evidence is admissible.

12.2.2 Review Officer/Hearing Officer: Appointment and Authority

The review/hearing may be conducted by any person or persons designated by DFS, other than a person who made or approved the decision under appeal or a subordinate of this person. The person who conducts the review/hearing may regulate the conduct of the review/hearing in accordance with DFS hearing procedures.

When choosing a Review/Hearing Officer to conduct informal appeals for applicants or participants, the person who made/approved the decision or who wrote/signed the letter to terminate benefits cannot serve. The Review/Hearing Officer cannot be a subordinate of the decision maker.

Once the appeal is scheduled, the family will have one opportunity to reschedule if it can not attend by submitting a written request prior to the scheduled review/hearing date postmarked no later than 48 hours prior to the scheduled time. Extenuating circumstances will be considered. Any extensions granted by DFS for submitting additional materials relative to the appeal should be limited in duration.

When the aggrieved party notifies DFS that she/he can not attend the appeal, DFS should offer the appeal to be conducted either by mail or by telephone. For an incarcerated individual, DFS should offer the appeal by mail or by proxy or by telephone. If the incarcerated individual elects by proxy, DFS must receive a notarized written statement from the incarcerated individual designating another individual to serve as the proxy. The person could be a family member or relative, case worker, member of the clergy, attorney, or another person designated by the person in prison. The obligation to provide an incarcerated individual the opportunity for an appeal shall be considered to be met if DFS provides the participant with an opportunity to send a

designated proxy to the hearing or to conduct the appeal by mail. DFS is not required to conduct the appeal at the site or to provide more than one extension of the hearing date.

12.2.3 When Decisions are Effective

All decisions regarding denial or termination of assistance are effective at the completion of the appeal process. If the effective date is mid-month, landlord may keep entire month's HAP sent by DFS.

12.3 INFORMAL REVIEWS

An informal review is required when DFS denies an applicant:

- Preference status; or
- Admission to the Housing Choice Voucher program.

An applicant must be given an opportunity to present written or oral objections to a Review Officer at DFS.

DFS must notify the family in writing within 14 days of a review or a family's submitting written objections to DFS' decision to deny a preference or program admission. DFS will notify the applicant of its final decision after the informal review, including a brief statement of the reasons for the final decision.

An informal review is NOT required for decisions concerning:

- Discretionary administrative determinations by DFS;
- General policy issues or class grievances;
- A determination of the family unit size under the DFS' subsidy standards;
- DFS determination to deny an extension or suspension of a subsidy's term; or when a subsidy expires;
- DFS determination to deny a RFTA or to reject a proposed lease;
- DFS determination that a unit does not comply with HQS; or,
- DFS determination that the unit does not meet HUD's or DFS' HQS because of the family size or composition.

12.4 INFORMAL HEARINGS

An informal hearing must be offered to participants to consider whether certain DFS decisions relating to the individual circumstances of the family are in accordance with the law, HUD regulations and DFS policies. These hearings are conducted by a DFS designated Hearing Officer.

For decisions regarding termination of assistance, DFS must give the opportunity for an informal hearing before DFS terminates housing assistance payments for the family.

12.4.1 Informal hearing required

An informal hearing must be offered when DFS makes a determination:

- That a family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under DFS subsidy standards, or when DFS makes a determination to deny the family's request for an exception from the standards;
- To terminate assistance because of the family's action or failure to act;
- To terminate assistance because the family has been absent from the assisted unit for longer than the maximum period permitted under DFS policy;
- Of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;
- Of the appropriate utility allowance (if any) for tenant-paid utilities from DFS utility allowance schedule; or
- Of the family unit size under DFS subsidy standards.

12.4.2 Informal hearing not required

An informal hearing is NOT required for decisions concerning:

- General policy issues or class grievances;
- Establishment of DFS schedule of utility allowances;
- DFS determination to deny an extension or suspension of a subsidy's term;
- DFS determination to deny a RFTA;
- DFS determination that an assisted unit does not comply with HQS; (However, DFS must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family); or
- DFS determination that the unit does not comply with HQS due to the family size;
- DFS determination to exercise or not to exercise any right or remedy against the owner under a HAP contract;

12.4.3 Procedure for informal hearing

This procedure must be followed by the DFS Hearing Officer when conducting an informal hearing.

12.4.3.1 Notice requirement

Upon making any decision for which an informal hearing must be offered, the family must be given a prompt written notice of the decision along with information on their right to appeal the decision. The notice must contain the following information:

- A brief statement of the reasons for the decision;
- The date the decision is effective;
- The family's right to an informal hearing, or other available remedy;
- How the family can request a hearing; and
- What period the family has to request a hearing (usually 10 calendar days from the date of mailing).

A family that requests an informal hearing shall receive adequate notice of the time and place of the informal hearing. The notice shall contain:

- A brief, but specific, statement of the reasons the informal hearing is being held;
- A statement indicating that DFS' decision shall be based upon the evidence presented at the informal hearing, and that a family must bring to the hearing all documents on which it will rely and all witness who can offer relevant testimony;
- A statement regarding the family's right to be represented by legal counsel at the hearing at its own expense;
- A discussion of discovery rights - the opportunity for both DFS and family to examine documents before the hearing; and
- Notification that the hearing will be conducted by a representative or designee of DFS.

DFS must schedule the hearing in a reasonably expeditious manner, usually within 5-7 working days from receipt of the request.

Reasonable notice of the time and date of the hearing must be given to all parties concerned (3-5 working days before the hearing).

12.4.3.2 Discovery

The family must be given the opportunity to examine before the hearing any DFS documents that are directly relevant to the hearing. The family must be allowed to copy any such document at its own expense. DFS may require that copies be made at this office at a reasonable per copy fee set by the County under the Freedom of Information Act (FOIA) Policy. If DFS does not make the documents available for examination on request of the family, DFS may not rely on the document at the hearing.

DFS must be given the opportunity to examine before the hearing any family documents that are directly relevant to the hearing. DFS must be allowed to copy any such document at its own expense. If the family does not make the document available for examination on request of DFS, the family may not rely on the document at the hearing.

For decisions regarding termination of assistance, a representative or designee of DFS must conduct the hearing prior to terminating assistance. The family may request one postponement of no more than a week after the original scheduled hearing date. More than a week may be granted in exceptional circumstances, particularly as an accommodation for a person with a disability.

DFS may implement the following changes prior to a hearing:

- Changes in Total Family Contribution or Tenant Rent to Owner;
- Denial of a new voucher for a family that wants to move; or
- Unit size determinations for a family that wants to move.

12.4.3.3 Other persons affected

Any person who can demonstrate that she/he may be substantially and specifically affected by the proceeding may be allowed to participate in the hearing, in whole or in part, or may be allowed to present evidence, either orally or in writing. It is not DFS' responsibility to determine if there may be anyone who meets this criterion. However, if someone, such as a neighbor, learns of the hearing on his/her own, and claims to have a vested interest in the outcome of the hearing, DFS must determine if the person qualifies under this section. This claim must be made prior to the hearing so that DFS has ample opportunity to consider the claim.

12.4.3.4 During the hearing

All parties should be notified in advance of all persons who will be attending the hearing.

At its own expense, the family may be represented by a lawyer or other representative at the hearing.

12.4.3.5 Evidence

Both the family and the staff person(s) who made the decision being appealed may present evidence to DFS' Hearing Officer. Each party may call witnesses, cross-examine witnesses, and submit rebuttal evidence. The Hearing Officer may consider all information presented at the hearing. The Hearing Officer may request additional information that is not presented as evidence at the hearing.

At the beginning of the hearing, the Hearing Officer shall state the date and time, and list the alleged reasons for the decision being appealed. The Hearing Officer may change the order of witnesses; however, the recommended order of presenting is as follows:

- The family;
- The staff person who made the original decision (or recommendation);
- The Fraud Investigator/Housing Choice Voucher Division Manager, if involved;
- The staff person's supervisor, if involved; and
- Rebuttal by family.

DFS and the family must be given the opportunity to present relevant evidence, and question any witnesses. Evidence may be presented as oral testimony or written documents. If DFS is relying on documents from the family's file, those documents must be presented as evidence at the informal hearing. At the conclusion of the hearing, each party shall be given the opportunity to make copies of the other party's written evidence. At the informal hearing, the hearing officer

need not observe the rules of evidence observed by courts. Evidence may be admitted if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.

Rules of privilege recognized by law shall be observed.

At the conclusion of the informal hearing, DFS or the Hearing officer may hold the hearing open for a specific period of time for the purpose of receiving further documents. If the documents are not submitted by the specified time, DFS may issue a decision.

12.4.3.6 Issuance of decision

The Hearing Officer must issue a written decision within 14 working days of the hearing or when documents requested by the Hearing officer has been received within a specified time. The decision must be in writing. The decision must be based upon the evidence presented at the hearing or requested by the Hearing Officer.

All parties shall be notified in writing of the final decision. Upon receipt of the Hearing Officers' decision, DFS will send a copy to the participant. If the family is represented by counsel, DFS is only obligated to send notification to counsel. The notice shall state the reasons for the decision, including a determination of each issue of fact or law necessary to 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.

12.4.3.7 Effect of decision

DFS is not bound by a hearing decision:

- Concerning a matter for which DFS is not required to provide an opportunity for an informal hearing under this section;
- One that otherwise exceeds the authority of the person conducting the hearing under the DFS hearing procedures; or
- If it is contrary to HUD regulations or requirements, or otherwise contrary to federal, state, or local law.

If the Director of DFS determines that DFS is not bound by a hearing decision, the Director of DFS must promptly notify the family of the determination, and of the reasons for the determination.

13. REASONABLE ACCOMMODATION & MITIGATING CIRCUMSTANCES (24 CFR 8)

Reasonable accommodation is intended to provide persons with disabilities equal opportunity to participate in the Housing Choice Voucher housing program through the modification of policies and procedures.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term “person with disabilities” means individual with handicaps as defined in 24 CFR 8.3(b).

Mitigating circumstances are verifiable facts that overcome or outweigh negative information.

13.1 REASONABLE ACCOMMODATION

A reasonable accommodation is made in response to individual requests from a qualified person with disabilities. In general, the person with disabilities will suggest an accommodation that he believes to be effective, and DFS will determine whether the requested accommodation is reasonable from its viewpoint. DFS may also suggest other accommodations that are less burdensome. DFS may ask the applicant/participant to verify through a qualified source that his condition warrants the accommodation requested. All reasonable accommodation requests will be decided by two to more DFS staff. That decision can be reversed by the Executive Director for cause. (Revised 10/2/13)

13.1.1 Authority

DFS does not have the authority to waive federal regulations in response to a request for a reasonable accommodation. A request for reasonable accommodation that cannot be granted by DFS will be forwarded to HUD. All requests must be accompanied by appropriate verification as required by DFS and by HUD.

As a reasonable accommodation, DFS may approve an exception payment standard that is higher than that normally used, but still at or below 110% of the FMR, as a reasonable accommodation for a family containing a person with a documented disability. To grant a payment standard above 110% of the FMR as a reasonable accommodation for a family with a person with a disability, DFS must obtain HUD approval.

13.1.2 Obligation

DFS’ obligation is to make an accommodation which is effective (i.e. one which overcomes barriers to equal access and facilitates the use of the housing program) provided that the accommodation also is reasonable (i.e. does not cause an undue burden or cause a fundamental alteration in the nature of the housing program).

A reasonable accommodation is unique to the needs of the person as a result of his disability; therefore, each requires an individualized assessment. Requests for reasonable accommodation must be considered by DFS on a case-by-case basis. DFS must accept and analyze all requests for reasonable accommodation. DFS must respond in writing to all applicants/ participants requesting a reasonable accommodation.

Generally, DFS' obligation to consider, and where reasonable, grant accommodations to a participant with disabilities ends when program participation terminates.

If you require a reasonable accommodation for any type of disability in order to participate in the Housing Choice Voucher program please call (703) 777-0353 V/TTY. All requests for reasonable accommodation are requested three days in advance of the day it is needed and should be given to the receptionist. The receptionist will then forward the request to the proper departmental staff for action. If after evaluation the request is deemed not reasonable, a staff member will contact the requester to inform them of the decision and discuss other possible alternatives.

Information on the availability of DFS' reasonable accommodation procedures will be posted in the DFS office and will be provided at application intake, at applicant briefings, with notices of rejection, program violation or termination, and at other times as DFS deems appropriate.

If an applicant or participant asserts that a previous failure to comply with essential tenancy or program obligations is a result of a disability, it is up to the applicant/participant to propose a reasonable accommodation, which if implemented, would result in compliance with essential program provisions. DFS may require verification that the proposed accommodation would allow the participant to comply with essential program requirements. However, DFS cannot require such actions as a condition of initial or continued program participation.

Reasonable accommodation decisions will be made by DFS in a timely manner; and, will be documented in writing, and, if applicable, in another format accessible to the requester. DFS, with a signed release, must agree to communicate with a representative of the family, including a family relations worker, social worker, and other community worker. An agreement to make accommodations will include terms, conditions and performance expectations for all parties, and, if appropriate a schedule.

13.1.3 Reinstatement and provisions for resumption of assistance

If a participant who has not been informed of DFS' reasonable accommodation policy has been terminated from the program or left the program for reasons related to a recognized disability after the effective date of this plan, she/he may be reinstated under the following circumstances:

- Not more than one year has passed from the effective date of the termination;
- She/he is able to provide verification of his or her ability to comply with the essential program requirement(s) which was the cause for the termination; and
- DFS has a subsidy available to issue.

It must be established by the family that the previous unacceptable behavior (which must be defined specifically) did, in fact, occur because of the disability, and that in the future, the family could reasonably be expected to be program compliant because of a change in circumstances.

DFS may require the former participant to verify that:

- He or she had or has a disability;
- The problems were caused by the disability; and

- Present treatment, or reasonable accommodation, can reasonably be expected to prevent recurrence of the problem.

13.1.4 Illustrative Examples of Reasonable Accommodations

If part of the poor tenant history of an applicant, or former participant with disabilities relates to failure to comply with treatment, DFS may properly inquire about the reasonable expectation that the applicant will comply with current treatment.

For example, it may be an appropriate accommodation to delay or cancel a termination proceeding. If a reasonable accommodation request is pending, the program termination could be stayed until a decision is made. If the program violation is subject to cure, the participant cures the violation, and a reasonable accommodation makes certain that the violation will not be repeated, the program termination could be canceled. The simple provision of a second chance in the absence of any action to cure the violation or prevent a recurrence is not likely to be an appropriate accommodation.

If an applicant or former participant is being (re)admitted by virtue of a reasonable accommodation, DFS may not make continued receipt of the treatment, care or assistance a requirement of continued program participation. Once an applicant is (re)admitted, the standard for remaining in occupancy is program compliance.

For example: A relative arranges for a disabled family terminated due to poor housekeeping (to the extent that it created a serious and repeated lease violation) to receive weekly housekeeping services. DFS determines that this is a reasonable accommodation and reinstates the family. DFS may not make continued receipt of the housekeeping services a requirement of continued program participation. If the housekeeping services should stop after six months, DFS may not terminate the family from the program provided they are able to maintain their tenancy and comply with all program requirements.

An example of a reasonable accommodation to ensure program compliance is that a copy of all DFS notices to be sent to the family will also be sent to a responsible third-party designated by the family.

DFS may automatically reinstate applicants with disabilities who fail to respond within the reasonable time frame to inquiries to update the waiting list, but only for reasons that are related to their disability.

13.2 MITIGATING CIRCUMSTANCES

Mitigating circumstances are verifiable facts that overcome or outweigh negative information. Mitigating circumstances can apply to all families, not just to families with disabilities.

Considering mitigating circumstances for a family with disabilities is a reasonable accommodation, and thus a requirement.

13.2.1 Effect on denial or termination of assistance

DFS has discretion to consider mitigating factors presented by the family when deciding whether or not to deny or terminate assistance. Should DFS decide not to deny or terminate a family's assistance due to mitigating circumstances, DFS must document this fact in the family's file and attach any documentation to support this decision.

It is not DFS' responsibility to inquire as to whether there were mitigating circumstances. However, if the family claims mitigating circumstances it is up to DFS to determine whether it believes the circumstances are valid. The family must provide documentation that establishes the validity of the claim. DFS is the final judge of what constitutes adequate and credible documentation.

Mitigating factors can be, but are not limited to, considering the seriousness of an offense, the extent of participation by other family members, and the effect that the denial or termination may have on the household. DFS has discretion to determine an appropriate remedy, and may permit the remaining members of a household to continue to receive assistance and may impose a condition that the offending household member(s) will not reside in the unit. A signed statement to that effect can be required by DFS.

In accordance with the Housing Opportunity Program Extension Act of 1996, DFS may require that the family member(s) involved in the illegal use of a controlled substance or abuse of alcohol submit evidence of:

- successful completion of a supervised drug or alcohol rehabilitation program;
- successful rehabilitation by other means; or
- current participation in a supervised drug or alcohol rehabilitation program, as a condition of being allowed to begin or continue participation in the Housing Choice Voucher program.

Mitigating circumstances may exist such that DFS believes that granting assistance to an applicant is warranted even though the applicant meets one of the criteria for denying assistance. For example, in the case of criminal activity, where the family member that caused the problem is no longer part of the household.

In cases where a family was evicted or had its assistance terminated by another administering agency, DFS must do its own investigation into the cause, how long ago it occurred, and whether the family composition is the same before determining whether to deny or terminate assistance to that family. For example, it may not be appropriate to deny assistance to a family that was evicted from public housing for damage to the unit where the damage was done by a family member who no longer resides with the household.

There are limited instances in which a family owes money and DFS may exercise discretion when determining eligibility. For instance, if a family owes a small amount to another PHA and that PHA is refusing to execute a repayment agreement despite good faith efforts by the family to do so, the family could be determined to be eligible.

DFS may automatically reinstate applicants on the waiting list if the agency reasonably believes that extenuating circumstances interfered with the ability of the applicant to keep his or her waiting list information current.

DFS requires that families give at least a calendar month written notice before moving to a new unit. This requirement may be waived in certain instances, if it is determined that the family was unable to provide the proper notice due to factors beyond its control, such as cases of domestic abuse, and some evictions.

13.2.2 Domestic violence as a mitigating circumstance

There is no question that domestic violence can be a mitigating factor in a family's failure to comply with any program requirement. If the claim of domestic violence is sufficiently documented, DFS must weigh all the circumstances of the case and determine whether the mitigating facts outweigh the family's failure to comply with program requirements.

14. Encouraging participation by owners of suitable units located outside areas of low income or minority concentration. (24 CFR 982.54)

Periodically, DFS will perform outreach to encourage owner participation by hosting conferences and training programs with local rental housing associations, Dulles Area Association of Realtors, local owners, and other civic, charitable and neighborhood organizations and other community groups that may have an interest in providing housing for low income families. Typically, DFS will make a presentation on any subsidy programs it operates within its jurisdiction. Program benefits and requirements will be explained and participants will have an opportunity to ask questions. DFS staff should be available for presentations to local rental housing associations, community groups, Realtors, and other interested groups upon request. It is the responsibility of the staff to be able to describe the Housing Choice Voucher program in a clear and comprehensive manner and to be able to detail the advantages to owners who chose to participate in the program. This is particularly important to DFS efforts to attract owners with units located outside areas of minority concentration.

At any time, information packets for new, current, and prospective landlords must be available upon request from prospective landlords.

DFS covers suburban, and/or rural communities and outreach activity must extend throughout their jurisdiction. Since DFS has been allocated vouchers in support of a Family Self Sufficiency and for families moving from Welfare-to-Work, DFS may have specific outreach requirements as directed by its Action Plan.

DFS has specific plans for outreach to owners and is able to document all outreach efforts. Specifically, DFS conducts its outreach efforts to meet the requirements of its Equal Opportunity Housing Plan.

15. Assisting a Family that Claims Housing Discrimination (24 CFR 8 and 982.54)

Participation in the Housing Choice Voucher program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act Amendments of 1988, Executive Order 11063, Equal Opportunity in Housing Act of 1962, Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975; and any other related rules, regulations or requirements.

The Civil Rights Act of 1968 and its amendments establish a national standard for providing fair and equal opportunity to housing for all. No person shall be subjected to discrimination because of race, color, creed, religion, national origin, age, and familial status.

DFS will provide all applicants with the HUD brochure “Fair Housing – It’s Your Right” explaining rights under fair housing law. The brochure must be included in the information packet given to each applicant at the initial briefing and to each participant attending a briefing before moving to a new unit.

If a family believes it has been or is about to be discriminated against or otherwise harmed by illegal acts constituting discrimination, the family should contact DFS. DFS must provide the following assistance.

- Assist the family in completing the Housing Discrimination Complaint form - HUD-903/HUD903A.
- Advise the family it may be contacted by HUD, and that it may seek legal remedies on its own.

The family may choose to contact HUD directly with their claim of discrimination.

When administering preferences in the selection of applicants from the waiting list, DFS must be careful not to violate any Federal, state or local fair housing laws.

16. Inspection Requirements (24 CFR 982 Subpart I)

These DFS inspection requirements include and are supplemental to HUD’s Housing Quality Standards for the Housing Choice Voucher program, Moderate Rehabilitation program, and any associated programs administered by DFS.

As described in HUD's Housing Inspection Manual,

"The HUD Housing Quality Standards are a basic 'floor' or minimum standard that applies across the country to units on the Housing Choice Voucher Existing

Housing Program. In areas with relatively higher quality housing available, PHAs will be able to adopt a higher standard".

In an effort to improve upon and raise the quality of housing occupied by program participants, DFS has elected to require more than that included in HUD regulations.

The following statement must be included with all Inspection Reports:

"This inspection has been performed to determine compliance under the HUD/DFS Housing Choice Voucher Program. While some of the inspection requirements may be similar or identical to provisions of local codes, this inspection does not certify compliance with said codes. In all instances, it is the owner's responsibility to maintain property to meet all applicable state and local codes and a tenant's right to request an inspection by the local Code Enforcement Agency."

Known violations and continued non-conformance with state and local codes will be a factor in DFS' determination of rent reasonableness and the scheduling of more frequent re-inspections, consistent with DFS' efforts to raise the quality of housing occupied by program participants.

Non-compliance with the HUD Housing Quality Standards and/or the DFS inspection requirements and/or repeated and regular non-compliance is grounds for:

- Rejecting the unit at initial inspection for the program;
- Suspending subsidy;
- Terminating the HAP contract with the owner; or
- Termination of tenant participation in the program.

DFS Inspection Requirements

DFS has established these general requirements that exceed the standard HQS requirements.

- All improvements made through the Housing Choice Voucher Moderate Rehabilitation Program must be maintained so long as any tenant receives assistance in the unit;
- DFS requires owners to remedy major cracking, chipping, scaling, peeling or loose paint regardless of lead content. Agents and owners should note, however, that this DFS requirement will not satisfy the new lead based paint regulations;
- All manufactured homes must have "under-skirting" around the base of the manufactured home and in all ways conform to local zoning ordinance/building codes and state regulations; and
- In any unit where a wood or coal stove is the primary source of heat, a statement must be signed by the owner and the head of the household certifying that the stove was properly installed and has been inspected regularly at least as required by local housing codes. The statement must also certify that the chimney is cleaned at least annually
- *Locks must work on all sliding glass doors. **amended 7/2009*
- *Windows must open, close and stay up without having items to prop them open. **amended 7/2009*

- *All appliances must be kept in working order. If an appliance is removed, a reduction in allowable rent will be considered. **amended 7/2009*
- *Closet doors must operate properly. Closet doors taken off may result in a reduction of allowable rent. **amended 7/2009*
- DFS assisted properties shall comply with the Virginia Maintenance Code and the 1993 revised Loudoun County Zoning Ordinance. *(amended July 2010)*
- Appliances may have no broken or missing parts and must be substantially rust free. *(amended July 2010)*

Bed bugs are difficult to contain without the proper treatment. Therefore it is imperative that all parties (DFS, Tenant, and Landlord) work together toward a common goal, extermination and elimination. Left untreated bed bugs can spread throughout a residence affecting current and future tenants. In the instance of bedbug infestation, this procedure changes the requirement that HCV staff must verify the HQS failure before sending an HQS fail letter.

If bedbugs are reported in a property, the following process must be implemented:

- The property owner / property manager should be requested to perform an inspection to determine if bedbugs are present.
- If confirmed, or if the property owner / property manager fails to do an inspection, HCV staff will send an HQS fail letter to the property owner / property manager letting them know that the property failed inspection.
- The standard HQS fail letter will be sent giving the property owner / property manager 20 days to correct the problem.
- Documentation must be provided that treatment from a licensed pest control company has been performed and the bedbugs have been eradicated.
- The tenant must follow all procedures set up by the pest control company in order for the treatment to be successful. Any non-compliance may result in the loss of the Housing Choice Voucher.
- After documentation has been received, the HQS staff will go to the property to inspect / re-inspect. If documentation is not received and the property inspected / re-inspected within 30 days, the established abatement procedure should be followed. (Revised 10/2/13)

16.1 HUD'S HOUSING QUALITY STANDARDS (24 CFR 982.401)

HUD's Housing Quality Standards (HQS) consist of the following:

- Performance requirements that describe DFS responsibilities in ensuring that all housing assisted through the Housing Choice Voucher program meet HUD standards;
- Acceptability criteria that describe the specific standards a unit must comply with in order to meet HUD's standards; and
- HUD approved variations to their established standards based on local conditions and the availability of suitable housing in the local housing market.

HUD's HQS establish criteria for assessing the following aspects of a unit:

- Sanitary facilities;

- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Existence of lead based paint;
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke detectors.

For the specific standards applied in each of these areas, see the DFS Policy Manual and HUD's Inspection Manual.

16.2 THE INITIAL INSPECTION

DFS conducts the initial inspection in order to determine that the unit chosen by the tenant meets HUD's housing quality standards and any additional standards implemented by DFS based on local housing conditions. The inspector for DFS also collects the information necessary to complete a rent reasonableness determination based on the rent level proposed by the landlord and the amenities and condition of the unit.

If the inspector finds that the unit violates HUD's HQS, or any additional criteria implemented by DFS, the inspector provides the landlord with a notice of improvements to be completed before the unit can be approved for the Housing Choice Voucher program. DFS must not sign a HAP contract until all required repairs are completed. If the landlord does not complete the improvements within 30 days, the tenant must find another unit in order to receive housing assistance.

Through a rent reasonableness determination, the inspector determines if the rent proposed by the landlord is acceptable based on current market conditions. If the inspector determines that the rent proposed by the landlord is too high, and the landlord is unwilling to lower the rent to an acceptable level, the tenant must find another unit in order to receive housing assistance.

16.3 ANNUAL HQS INSPECTIONS

DFS must inspect the dwelling unit within 364 days of the last inspection and complete the inspection form to determine if the owner is maintaining the unit in decent, safe and sanitary condition. The annual inspection is not tied to the annual recertification. DFS may continue to schedule the inspection between 90 and 120 days prior to the anniversary date of the HAP contract. If at the annual inspection the unit fails to comply with HQS, DFS must notify the landlord of the necessary repairs. A landlord may not continue to receive subsidy for a unit if it

is not maintained in accordance with HUD's HQS and any additional standards implemented by DFS based on local housing conditions.

The family must allow the inspector to conduct the inspection during reasonable business hours. The inspector must provide the family with adequate notice, a minimum of 5 business days, of the planned inspection. If the family fails to allow the inspector access to the unit during 2 scheduled inspections, the family will be terminated from the program in accordance with the termination procedures described in Section 10 of this Administrative Plan.

DFS staff shall have the tenant, landlord/property manager, and/or adult representative for tenant sign the HQS inspection form upon completion of the inspection. *(amended July 2010)*

The owner will be sent notice that an annual inspection will be done included in the annual recertification letter. The landlord is strongly encouraged to be present at the inspection. *(amended July 2010)*

If during an annual inspection the unit fails to comply with HQS, the inspector provides the owner with notification of the necessary repairs and the timeframe for completing the repairs. How quickly the repairs must be completed depends on the severity of and the potential hazard associated with the deficiencies found through the inspection.

If the landlord fails to complete the repairs within the prescribed timeframe, DFS must abate the HAP payment and not reinstate payments until the landlord completes the necessary improvements. If the landlord completes the repairs after DFS abates the HAP payment, DFS may reinstate HAP payments. However, DFS **must not** reimburse the landlord for the abated HAP payments missed during the time the unit violated HUD's HQS. If the landlord fails to make the necessary repairs for an extended period of time, DFS must terminate the HAP contract and provide the family with a voucher to move to a new unit.

16.4 MOVE-OUT INSPECTIONS

It is the responsibility of DFS to inspect all units within 5 days after the family moves out, or the HAP contract terminates, or DFS receives notice that the family moved, only if it is requested by the owner and/or family. The move-out inspection documents the condition of the unit which may impact the ability of the family to receive assistance in the future.

16.5 INTERIM/COMPLAINT INSPECTIONS

It is the responsibility of DFS to re-inspect dwelling units as requested by the owner, family, or an agency or third party. The inspection must take place within a reasonable period of time based on the reported reason for the need for the inspection.

If DFS finds that the unit is not being maintained by the owner in compliance with HUD's HQS, DFS must take immediate action to insure that the deficiencies are corrected.

If during an interim inspection the unit fails to comply with HQS, the inspector provides the owner with notification of the necessary repairs and the timeframe for completing the repairs. How quickly the repairs must be completed depends on the severity of and the potential hazard associated with the deficiencies found through the inspection.

If the landlord fails to complete the repairs within the prescribed timeframe, DFS must abate the HAP payment and not reinstate payments until the landlord completes the necessary improvements. If the landlord completes the repairs after DFS abates the HAP payment, DFS may reinstate HAP payments. However, DFS **must not** reimburse the landlord for the abated HAP payments missed during the time the unit violated HUD's HQS. If the landlord fails to make the necessary repairs for an extended period of time, DFS must terminate the HAP contract and provide the family with a voucher to move to a new unit.

16.6 QUALITY CONTROL INSPECTIONS

The purpose of a quality control inspection is to confirm that each inspector is conducting thorough inspections and to ensure that DFS achieves consistency in its inspections for all units subsidized through the Housing Choice Voucher program.

SEMAP requires that DFS complete quality control inspections based on the size of their Housing Choice Voucher program.

Due to the nature of the inspections, a quality control inspection must be completed by someone other than the person who conducted the initial, annual, interim or move-out inspection.

16.7 CONDUCTING AN INSPECTION

Prior to conducting an inspection, DFS staff should be apprised as to the presence of any children under 6 years of age in the unit. If this information is not provided, staff must ask the family at the time of the inspection and make note on the Inspection Checklist in the space provided.

The Inspection Checklist must include a section which indicates that the owner has complied with the requirement to provide proper lead related documentation.

Whenever an inspection fails for defective possible (property built before 1978) lead based paint, the inspection report shall indicate the need for treatment. Owners must **not** be instructed to scrape defective paint surfaces. Staff should advise owner to hire an EPA approved contractor to treat the defective painted surfaces.

Effective October, 1996 HUD's HQS allows minimal amounts of defective paint to pass the inspection. In order to fail inspection the paint must be loose and noticeably separating.

16.8 SMOKE DETECTORS

HUD's Housing Quality Standard effective October 30, 1992 requires that each dwelling unit be equipped with at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit and in the basement. Smoke detectors should be located adjacent to sleeping areas whenever possible.

If the unit is to be occupied by a hearing impaired person, smoke detectors must have an alarm system, designed for hearing impaired persons, in each bedroom occupied by a hearing-impaired person. Each bedroom occupied by a hearing impaired person must have an alarm system connected to the smoke detector installed in the hallway.

16.9 TENANT CAUSED VIOLATIONS

Effective October, 1995 the family is responsible for a breach of HUD's HQS caused by any of the following:

- Failure to pay for tenant supplied utilities;
- Failure to provide and maintain a stove and/or refrigerator if required in accordance with the lease; or
- Damage caused by the family or guest to unit or premises beyond ordinary wear and tear.

In instances where it is not clear or obvious that the violation is tenant caused, the burden of proof is on the owner. This proof may be met with pictures, two party signed letter or forms dated at time of move in, and maintenance receipts/paid bills.

16.10 REPEATED TENANT "NO SHOWS"

When the tenant is notified of the requirement to make his/her unit available for an inspection, and the tenant repeatedly fails to have someone home to allow the inspector access to the unit, the tenant's failure to allow access to the unit after two "no-shows", where proper advance notice has been given by DFS may result in the tenant's termination from the program, in accordance with the provisions of the tenant's certificate or voucher.

16.11 PROCEDURE TO FOLLOW FOR INCONCLUSIVE INSPECTIONS

At times the inspector cannot conclude whether an item passes inspection, and must classify an item as inconclusive. The unit does not pass inspection if any item is inconclusive. So long as any item is listed as inconclusive, DFS may not pass the unit or approve a lease or HAP contract.

16.12 VACANT UNITS

Oftentimes in vacant units, the utilities are not turned on. In order for DFS staff to perform an HQS inspection, all utilities must be turned on. If DFS staff is scheduled to or attempts to inspect a property without all utilities turned on, the inspection shall be rescheduled to a time when the landlord/property manager can insure that all utilities are on.

16.12.1 TENANT SUPPLIES APPLIANCES

In the case of tenant-supplied appliances such as a refrigerator or stove, the lease may begin the date the unit otherwise passes inspection and HAP payment are released. Verification by an on-site reinspection to confirm the presence and good working order of the appliance must be performed no later than 30 days after the lease start date.

MARGINAL UNIT POLICY

16.13.1 Responding to the Problems of Marginal Units

HUD defines marginal units to be those that are likely to fall below HQS within a year. DFS, recognizes the problem of maintaining marginal units assisted through the Housing Choice Voucher Program. It is the policy of DFS that no staff will approve a unit if it is determined to be marginal as part of an HQS inspection. All features determined marginal must be corrected before the unit can pass an HQS inspection and DFS can approve a lease and execute the HAP contract.

Attached at the end of this chapter is a Marginal Unit Checklist. DFS staff may use this checklist to assist them in their efforts to identify marginal units so as to avoid approving any as assisted units for the Housing Choice Voucher program.

16.14 CONDUCTING AN INITIAL INSPECTION WHILE THE UNIT IS STILL OCCUPIED

Sometimes it is just not possible or practical to wait until a unit is vacant to perform an initial inspection. In these instances, DFS will permit occupied units to be inspected. The following conditions must be met:

- Since the tenant in occupancy may have no affiliation with the Housing Choice Voucher program, it is imperative that the owner/management agent be present during the inspection;
- In order to begin a lease, a complete inspection must be performed. In accordance with HUD's HQS, all checklist items must be confirmed as pass. No lease can begin on a contingency basis;
- If the occupants' possessions prevent a complete inspection, inaccessible areas must be given a failed rating. It is the owner's responsibility to assure that all areas are accessible in order to complete the inspection;
- If necessary, a reinspection may be performed while the unit is still occupied. If the unit passes the reinspection, a lease may begin as soon as possible. Bear in mind this will depend on the tenant's ability to take occupancy; and
- Once a lease has begun or the unit has become vacant a complete inspection must be performed again in no more than 30 days in order to confirm that the previous tenant left the unit without damage which would cause the unit to fail.

16.15 ADDITIONS AND AMENDMENTS

Additional DFS inspection requirements, HUD's Housing Quality Standards, and amendments to this plan may be added from time to time. Further, modifications to existing DFS Housing Quality Requirements may be made from time to time.

MARGINAL UNIT CHECKLIST

FACTORS WHICH CONTRIBUTE TO MARGINAL UNIT CONDITIONS					
Name of Family		Phone No.		Tenant I.D. No.	
Inspector			Date of Inspection		
Unit Grade:					
Address and Unit #		City	County	State	Zip
Name of Owner or Agent		Phone No.	Address of Owner or Agent		

Date

HUD defines marginal units to be those that are likely to fall below Housing Quality Standards within a year. It is the policy of DFS that no inspector will approve a unit if it is determined to be marginal as part of an HQS inspection. All features determined marginal must be corrected before the unit can pass an HQS inspection and DFS can approve a lease and execute the HAP contract. DFS staff may use this checklist to assist them in their efforts to identify marginal units so as to avoid approving any as assisted units for the Housing Choice Voucher program.

EXTERIOR AND COMMON AREAS

- 5** Dirty, rundown, poorly maintained exterior, common areas, or basement. Presence of garbage, litter, debris, trash, abandoned vehicles, appliances, construction debris, foul odor.
 Comments: _____
- 5** Exterior – constant reoccurrence of chipping and peeling paint or siding repairs.
 Comments: _____
- 5** Common halls need paint, holes in walls or ceilings, water damage, unfinished plaster
 Comments: _____
- 5** Poorly maintained common area lighting.
 Comments: _____
- 5** Evidence of public loitering and/or vandalism in/around building. Tenant may provide documentation regarding neighborhood break-ins, drug activity, broken windows, etc.
 Comments: _____
- 5** Abandoned dwellings/hazardous vacant lots adjacent to building
 Comments: _____
- 5** Rotting or damaged porches, decks, stairs, or rails in need of constant repair.
 Comments: _____
- 5** Ongoing evidence of chronic infestation of rodents/mice/insects.

Comments: _____

- 5 Other chronic exterior or common area conditions.

Comments: _____

APPLIANCES AND SERVICES

- 5 Heating system maintenance/cleaning.

Comments: _____

- 5 Minimal electrical service for Family's needs. Recommend additional outlets.

Comments: _____

- 5 Recommend update kitchen/bath facilities: stove/ridge/sink/countertops.

Comments: _____

- 5 Other chronic electrical, plumbing, or heating conditions.

Comments: _____

GENERAL INTERIOR CONDITION

- 5 Unit in need of paint, wallpaper peeling, holes, unfinished plaster, water damage to walls and ceilings, loose and missing ceiling tiles.

Comments: _____

- 5 Poor floor condition; defective paint, worn and dirty carpeting or linoleum, splintering hardwood floors.

Comments: _____

- 5 Broken or missing cabinets, drawers, or closet doors.

Comments: _____

- 5 Security: door jamb and lock in poor condition; cracked or damaged. Lock has been relocated many times. Additional security/locks recommended.

Comments: _____

- 5 Windows in poor condition; in constant need of repair. Loose or missing putty, rotting frames, poorly weatherized, broken sash cords, difficult to open or close. Recommend additional screens or storm windows.

Comments: _____

- 5 Fire exit marginally adequate or inappropriate for family.

Comments: _____

- 5 Other chronic general interior conditions.

Comments: _____

- 5 Outstanding documented health or building code violations.

Comments: _____

Marginal Inspection Results _____

_____ Date

17. HQS Compliance (24 CFR 982.406)

17.1 DETERMINING THE SEVERITY OF THE VIOLATION(S)

Each unit must pass inspection once a year, no more than 364 days since the last inspection. At any other time, inspections can occur at the request of the tenant or owner, or as a result of unit audit inspections performed by DFS, HUD or their representatives. There are four types of violations that could be discovered during a unit inspection.

17.1.1 Serious HQS Violations

Violations that present an immediate threat to the family's health or safety and must be corrected within twenty-four hours.

17.1.2 Other HQS Violations

Violations that could affect the family's health or safety if not corrected within a reasonable amount of time (no more than 30 days), or other violations that do not affect health or safety.

17.1.3 New HQS Violations

Violations cited at re-inspections after the initial, failed annual or other inspection. The new fail item(s) must be treated as a separate failed inspection, with all the ensuing remedies or sanctions, without impacting the prescribed course of action in progress.

It is extremely important that DFS communicate to the owner that any new violations noted at each re-inspection must be cited. DFS must make every effort to ensure that initial inspections are thorough, to minimize the possibility of finding new HQS violations upon re-inspection. Violations must be corrected within 30 days.

17.1.4 Other Deficiencies

Other deficiencies are those that are not HQS violations; are not life threatening; and, do not affect the family's health and safety. These deficiencies should be corrected at some reasonable future date or they could easily deteriorate into more serious violations. Other deficiencies should always be noted to help avoid security deposit claim issues that may arise when the family vacates.

17.2 COURSE OF ACTION WHEN VIOLATIONS ARE DISCOVERED

This section addresses violations the owner is responsible for correcting. Treatment of tenant caused HQS violations is addressed in section 16.9. An owner is not required to correct tenant caused HQS violations caused by any of the following:

- Failure to pay for tenant-supplied utilities;
- Failure to provide and maintain tenant-supplied appliances; or

- Damage caused by family or guest to unit or premises (beyond ordinary wear & tear).

These procedures must be followed by staff at any time staff discovers that one or more HQS are not being met. When a unit is out of compliance several key factors should be collectively considered to determine an appropriate course of action:

- Severity of the violations;
- Number of violations;
- Length of time violations remain outstanding;
- Owner's or tenant's good faith effort to make repairs;
- Past repair history of owner; and
- Whether the non-compliance is tenant-caused.

*In the case of a unit failing HQS inspection notice shall be sent to clients/landlords electronically when possible. HCV staff must request and receive verification of receipt of the notice from the client/landlord. If verification of receipt of the electronic fail notice is not received within one business day or it is not possible to send electronically, the fail notice must be sent regular and certified mail to the landlord and regular mail to the tenant. If the fail items are the tenant's responsibility, the fail notice must be sent regular and certified mail to the tenant.

**amended 7/2009*

17.2.1 Serious Violations

DFS must contact owner or agent by phone and inform him/her of need to make the repairs within 24 hours. The phone call must be followed with a written notice. If DFS is unable to contact the owner or agent by phone or in person, written notice must be sent by certified mail.

DFS will provide an affidavit form to both tenant and property owner/manager for them to verify that necessary repairs have been completed found in interim/complaint, annual, or quality control inspections. This form must be returned by both tenant and landlord within 10 days after repairs has been completed. A re-inspection will be performed if these forms are not completed and returned to DFS within the time period allowed.

DFS reserves the right to re-inspect the property to insure repairs have been done. (Revised 10/2/13)

If the violations have not been corrected satisfactorily, the owner and family should be notified that the HAP payment will terminate immediately, i.e., as of the date of the re-inspection. The notice will state that the HAP payment will resume only after repairs have been satisfactorily corrected; and that the HAP payment will be pro-rated based on the number of days the unit is in compliance beginning with the date of a subsequent satisfactory re-inspection. If the unit is in compliance upon re-inspection and the owner can document an earlier repair completion date, the HAP payment may resume as of that actual compliance date.

When termination of HAP payment occurs, the family should be immediately advised:

- To seek competent legal counsel relative to continued payment of its rent share (DFS must not attempt to provide legal advice to tenants);
- That DFS may have to terminate the HAP contract and if the HAP contract is terminated, DFS will issue the family a new subsidy and provide the family with a list of available units on file at DFS; and
- That the family may assume responsibility for the full rent amount and lease the unit in question without further assistance by DFS.

If the repairs are completed on or before the next HAP payment date, the payment should be reduced by the per diem amount of the rent that reflects that period of time in which the unit was not in compliance.

If repairs are not completed before the next HAP payment check is to be mailed, no payment will be sent to the owner. When the owner indicates that repairs have been completed and the inspector can verify this, a pro-rated share of the subsidy may be paid from the date the inspector approved the unit.

Depending upon the nature of the serious violation, if repair(s) are not completed promptly, DFS should terminate the HAP contract when it becomes apparent that the owner will not cooperate in making the necessary unit corrections. DFS should not allow more than 10 days for serious HQS violations.

DFS will provide an affidavit form to both tenant and property owner/manager for them to verify that necessary repairs have been completed found in interim/complaint, annual, or quality control inspections. This form must be returned by both tenant and landlord within 10 days after repairs has been completed. A re-inspection will be performed if these forms are not completed and returned to DFS within the time period allowed.

DFS reserves the right to re-inspect the property to insure repairs have been done. (Revised 10/2/13)

17.2.2 All Other HQS Violations

Immediately upon completion of the inspection, the owner must be provided with written notice outlining the corrective action to be taken and possible penalties for failure to comply. If the owner is present at the inspection any fail items and the necessary corrective action should be discussed at that time.

The owner should be given a reasonable amount of time to make the necessary repairs, usually 30 days. During this time, the HAP payment continues without penalty.

DFS will provide an affidavit form to both tenant and property owner/manager for them to verify that necessary repairs have been completed found in interim/complaint, annual, or quality control inspections. This form must be returned by both tenant and landlord within 10 days after repairs has been completed. A re-inspection will be performed if these forms are not completed and returned to DFS within the time period allowed.

DFS reserves the right to re-inspect the property to insure repairs have been done. (Revised 10/2/13)

If work has been completed no further action is necessary and the HAP payment will continue uninterrupted.

If work has not been completed, the inspector should attempt to determine why. Does the owner have a legitimate need for more time? Is the owner making a good faith effort to meet his obligations, but having difficulty meeting DFS' schedule? Are there seasonal considerations? Is the family cooperating? Depending upon the inspector's assessment of the situation relative to DFS written policy and required criteria four options are available.

17.2.2.1 Options when work is not completed satisfactorily

17.2.2.1.1 Terminate HAP payment

DFS will notify the owner, in writing, that:

- The HAP payment will stop effective immediately;
- Payments will not resume until the repairs are completed; and,
- No retroactive payment will be made for the period of time the HAP payment is abated.

(See discussion of HAP payment termination in part 17.2.1, Serious Violations.)

17.2.2.1.2 Grant a "no-penalty" extension of time to complete repairs

During the extension period, the HAP payment may either continue uninterrupted OR be withheld until completion of repairs and paid in full retroactively.

Pay Full HAP payment

In very limited circumstances, an owner may continue to receive the full subsidy during the course of an approved "No Penalty" extension. This extension must be approved by the Assistant Director or Director of Family Services. At the end of the extension period, if work is not completed, DFS has the following options:

- Terminate the HAP payment;
- Grant an additional "with penalty" extension;
- Grant an additional "no penalty" extension; or
- Terminate the HAP contract.

Generally, mitigating circumstances are the only reason for granting an additional no-penalty extension. The Owner must be able to document the mitigating circumstances. The documentation must be must be approved by the Assistant Director or Director of Family Services, and maintained in the family's file.

Withhold HAP payment and reimburse in full when all work is completed

In limited circumstances, the HAP payment may be withheld and paid in full retroactively if the unit is brought into compliance by the repair deadline. At the end of the extension period, if work is not completed, the Assistant Director or Director of Family Services must decide whether to:

- Grant an additional "no penalty" extension;
- Terminate the HAP contract; or
- Grant an additional "with penalty" extension and withhold and reduce the HAP payment in accordance with section 17.2.2.1.3.

17.2.2.1.3 Grant a "with penalty" extension of time to complete repairs

During a "with penalty" extension period, the HAP payment must be withheld. Upon completion of repairs a partial, retroactive HAP payment will be made to the owner. If the owner does not complete the repairs, the HAP payment will be terminated as described in 17.2.2.1.1 above.

Generally, the appropriate response to a failed re-inspection is to withhold and reduce the HAP payment during the extension period. The HAP payment reduction may range from 2% to 100%. When the repairs are complete, DFS may make a partial retroactive payment. If the repairs are not completed by the end of the extension period, either the HAP contract will terminate or, if the owner can show cause why additional time is needed, the subsidy will continue to be withheld until the repairs are made.

Withholding a HAP payment during an extension period is a good inducement for an owner to complete the repairs. It demonstrates that DFS is serious about seeing the repairs are completed. Instead of rewarding the owner with the full HAP payment during an extension, the HAP payment is withheld and the owner is able to receive a reduced portion only when the repairs are made.

Sixty days from the date of the initial failed inspection, or approved extension period, if the unit remains in non-compliance, steps should be taken to terminate the HAP contract. DFS must send written notice to both the family and the owner advising them of the date of the contract termination (give an effective date of not more than 30 days from the date of the notice), at which point the family will become a tenant-at-sufferance and DFS will no longer be responsible for the rent. Again, the family needs to be made aware that once the contract is terminated, if it wishes to retain its assistance, it must locate a unit that complies with HQS and DFS inspection requirements within 120 days of the termination effective date. The family should also be urged to seek legal counsel regarding its rights and responsibilities as a tenant-at-sufferance in a non-compliant unit.

17.2.2.1.4 Terminate the HAP Contract

Although the HAP payment is suspended immediately, a 30-day notice of intent to terminate the HAP contract for non-compliance is recommended to alert the family to the impending condition of being "on the clock". The family must be issued a new subsidy and informed that in order to retain its rental assistance it must locate a new unit that can comply with HQS and DFS'

inspection requirements within 120 days of the contract termination date. The notice must also advise the family to seek legal counsel regarding its rights and responsibilities as a tenant-at-sufferance in a non-compliant unit. Provided that the HAP payment had not been terminated, the owner may receive a partial payment of the withheld subsidy pro-rated from the date of suspension to the effective date of the contract termination.

The owner and family must be notified, in writing, of the selected course of action and the new repair deadline and re-inspection date, or contract termination date included therein.

17.2.3 New Violations

A violation that is cited for the first time at a re-inspection (regardless of whether it had previously been overlooked by an inspector or had occurred subsequent to the initial failed inspection) does not automatically trigger an extension. The owner and tenant must be notified, in writing, of the new fail item(s), the new fail repair deadline, and the new fail re-inspection date without impacting the progress of the initial fail.

17.2.4 Other Unit Defects that are not HQS Violations

There are no sanctions or penalties for these unit defects. These defects should be noted on the inspection form, and a copy given to both the family and owner for their records. Owners should be encouraged to make the repairs so that they will not turn into violations at a later date. Failure to make these repairs could reduce the reasonable rent approved by DFS.

17.3 HQS- UNIT REMAINS IN EXTENDED NON-COMPLIANCE

- When a unit fails inspection, DFS must notify the owner immediately of the time allotted to perform the repairs;
- The unit must be re-inspected to determine if the repairs have been done. On-site re-inspection is the only acceptable means of verification;
- If repairs have not been completed, the procedures outlined in section 17.2 should be followed. The owner must be notified in writing of any action being taken;
- The Assistant Director shall review cases where the unit has been in non-compliance for 30 days or more (even if a no-penalty extension has been granted);
- When a decision is made to suspend HAP payments, the case must be reviewed on a monthly basis. The monthly review may be done by the person who originally made the decision to suspend the subsidy;
- After 60 days of a suspended HAP payment, if the repairs have not been completed, the HAP Contract should be terminated. If there are mitigating circumstances, a decision may be made not to terminate the HAP Contract. The decision should be discussed with the Assistant Director, to strategize over future action if the suspension will be continued for longer than 60 days.
- Whenever the HAP payment is suspended the family must be notified in writing. The notice to the family must state that:

- The HAP payment has been suspended;
 - If the owner continues to neglect the repairs, DFS may terminate the HAP Contract;
 - If the HAP contract is terminated DFS will cease to be responsible for the contract rent. If the family remains in place after the effective date of the HAP contract termination, it will be as a tenant-at-sufferance. The family will be issued a voucher and given the maximum amount of time (at least 120 days) to find a new unit. If the family remains in place and the voucher expires they will lose all rental assistance benefits. The family must move in order to retain its assistance. The family may move prior to the effective date of the contract termination, provided proper notice is given to the owner and DFS;
 - The family is advised to seek legal counsel on paying its rent share during the period of suspension. It is advisable that the family continue to pay rent if it chooses not to consult an attorney;
 - If the family pursues a court action against the owner instead of moving, it must notify DFS. If the family chooses not to move because of a pending court action, and subsequently loses in court, they must move to continue getting assistance. If the family prevails in court, DFS will reinstate the family in the unit in question, not in another unit (provided the unit passes inspection);
 - The family remains obligated to give proper notice to both the owner and DFS before moving.
- When a decision is made to terminate a HAP Contract, the family should be issued a new voucher. The effective date of the subsidy should coincide with the effective date of the HAP Contract termination, although the subsidy may be issued prior to the termination date. The family should again be advised to seek legal counsel regarding payment of their portion of rent.

DFS may be reluctant to terminate a HAP Contract because of the consequences for the family. While DFS realizes that termination of the HAP Contract will probably force the family to move, staff should not allow assisted tenants to live in substandard housing indefinitely. If a vacant unit fails inspection, do not allow a family to live there. Standards for in-place tenants should not be significantly different. Furthermore, it is unfair to tie up a subsidy beyond 120 days if it cannot be utilized according to program requirements.

18. Special Programs

DFS administers a variety of special programs. Applicants for these programs must meet additional, specific, eligibility requirements. The majority of Housing Choice Voucher related-activities for these programs are carried out in accordance with this Administrative Plan and all applicable HUD requirements.

18.1 HOUSING CHOICE VOUCHER MODERATE REHABILITATION PROGRAM

The Moderate Rehabilitation program is a spin-off of the Housing Choice Voucher program. However, instead of being tied to the tenant, the rental assistance is tied to the property.

After an owner rehabilitates a property through this program, DFS is responsible for administering the subsidy tied to the property. DFS must inspect the units on a regular basis, and provide potential applicants for the units if the owner is unable to fill the units within a specified period of time.

Annual income and adjusted income is calculated using the same methodology as in the Housing Choice Voucher Housing Choice Voucher program. Total family contribution and the HAP payment are calculated using the rules used in the Housing Choice Voucher program.

Properties with HAP contracts signed and effective prior to October 1, 1981 use the Housing Choice Voucher low income limit to determine eligibility program applicants. Properties with HAP contracts effective on or after October 1, 1981 use the Housing Choice Voucher very-low income limit to determine eligibility. In addition, all Moderate Rehabilitation properties must demonstrate that at least 40% of their new admissions are to families with income levels at or below 30% of the median income for their community.

Rents are increased each year using the Annual Adjustment Factor method and are subject to rent reasonableness determinations.

Owners with expiring Moderate Rehab contracts may opt out of the Housing Choice Voucher program. In these cases, tenants who are still eligible for subsidy receive a Housing Choice Voucher.

18.2 FAMILY SELF SUFFICIENCY PROGRAM

DFS continues to administer a Family Self Sufficiency Program. Through this program, Housing Choice Voucher participants establish a plan to achieve self sufficiency by attending school and job training programs, establishing a savings account, etc. The goal is to for these participants to leave the program capable of maintaining meaningful employment sufficient to afford decent housing in the private market.

18.3 WELFARE TO WORK PROGRAM

18.3.1 Overview

The Loudoun County Welfare to Work Voucher Program (WTW) will provide the maximum opportunities for the participating families to become self-sufficient. To this end the County's Department of Family Services, Housing Choice Voucher Division and Career Support Services (CSS) Unit are working in concert and will facilitate coordination among appropriate supportive services.

The program model will be similar to the Family Self-Sufficiency (FSS) concept, as it has proven very successful in Loudoun County. All WTW participants will be offered the voluntary

opportunity to participate in the FSS Program in addition to the WTW voucher program. All WTW participants will have access to the extensive employment and training resources (i.e. assessments, job resource center, job readiness training, skill based career training). Full time employment is defined as an average of 35 hours per week during the course of the month (4.3 weeks = 1 month).

18.3.2 Plan Procedures

- Partner Role and Responsibilities - Loudoun County Department of Family Services, a governmental subdivision, is the local agent for HUD charged with administering the federal Rental Assistance Housing Choice Voucher Program in Loudoun County. DFS will continue the existing coordination of services with the County's TANF/VIEW programs as it relates to Housing Choice Voucher participants. The local TANF program is operated by the Department of Family Services (DFS), also a governmental subdivision of the County. The two departments are housed in the Human Services building, which eases the coordination process. These two departments will serve as the primary partners in the Welfare-to-Work voucher program but will also work closely with the members of the Loudoun Housing Opportunities Made Equal (LHOME) to ensure all resources are made available to the eligible participants. These services are further described under leveraging resources. The purpose, to provide rental assistance to help eligible families make the transition from welfare-to-work, under this HUD program is very consistent with the mission of the County for both departments. The County mission is to improve the quality of life for Loudoun County residents by providing safe, decent and affordable housing and by encouraging families to become self-sufficient through programs and services that emphasize personal responsibility through collaboration with business, government and community resources to deliver effective and efficient services.

DFS will administer the Housing Choice Voucher Program to include the waiting list, initial verification, annual recertification, HQS inspection and case coordination with DFS to ensure successful outcome of Welfare-to-Work goals. DFS will also conduct landlord outreach through the use of advertisements in the local papers, direct mailing to existing landlords, and educational seminars. Participant outreach will include press releases and direct mailing to current and previous TANF participants to inform them of the opportunity and if not currently on, how to apply to the waiting list.

In addition, the housing counselors will provide case management coordination with the VIEW worker and landlord/tenant facilitation. Loudoun County Department of Family Services also administers the Virginia Department of Housing and Community Developments Homeless Intervention Program (HIP) which provides 0% interest rate loans to assist with security deposits and first month's rent. The program operates as a loan program to facilitate self-sufficiency while providing the often-needed gap resources. HIP also provides budget counseling.

- Family Services will administer a wide array of services to the County's TANF population. These services include:

- The Career Support Services (CSS) unit administers the Virginia Initiative for Employment not Welfare (VIEW). Each VIEW/TANF client is assigned a case manager who provides employment counseling, mediation, advocacy, job coaching and referral/crisis intervention. Support services are in place to assist clients in securing and maintaining employment such as transportation costs, car repairs, utility bills, purchase of equipment, uniforms, education and training. This unit also has employment counselors available to provide aptitude, career and interest assessments. A job readiness program is also offered that includes job search skills, living skills, and job retention skills. A computer lab is available that offers basic computer skills, high school remediation course and an Internet program to earn a high school diploma. GED tutoring is provided with testing done in coordination with the public school system;
- The Family Services Unit provides subsidized day care services for participants who are either working or in education/training programs. This unit also coordinates TANF payments, food stamps and Medicaid coverage;
- The Benefits Unit determines eligibility for mandated public assistance such as Medicaid, food stamps, TANF, State-Local Hospitalization and Energy Assistance programs. This unit often provides financial benefits for clients until they have the opportunity to gain skills to become self-sufficient;
- The Emergency and Supportive Services Unit provides services on an emergency basis for food, shelter, medical needs, clothing and intake/assessment services. This is the first point of contact for many of TANF eligible clients who are then referred to the appropriate unit within DFS; and
- The remaining units of Adult Services/Adult Protection Services; Child Protective Services and Adoption/Foster Care coordinate with the other units as needed.
-

18.3.3 Community Partnering Plan

Leveraging Resources - there is a wide range of public and private resources committed to this project. The partners of this program are also the members of the Loudoun County Coalition of Community Service Providers which strengthens the program coordination and resources available to program participants. The primary public resources include the resources from the Department of Family Services; the specific activities are noted above. It is important to note that the Housing Choice Voucher administrative fees do not cover the full cost of program administration for Family Services nor any of the costs for the departments of Financial Services, Budget Services, Treasurer, Attorney or Human Resources. The value of the firm commitment for services and in-kind contributions are listed below and are based on an award of 25 vouchers. This is not an all-inclusive list as additional resource needs will be identified and obtained to meet individual TANF participant's requirements.

- Loudoun County Family Services- commitment letter describes the full range of available services and is valued at approximately \$3,315 per client (amount varies per client based on individualized needs);
- Loudoun County Mental Health Center- provision of outpatient and/or substance abuse treatment, conflict mediation training and emergency mental health crisis intervention valued

at \$12,555/annually;

- American Red Cross- the Red Cross commits their utility disconnect program which annually expends \$23,000 which will be available to these program participants as needed. Approximately \$4,000 is anticipated to serve these program participants;
- Northern Virginia Family Service-comprehensive mental health services on a sliding fee scale. On average the clients are seen five times at an hourly rate of \$75.00. Approximately 5 clients will be referred for a value of \$1,875/annually;
- Salvation Army-provision of assistance in the areas of utilities, prescriptions, clothing food and furniture with an annual allocation for the County in the amount of \$47,000. It is estimated that program participants will utilize \$6,000/annually;
- Loudoun Volunteer Financial Council-provision of free and confidential counseling in the areas of budget, cash management, debt reduction, credit report resolution, record-keeping and financial goal setting. The value of this service for program participants is \$3,007/annually; and
- Good Shepherd Alliance access to the clothing/furniture store which is valued at \$42,358.

The total value of committed resources is \$152,670; this represents only the minimum resources targeted to the Welfare-to-Work participants.

18.3.4 Comprehensiveness and Coordination

Upon receipt of NOFA notification, the Loudoun Housing Opportunities Made Equal (LHOME) member agencies were briefed at the March 8, 1999 meeting. The member agencies agreed to the need for stable housing to support the transition from welfare to work. The agencies agreed to coordinate the support services each have to offer in order to provide comprehensive services in an effective and efficient manner. The agencies represent public, non-profit and private entities and include the Salvation Army, Red Cross, Volunteer Financial Council, Loudoun County Department of Family Services, Northern Virginia Family Service, County Mental Health Center, Loudoun Transit, Health Department, Good Shepherd Alliance, Volunteers of America, Hamilton Baptist Church, Literacy Council, 1st Union National Bank of Virginia, and Koger Management, Inc. (manager of HOAs). Previously homeless persons have a representative and additional member agencies are constantly sought after. Each of these agencies specialize in key activities, within the continuum of care, necessary to provide a specific service plan to the participants as well as comprehensive system of service delivery within the County. In addition, it is important to note that the elected Board of Supervisors have consistently supported the concept of self-sufficiency and work not welfare through such actions as adopting the HUD Abbreviated Consolidated Plan, adopted the communities' Continuum of Care Strategy, authorizing staff to pursue HUD Supportive Housing Grants/HUD FSS NOFAs/Virginia Homeless Intervention Program grants with the required match provisions, and providing local funding to replace the federal funds to maintain the operations of a eight year transitional housing program.

The solutions and outcomes will be shared through several venues:

- monthly LHOME meeting updates;
- coordination with the FSS Steering Committee's quarterly meetings;

- quarterly DFS regional meeting updates;
- quarterly Washington Metropolitan Regional Housing Choice Voucher meetings; and
- updates to the Board of Supervisors and the community through the annual update and adoption of the Continuum of Care and Abbreviated Consolidated Plan.

Loudoun County Department of Family Services has the lead responsibility to develop the Abbreviated Consolidated Plan and the Continuum of Care Strategy. This is done in partnership with the members of the LHOME. The LHOME formally began meeting in July 1994 originally as Loudoun County/Coalition of Community Services Program (LC/CCSP). The coalition's mission is "To provide a strategy designed to foster Loudoun county citizens to become self sufficient by facilitating the diverse private and public community services to ensure effective utilization and networking of all resources." The mission and goals/objectives have been developed by the Coalition as a whole and then annually reviewed and improved, as needed, by membership consensus. In addition, Loudoun County, as a non-entitled jurisdiction, participates in the Virginia Consolidated Plan process and the Analysis of Impediments to Fair Housing Choice. Regionally, the County also is involved in the Northern Virginia Planning Districts Commission Analysis of Impediments (to include testing) and the annual report on the Analysis of Impediments to Fair Housing Choice prepared by the Washington DC Council of Governments.

The provision of a comprehensive and coordinated service delivery system is an ongoing process. The LHOME has been very instrumental in identifying existing resources, service delivery gaps and prioritization of needed services. This will be an ongoing process through the monthly meetings. The issues focus on a wide range of service gaps and funding options at the federal, state and local levels. In addition to the lack of affordable housing, as identified by the LHOME, the member agencies have also identified the lack of public transportation as a key barrier to self-sufficiency. To this end several key activities are being pursued: 1) expansion of the Loudoun Transit (nonprofit agency) services to fully serve the County with fixed route systems and connection to neighboring jurisdictions; 2) research by the County Transportation Taskforce to coordinate existing vehicles in operation by multiple agencies; 3) continued refinement of the on-demand transportation program funded by the Board of Supervisors through gas tax funding; 4) continued utilization of transportation funding through the VIEW program; and 5) continued outreach and utilization of the expanding commuter bus system.

18.3.5 Landlord Outreach Plan

Loudoun County Department of Family Services will continue to conduct annual landlord outreach/education sessions to market the value of the Housing Choice Voucher Rental Assistance Program, to ensure diverse housing choices for program participants and to maintain open dialog with current and prospective landlords regarding regulations. Individual private investors and large multi-family complexes are targeted. In addition, local press releases are issued several times a year to inform the community of the need for affordable housing to facilitate self-sufficiency of our fellow citizens.

18.3.6 Participant Outreach Plan

Loudoun County Department of Family Services maintains an open Housing Choice Voucher waiting list. To date there are sufficient numbers of eligible families for the WTW voucher program on the list. Loudoun County Family Services will continue to refer families for application to the waiting list per general policies. In addition, all WTW eligible participants will be required to submit an eligibility certification from the Career Support Services Unit of Family Services at time of application. This certification will be verified when the family reaches the top of the waiting list.

18.3.7 Client Eligibility

Client eligibility for the WTW voucher program, in addition to the 24 CFR 888 and 982 Final Rule requirements, will be based on January 28, 1999 HUD NOFA page 4497 Section IV. (A)(1). The client's who meet the basic regulatory requirements will then be screened in order of the following criteria:

1. Date and time of application;
2. DFS certification of WTW eligibility for needing affordable housing in order to obtain or maintain employment which will be based on the following criteria:
 - a. 50% or more of gross income is dedicated to shelter, day care, and transportation costs,
 - b. families reside in overcrowded housing situations causing them to be unprepared for employment requirements and/or at risk of eviction,
 - c. residing in homeless shelters (transitional, emergency or abused designations), and
 - d. case by case review for other employment related extenuating factors.
3. Cases will be serviced by the following ranked preference order:
 - a. TANF Transitional,
 - b. VIEW (working families),
 - c. TANF non-VIEW,
 - d. TANF preceding 2 years, or
 - e. TANF eligible but not receiving.

18.3.8 WTW Contractual Responsibilities

All WTW program participants will be required to execute a self-sufficiency service plan/contract and a WTW contract addendum acknowledging that continued voucher eligibility is contingent upon program compliance. The service plan/contract will either be the format used by CSS or FSS depending upon primary case manager assignment (see attachment) and the contract addendum, to be executed by Family Services, will apply to all participants (see attachment).

The WTW Self-Sufficiency Plan/Contract that will include a final goal that will be the basis to determine success. Interim objectives will be established also. The final goal will be to obtain full time employment with benefits and earn a living wage (to be defined as the very low-income level for the jurisdiction and index at time of enrollment by family size) and/or purchase of their

own home.

Criteria to determine WTW tenant's success include the following criteria:

- Maintain steady employment as defined within the contract;
- Achieve 100% VIEW/TANF/Career Support Services (non-VIEW) objectives and program requirements;
- Achieve 100% FSS objectives by specified deadline to include employment (if not active VIEW and client is an FSS participant);
- Completes monthly WTW progress reports as required by FSS, VIEW or CSS programs without missing more than 2 in a row; and
- Complies with all HUD Housing Choice Voucher Rental Assistance regulations.

Each client will be assigned a primary case manager. If the client chooses to participate in the FSS Program the primary case manager will be the Family Services' Housing Choice Voucher Division FSS Counselor. If the WTW participant is not accepting the FSS resource the CSS Unit Social Workers will provide the primary case manager role. In either scenario, the FSS Housing Counselor will execute all Housing Choice Voucher Rental Assistance program regulations (i.e. family briefing, lease up/HAP preparation, HQS inspection).

If the WTW tenant family executes their portability rights, the receiving housing authority will not be required to absorb the unit but it will be requested to do so. The receiving authority will execute all Housing Choice Voucher certification/lease/HQS and HAP requirements. If the receiving authority operates a WTW voucher program they will be requested to initiate case management services and referral to appropriate Family Services and supportive services agencies. If the receiving authority does not operate a WTW program, the transferring authority (Housing Counselor) will maintain case management responsibility but the tasks will be reduced to a biannual telephone monitoring contact. In either portability scenario, the portable WTW tenant must submit monthly progress reports and an annual affidavit that they are in compliance with their plan/contract or be subject to the termination policies.

There are no restrictions on the ability to take a WTW voucher to another jurisdiction.

If WTW participants loses vouchers for non-performance the household may immediately reapply to the Housing Choice Voucher Rental Assistance Waiting List per established policies and with no other preferences.

If WTW applicants lose vouchers by not leasing up/using by the designated expiration date, they must wait (1) one year before re-applying for a WTW voucher. The applicants rights regarding the Housing Choice Voucher Waiting List are not effected by this provision.

18.3.9 WTW Termination Policies

The termination policy will comply with the regulations applicable to all Housing Choice Voucher participants but will also have the following expectations in order to ensure compliance with the WTW vouchers regulations. If the WTW contract related termination occurs during the

initial lease up period the family will be terminated at the end of the 12 months. If the termination occurs any time thereafter the tenant and landlord will be given 30 days notice. All WTW program participants will be granted the opportunity for an informal hearing to appeal the program termination.

18.3.10 Program Success Measurements

The program's success will be measured by the following criteria:

- 100% of initial lease up occurs within 12 months of effective date and 96% maintained thereafter;
- Average baseline income at time of program admission increases by 5%; and
- 85% of the families meet their individual goals at the end of 5 years and 95% meet the specified annual interim objectives.

18.4 MAINSTREAM PROGRAM

Through this program, DFS seeks to provide financial assistance to enable vulnerable elderly and disabled applicants to remain in or locate in suitable, decent housing. DFS must verify that the family meets the eligibility factors for the Housing Choice Voucher program, as well as the specific criteria for the Mainstream Program. See DFS' specific rules governing the Mainstream Program in the DFS Policy Manual.

18.5 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)

The HOPWA program is based on the Housing Choice Voucher Program. Some of the documents may change during the year to reflect the specific guidelines for the program. The Head of the Household must have verification from the Loudoun County Health Department of HIV/Aids status in order for the person or family to qualify. If the Head of the House dies or leaves the household, rental assistance will continue only through the terms of the remaining months of the twelve month period. At the next annual recertification, the rental subsidy will end and the remaining member(s) of the family will be responsible for their full rent. In order to participate in the program, all adults must be free of illegal drug convictions and violent criminal behavior for the past five years prior to applying to the program. DFS has the option to accept participation in the program for clients with histories less than five years if a third party, such as a parole officer, provides a positive recommendation. Applications for the waiting list come through the Ryan White case manager at the Loudoun County Health Department. This person and the Housing Counselor work together to operate the program.

18.6 HOUSING OPPORTUNITIES FOR HOMELESS PERSONS

This program is intended to help eliminate homelessness in Loudoun County. There will be a set aside of 20 regular vouchers to be used by homeless (as defined by HUD). In addition, homelessness will be a local preference with weight equal to handicapped/disabled, elderly, and low income family. The Continuum of Care committee, Housing Choice Voucher staff, and social workers in DFS will work together toward success of this program.

19. Vacancy Claims

Vacancy claims are not permitted in the voucher program. If a participant moves out in violation of notice requirements in the lease the owner may retain the HAP payment for the month in which the family vacated the unit, but may not receive vacancy payments.

20. Violence Against Women Act (VAWA)

20.1 PURPOSE AND APPLICABILITY

The purpose of this policy (herein called “Policy”) is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162) and more generally to set forth the Loudoun County Family Services’ policies and procedures regarding domestic violence, dating violence, and stalking, as hereinafter defined. This Policy is applicable to the administration by DFS of HCV/Section 8 rental assistance under the United States Housing Act of 1937 (42 U.S.C. §1437 et seq.). Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, or stalking as well as female victims of such violence.

20.2 GOALS AND OBJECTIVES

- This Policy has the following principal goals and objectives:
- Maintaining compliance with all applicable legal requirements imposed by VAWA
- Insuring the physical safety of victims of actual or threatened domestic violence, dating violence, or stalking who are assisted by DFS
- Providing and maintaining housing opportunities for victims of domestic violence dating violence, or stalking
- Creating and maintaining collaborative arrangements between DFS, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence and stalking, who are assisted by DFS
- Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by DFS.

20.3 OTHER DFS POLICIES AND PROCEDURES

This Policy is referenced in and attached to the Loudoun County Family Services' Five-Year Public Housing Agency Plan and incorporated in and made a part of the Loudoun County Family Services' Admissions and Continued Occupancy Policy. The Loudoun County Family Services' annual public housing agency plan also contains information concerning the Loudoun County Family Services' activities, services or programs relating to domestic violence, dating violence, and stalking.

To the extent any provision of this policy varies or contradicts any previously adopted policy or procedure of DFS, the provisions of this Policy prevail.

20.4 DEFINITIONS AS USED IN THIS POLICY:

Domestic Violence The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim has a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by 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."

Dating Violence Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Stalking means to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and to place under surveillance with the intent to kill, injure, harass or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to that person or a member of the immediate family of that person; or the spouse or intimate partner of that person.

Immediate Family Member, with respect to a person is:

- a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
- any other person living in the household of that person and related to that person by blood or marriage.

Perpetrator A person who commits an act of domestic violence, dating violence or stalking against a victim.

20.5 ADMISSIONS AND SCREENING

20.5.1 Non-Denial of Assistance.

DFS will not deny admission to the HCV/Section 8 rental assistance program to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for such admission.

20.5.2 Mitigation of Disqualifying Information.

When so requested in writing by an applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, DFS, may, but is not obligated to, take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an applicant to take such mitigating information into account, DFS will be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information. DFS will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

20.6 TERMINATION OF TENANCY OR ASSISTANCE

20.6.1 VAWA Protections.

Under VAWA, persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by DFS:

- An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be considered to be a “serious or repeated” violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
- In addition to the foregoing, tenancy or assistance will not be terminated by DFS as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted household, a guest or another person under the tenant’s control, and the tenant or an immediate family member is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:
 - a. Nothing contained in this paragraph limits any otherwise available authority of DFS’ or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, or stalking in question against the tenant or a member of the tenant’s household. However, in taking any such action, neither DFS nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence dating violence or stalking than that applied to other tenants.
 - b. Nothing contained in this paragraph DFS be construed to limit the authority of DFS or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or DFS, as the case may be, can demonstrate an actual and imminent threat to other tenants or to those

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

20.6.2 Removal of Perpetrator. Further, notwithstanding anything in paragraph **20.7.2** or Federal, State or local law to the contrary, DFS or a Section 8 owner or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in acts of physical violence against family members or others. Such action against the perpetrator of such physical violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance DFS be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by DFS.

20.7 VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING

20.7.1 Requirement for Verification

The law allows, but does not require, DFS or a section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph 20.7.2, DFS require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by DFS. Section 8 owners or managers receiving rental assistance administered by DFS may elect to require verification, or not to require it as permitted under applicable law.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence or stalking may be accomplished in one of the following three ways:

- a. HUD-approved form** - by providing to DFS or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator.
- b. Other documentation** - by providing to DFS or to the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the

professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.

- c. **Police or court record** – by providing to DFS or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

20.7.2 Time allowed to provide verification/ failure to provide.

An individual who claim protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence or stalking, and who is requested by DFS, or a Section 8 owner or manager to provide verification, must provide such verification within 14 business days (i.e., 14 calendar days, excluding Saturdays, Sundays, and federally-recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

20.7.3 Waiver of verification requirement.

The Executive Director of the HCV program administered by DFS, or an HCV/ Section 8 owner or manager, may, with respect to any specific case, waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director, owner or manager. Any such waiver must be in writing.

20.8 CONFIDENTIALITY

20.8.1 Right of confidentiality.

All information (including the fact that an individual is a victim of domestic violence, dating violence or stalking) provided to DFS or to a Section 8 owner or manager in connection with a verification required under section VII of this policy or provided in lieu of such verification where a waiver of verification is granted, DFS be retained by the receiving party in confidence and DFS neither be entered in any DFS database nor provided to any related entity, except where disclosure is:

- requested or consented to by the individual in writing, or
- In connection with termination of Section 8 assistance, as permitted in VAWA, or
- otherwise required by applicable law.

20.8.2 Notification of rights.

All tenants participating in the Section 8 rental assistance program administered by DFS be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

20.9 COURT ORDERS/FAMILY BREAKUP

20.9.1 Court orders.

It is the Loudoun County Family Services’ policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by DFS and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

20.9.2 Family break-up.

Other DFS policies regarding family break-up are contained in the Loudoun County Family Services Section 8 Administrative Plan.

20.10 RELATIONSHIPS WITH SERVICE PROVIDERS

It is the policy of DFS to cooperate with organizations and entities, both private and governmental, which provide shelter and/or services to victims of domestic violence. If DFS staff become aware that an individual assisted by DFS is a victim of domestic violence, dating violence or stalking, DFS will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring DFS either to maintain a relationship with any particular provider of shelter or services to victims or domestic violence or to make a referral in any particular case.

20.11 NOTIFICATION

DFS provide written notification to applicants, tenants, and Section 8 owners and managers, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance.

20.12 RELATIONSHIP WITH OTHER APPLICABLE LAWS

Neither VAWA nor this Policy implementing it preempt or supersede any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence or stalking.