

**GENEVA HOUSING AUTHORITY**  
**SECTION 8 ADMINISTRATIVE PLAN**

**Effective October 1, 2011**



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## **INTRODUCTION**

**The overall mission of the Geneva Housing Authority (GHA) and the Section 8 Housing Choice Voucher Program is to make Geneva a better place to live by supporting community efforts to preserve and expand affordable housing, home ownership and economic opportunities, and by providing equal access to safe, decent and affordable housing.**

Within the overall mission of the agency, this Administrative Plan serves as the GHA operational handbook for implementing the U. S. Department of Housing and Urban Development's (HUD) Section 8 Housing Choice Voucher (HCV) Program. This Plan has been prepared in such a manner as to ensure compliance with all requirements set forth in 24 CFR §982.54 (Administrative Plan).

Administration of the Section 8 Program and the functions and responsibilities of the GHA staff will be in compliance with the GHA Personnel Policy and HUD's Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

### **Charges Against Section 8 Administrative Fee Reserve**

Occasionally, it is necessary for the Geneva Housing Authority to spend money out of its Section 8 Administrative Fee Reserve to meet unseen or extraordinary expenditures or for its other housing related purposes consistent with State law.

The Geneva Housing Authority Board of Commissioners authorizes the Executive Director to expend without prior Board approval up to \$25,000 (twenty-five thousand dollars) for authorized expenditures.

Any item(s) exceeding \$25,000 will require prior Board of Commissioner approval before any charge is made against the Section 8 Administrative Fee Reserve.

## **SECTION 1.0 SELECTION AND ADMISSION POLICIES**

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

### **1.01 Hiring a Housing Choice Voucher Participant as an Employee of the PHA**

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

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

### **1.02 Eligibility of PHA Employees for Housing Choice Voucher Program Assistance**

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

If an employee of the GHA submits an application for Housing Choice Voucher Program assistance, the GHA will apply the same Section 8 standards and policies set forth in HUD rules and regulations and this Administrative Plan. The standards and policies currently used to safeguard the privacy and confidentiality of tenant information and tenant files will apply equally to the employee. Special efforts will be taken to assure that the employee/applicant is not receiving preferential treatment. This policy also applies to relatives of employees.

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

### **1.03 Preferences**

The selection of participants will be per the following local selection order:

- for participant households with more than one family member, selection will be based on date and time of application
- for single person households, in addition to date and time of application, persons who are elderly, disabled, handicapped or displaced will be selected before other single person households.

In addition, applicants who fall into the following categories will always be assisted before those who do not, regardless of single, non-elderly, non-disabled status:



- **Category A** - Applicants who have been displaced from their housing as a result of a natural disaster (such as a hurricane, flood or fire) that has caused the area to be designated by the federal government as a disaster area, and who at the time of the disaster were either living in HUD-subsidized Public Housing or were being assisted by the HUD Housing Choice Voucher Program.
- **Category B** - Applicants who are homeless because their unit has been rendered uninhabitable by a fire or other natural disaster within the 30-day period immediately prior to application, and the municipality has ordered the unit to be vacated. If the family is made homeless due to a disaster that causes the area of their residence to be declared a federal disaster area, the 30-day limit on accepting the application will not apply.
- **Category C** - Applicants who are participants in another GHA program, who have a documented need for a reasonable accommodation, where the GHA has determined that the accommodation either cannot be granted in a timely fashion, or it cannot be granted at all because it would either require a fundamental change to a program, or it would cause an undue financial burden to the GHA, to allow the participant to seek housing that meets their needs in the private market without losing the benefit of housing assistance.
- **Category D** - Applicants who are participants in the Supportive Housing Program under the U.S. Dept. of Housing and Urban Development Continuum of Care Homeless Assistance Programs, who have successfully completed their service plan and no longer need supportive services to live independently in permanent housing, but still need housing assistance payments in order to maintain their residence.

Families who fall into Category A will be assisted ahead of those who fall into Category B, Category B will be assisted ahead of Category C, etc.

The qualification for the above listed preference and/or any subsequent ones that may be added is based solely on a person's status **at the time of selection from the waiting list.**

#### **1.04 "MAINSTREAM" Voucher selection**

The GHA administers 30 vouchers received under the "Rental Assistance for Persons with Disabilities in Support of Designated Housing Allocation Plans." These vouchers were awarded to serve as replacement housing when the Elmcrest Apartments (a Public Housing development) was designated as "Elderly Only."

The following procedure applies to this allocation of “Mainstream” vouchers **only**:

The vouchers will be issued to one-bedroom non-elderly applicants with disabilities from the **Public Housing** waiting list. Applicants are selected from the list in the same order as they would be if they were being selected for Public Housing, using date/time of application and any public housing preferences.

If there are no qualifying applicants on the Public Housing waiting list, a preference will be given to one-bedroom non-elderly applicants with disabilities on the Section 8 waiting list. This preference will only apply to Section 8 applicants until the available “Mainstream” vouchers are fully utilized. Each time a replacement voucher becomes available, the Public Housing waiting list will be reviewed first for a qualifying applicant, before going to the Section 8 waiting list and applying this preference.

### **1.05 Opening the Waiting List**

The Geneva Housing Authority will utilize the following procedures for opening the waiting list:

When the GHA determines that there is an insufficient number of applicants on its local waiting list, the GHA will advertise through public notice in local media of general circulation and any available minority media in the GHA jurisdiction. The public notice will provide information on income and other general eligibility requirements; and should also contain the following: the dates, time, and location, and other relevant contact information regarding where families may apply;

- the programs for which applications will be taken;
- the specified period (if any) for which applications will be received by the GHA;
- a brief description of the program;
- A statement that individuals with disabilities are eligible for the program and that reasonable accommodations will be made where necessary to ensure equal participation in housing assistance;
- A statement affirming compliance with equal housing opportunity requirements; and
- The federal Equal Housing Opportunity Logo.

After the closing deadline (if any) for accepting applications and if requested by a person with a disability, additional time will be given as a reasonable accommodation for submission of an application.

### **1.06 Closing the Waiting List**

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

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

### **1.07 Purging the Waiting List**

The GHA will update and purge its waiting list annually to ensure that the pool of applicants reasonably represents families still actively interested in Section 8 HCV assistance. Purging should also enable the GHA to update information regarding address, family composition, income category and preferences.

Prior to purging the waiting list:

- The GHA must save an electronic and hard copy of the pre-purged waiting list.
- All applicants who are affected by the purge must be notified by mail.

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

Purging is only required for applicants that have been on the waiting list for 12 months or more. The name and address of each applicant must be typed or written on the original contact letter. Letters must include the name and address of the applicant notified.

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

When the purge is initiated, a letter will be sent to the applicants in the order in which they appear on the waiting list. The number of applicants on the waiting list should be equal to 50% of the GHA's current program size. The letter will indicate that the purpose of the contact is:

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

Applicants who wish to remain on the waiting list will be required to return written correspondence indicating such, and updating information as necessary.

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

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

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

### **1.08 Removal of Applicants from the Waiting List**

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

- the applicant requests, in writing, that his/her name be removed;
- the applicant fails to respond to a written request for information;
- correspondence is returned to the GHA by the Post Office as undeliverable;
- the applicant misses two (2) or more scheduled appointments/briefings; or
- the applicant does not meet either program eligibility or screening criteria.

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

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

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

Upon receipt of acceptable verification the applicant's position will remain the same on the active waiting list for a period of 90 days from the date on which the GHA initially contacted the applicant. The applicant is responsible for rescheduling the appointment or briefing with the GHA during the 90 day period.

At the end of the 90 days the applicant's name must be removed from the active waiting list and determined ineligible.

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

Reinstatement requests based on extenuating circumstances will only be considered within 90 days of the date of the GHA's original correspondence.

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

### **1.09 Screening of Applicants**

As part of GHA processes for determining eligibility for participation, the GHA will conduct criminal background checks on all adult household members, including live-in aides. These checks will be used to identify circumstances under which assistance must be denied in accordance with the requirements of Section 982.553 of program regulations.

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

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

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

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

tenancy.

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

- payment of rent and utility bills;
- caring for a unit and premises;
- respecting the rights of other residents to the peaceful enjoyment of their housing;
- drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- compliance with other essential conditions of tenancy.

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

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

### **1.10 Grounds for Denial of Assistance**

Being, or having been, a victim of domestic violence, dating violence or stalking is not an appropriate basis for denying assistance to an otherwise qualified applicant. If grounds for denial of assistance are discovered during processing of an applicant family, and they are the result of one or more incidents of domestic violence, they will not be used as a basis for denial of assistance. (See Section 26.02)

The GHA **will** permanently deny assistance to a family if any member of the family has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally-assisted housing.

The GHA **will** permanently deny assistance to anyone subject to a lifetime registration requirement as a State sex offender.

The GHA will deny assistance to applicants who:

- 1) do not meet any one or more of the eligibility criteria;

- 2) do not supply information or documentation required by the application process;
- 3) fail to complete any aspect of the application or lease-up process;
- 4) have a history of criminal activity by any household member involving crimes of physical violence against persons or property, or any other criminal activity, including drug-related criminal activity, **that would adversely affect the health, safety or well being of other participants or staff, or cause damage to the property.** However, such history will not serve as the basis to deny assistance if it has been at least five years since the conviction or service of sentence whichever is later, where there has been no other such intervening criminal activity during that period that would serve as the basis to deny assistance.
- 5) Have engaged in criminal activity or alcohol abuse (as specified below) within one year of initial lease-up of an applicant:
  - A member of the household has demonstrated a pattern of drug or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and/or persons in the immediate vicinity of the premises.
  - A current household member was convicted or incarcerated for any alcohol-related or drug-related criminal activity that took place on or near the premises.

The GHA may waive the decision to deny assistance if:

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

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

- Preponderance of Evidence - defined as “*evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.*”.
- Credible Evidence - defined as “*evidence provided by police and court systems such*

*as drug raids, drugs found in the dwelling unit, evidence which is tied to the activity, warrants issued, arrests made, etc.”*

- 6) currently owe rent or other obligations to any housing authority in connection with the public housing or Section 8 programs;
- 7) currently owe rent or other obligations to any former landlord in connection with the Section 8 program;
- 8) have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived therefrom;
- 9) have a family member who was evicted from federally assisted housing within the last five years;
- 10) have a family member who has had a Public Housing lease terminated within the last five years;
- 11) have a family member who was evicted from assisted housing within five years of the projected date of admission because of drug-related criminal activity involving the illegal manufacture, sale, distribution or possession with the intent to manufacture, sell or distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802;
- 12) have a family member who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The GHA may waive this requirement if:
  - the person demonstrates to the GHA’s satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
  - the person has successfully completed a supervised drug or alcohol rehabilitation program;
  - the person has otherwise been rehabilitated successfully; or
  - the person is participating in a supervised drug or alcohol rehabilitation program.
- 13) have engaged in or threatened abusive or violent behavior towards any GHA staff member;
- 14) have a family household member who has been terminated under the Pre-Merger Certificate



or Voucher Programs or Housing Choice Voucher Program during the last three years. This three-year prohibition does not apply to a family member who voluntarily withdrew from the program, and was in good standing at that time;

- 15) have a family member who has been convicted of manufacturing or producing methamphetamine;
- 16) have a family member with a lifetime registration requirement under a State sex offender registration program; or
- 17) are a welfare-to-work (WTW) family that fails to fulfill its obligations under the welfare-to-work voucher program within the last three years.

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

### **1.11 Confidentiality of Criminal Records**

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

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

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

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

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

### **1.12 Notification of Negative Actions**

Any applicant whose name is being removed from the waiting list will be notified in writing by the GHA that he/she has ten (10) business days from the date of the written correspondence to

request an informal review. The letter will also indicate that the applicant's name will be removed from the waiting list if he/she fails to respond within the time limit specified.

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

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

### **1.13 Application Procedures**

The Geneva Housing Authority will utilize a standardized application form provided and approved by GHA. The applicant will be responsible for completing all sections of the application. If an applicant with a disability requests assistance as a reasonable accommodation, the GHA will arrange for it.

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

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

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

1. Head-of-household name, address, and phone number;  
*Note: The application must be accompanied by proof of the applicant's current address and will be considered incomplete without this information.*
2. Dates of birth for all family members;
3. Social Security numbers for all family members in accordance with HUD regulations and guidance;
4. GHA selection preferences (if any);
5. Racial and ethnic designation of the head of household;
6. Annual gross income for each family member;

7. Date application was submitted; and
8. Form HUD-92006, Supplement to Application for Federally Assisted Housing.  
*Note: While HUD requires that this form be included as a Supplement to the PHA's Application for Federally Assisted Housing, the applicant has the option of providing additional contact information, or declining to do so. Regardless fo the option chosen, the signed and dated form must be maintained in the applicant's file.*

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

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

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

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

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

If an applicant is determined ineligible based on the information provided in the application, the GHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform the family of its right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as a reasonable accommodation.

#### **1.14 Applicant Status While on Waiting List**

All applicants who are placed on the waiting list will be informed of their responsibility to report changes in address in writing within 30 days of occurrence. Applicants will also be required to

report changes in income, family composition and/or other items potentially affecting applicant eligibility.

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

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

### **1.15 Time of Selection**

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

### **1.16 Income Targeting Requirement**

The same income targeting rule that applies to participant-based vouchers also applies to project-based vouchers (PBV).

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

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

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

For PBV vacancies, GHA must continue doing everything possible to admit families with incomes at or below 30% of median. However, the GHA may raise the targeting income ceiling for PBV households to 50% of area median income if the GHA can demonstrate that sufficient families at the 30% of area median income level are not available on the PBA waiting lists. In this situation, GHA should primarily, **if not solely**, admit families having incomes at or below

30% of area median income to participant-based HCV openings, until the overall percentage of the GHA annual admissions equals or exceeds 75% of families at this income level.

### **1.17 Selection of Families from the Waiting List**

The selection of participants will be per the following local selection order:

- 1) for participant households with more than one family member, selection will be based on date and time of application;
- 2) for single person households, in addition to date and time of application, persons who are elderly, disabled, handicapped or displaced will be selected before other single person households.

In addition, applicants who fall into the following categories will always be assisted before those who do not, regardless of single, non-elderly, non-disabled status:

- A. Applicants who have been displaced from their housing as a result of a natural disaster (such as a hurricane, flood or fire) that has caused the area to be designated by the federal government as a disaster area, and who at the time of the disaster were either living in HUD-subsidized Public Housing or were being assisted by the HUD Housing Choice Voucher Program.
- B. Applicants who are homeless because their unit has been rendered uninhabitable by a fire or other natural disaster within the 30-day period immediately prior to application, and the municipality has ordered the unit to be vacated. If the family is made homeless due to a disaster that causes the area of their residence to be declared a federal disaster area, the 30-day limit on accepting the application will not apply.
- C. Applicants who are participants in another GHA program, who have a documented need for a reasonable accommodation, where the GHA has determined that the accommodation either cannot be granted in a timely fashion, or it cannot be granted at all because it would either require a fundamental change to a program, or it would cause an undue financial burden to the GHA, to allow the participant to seek housing that meets their needs in the private market without losing the benefit of housing assistance.
- D. Applicants who are participants in the Supportive Housing Program under the U.S. Dept. of Housing and Urban Development Continuum of Care Homeless Assistance Programs, who have successfully completed their service plan and no longer need supportive services to live independently in permanent housing, but still need housing assistance payments in order to maintain their residence.

Families who fall into category A will be assisted ahead of those who fall into category B, and

category B will be assisted ahead of category C.

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

GHA must not ask an applicant claiming disability to specify the exact nature of (or state or explain) his/her disability, nor does the applicant have to submit proof of said disability; documentation can only state that the applicant is disabled.

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

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

### **1.18 Selection of Families from the Waiting List for Project Based Units**

The Geneva Housing Authority will comply with all requirements of the Project-Based Voucher Program, Final Rule (24 CFR Part 983), issued October 13, 2005.

The GHA will maintain individual waiting list(s) for each PBV development. PBV waiting lists will be established by canvassing the GHA's current tenant-based waiting list, by accepting owner referrals, and by conducting community outreach as needed, taking into consideration the type of development (i.e., family, elderly/disabled) and/or bedroom sizes.

Placement on a PBV waiting list will be based on the date of the landlord referral and/or the date that the tenant-based request is received by the GHA. All applicants must be placed on the waiting list in the order of the date and time of their application/referral for each specific waiting list.

Applicants will be permitted to apply for any/all PBV waiting list(s) within the GHA's jurisdiction, and can maintain positions on both the tenant-based and PBV waiting lists at the same time.

As vacancies occur in a project-based development, it is the GHA's responsibility to lease the units utilizing the specific PBV waiting list. Communication between the GHA and project management should be maintained in order to facilitate the rental process.

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

A “non-resident” applicant is required to utilize the voucher for the first 12 months in the Geneva Housing Authority’s jurisdiction.

For the purposes of this provision, a “non-resident” applicant is one where neither the head of household nor spouse had a “domicile” (legal residence) in the jurisdiction of the GHA at the time the family submitted an application for participation in the GHA’s program.

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

Families will be advised that, if contacted for admission to the GHA program, wherein they were a “non-resident” at the time of application, they must utilize the assistance for 12 consecutive months in the jurisdiction of the Geneva Housing Authority. All “non-resident” applicants must be advised of this policy upon acceptance of their application by the GHA and at the time the family is contacted to establish an eligibility certification interview.

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

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

### **1.20 Eligibility of Students for Assisted Housing under Section 8**

On December 30, 2005, HUD published a final rule implementing a new law pertaining to eligibility of students for Section 8 housing.

HUD Guidance was published in a notice in the April 10, 2006 Federal Register and is available at <http://edocket.access.gpo.gov/2006/pdf/06-3365.pdf>.

Under the new law and HUD’s rule, a person will not be eligible to separately receive Section 8 assistance who:

- Is enrolled as a student at an **institution of higher education** (a detailed definition of this term is provided in the April 10, 2006 Federal Register notice, pages 18149-18150);

- Is under the age of 24;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child;
- Is individually ineligible for Section 8 assistance; or
- Has parents who are, individually or jointly, ineligible for assistance.

To summarize, the Federal Register states: *“If a student is enrolled at an institution of higher education, is under the age of 24, is not a veteran, unmarried and does not have a dependent child, is individually ineligible for Section 8 assistance, or the student’s parents are, individually or jointly, ineligible for assistance, no Section 8 can be provided to the student. Unless the student is determined independent from his or her parents, as discussed in this guidance, the eligibility of a student seeking Section 8 assistance will be based on both the student and the parents being determined income eligible for Section 8 assistance.”*

Note: HUD’s April 10, 2006 Guidance does not apply to a student residing in a Section 8 assisted unit with his or her parent(s), or who resides with his/her parent(s) who are applying to receive Section 8 assistance.

The rule also provides that in determination of student income, financial assistance in excess of tuition assistance received by the student will be included in annual income for determination of eligibility for Section 8 assistance, *unless* the student is over the age of 23 with dependent children. Financial assistance does not include loan proceeds for the purpose of determining income.

### **1.21 Initial Eligibility Certification**

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

Information used to verify an applicant’s eligibility at initial certification for the HCV program must be current, that is within 60 days of the issue date of a voucher.

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



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

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

### **1.22 Requirement to Attend Interview**

All adult family members are required to attend the interview and sign the eligibility certification. Exceptions may be made for students attending school or for members for whom attendance would be a hardship.

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

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

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

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

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

**All** adult members must sign:

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

records and use them in accordance with HUD regulations.

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

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

### **1.23 Portability Move-Ins from Other PHAs**

If GHA has available funds to absorb a participant family it may do so. If GHA does not have available funding to absorb a participant family, the GHA must bill the initial PHA for the portability move-in.

The Geneva Housing Authority will adhere to HUD's portability requirements for Initial and Receiving PHAs, as set forth in HUD regulations and PIH Notices.

### **1.24 Verification**

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

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

- Reviewing the EIV Income Report to confirm or validate family-reported income within 120 days of the PIC submission date; and
- Printing and maintaining a copy of the Income Report in the tenant file; and
- Resolving any income discrepancy with the family within 60 days of the EIV Income Report.

## **1.25 Final Determination and Notification of Eligibility**

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

## **1.26 Document Retention for Applicants and Participants**

### **1.26.01 Applicants**

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

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

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

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

### **1.26.02 Participants**

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

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

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

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

### **1.26.03 Criminal Records**

Special retention rules pertain to criminal records for both applicants and participants. Criminal records are **required** to be destroyed once the purpose for which they are obtained has been accomplished.

## **SECTION 2.0 ISSUING VOUCHERS**

After all family information has been verified, eligibility has been determined and the family has been briefed regarding general program rights and obligations, the GHA will issue the Housing Choice Voucher (HCV). At this point the family begins its search for a unit.

### **2.01 Voucher Term**

While HUD regulations specify a minimum voucher term of 60 days, GHA as the PHA has the discretion to modify this term and to grant a family one or more extension(s) of the initial voucher term in accordance with the policies set forth in this administrative plan. GHA reserves the right to revise its voucher term guidelines based on budget authority granted by HUD and utilization of unit baseline allocation.

The initial term of the voucher will be 60 days and must be stated on the voucher. The GHA may grant one or more extensions of the term, but the initial term plus any extensions will not exceed 120 calendar days from the initial date of issuance. If additional extensions are required for *reasonable accommodation and/or extenuating circumstances*, the GHA will follow the guidelines outlined in Section 2.04 below.

The family must make a reasonable effort to locate a unit throughout the initial voucher term and/or any subsequent extensions. If necessary, the family may seek the assistance of the GHA. The GHA is responsible for informing the family of the requirement to maintain a search record after the first 30 days of the search. If the GHA fails to do so, they may not deny the extension of the voucher on the basis that the family did not make a reasonable effort to locate a unit.

### **2.02 Voucher Expirations**

Upon expiration of a Housing Choice Voucher, the GHA must inform the applicant or participant in writing that the voucher has expired. The applicant may reapply if the GHA waiting list is open or at the point it is reopened by the GHA.

If a voucher has expired, has not been extended by the GHA or expires after an extension, the family will be denied assistance. As allowed by program regulations, a decision by the GHA **not**

to extend a voucher is not subject to an informal hearing.

### **2.03 Suspensions**

The Geneva Housing Authority will **not** suspend or allow tolling of the time that an applicant spends locating a unit.

### **2.04 Extensions**

#### **2.04.01 Reasonable Accommodation Extensions:**

If a family needs and requests an extension (beyond the term noted in section 2.01 above) as a reasonable accommodation to make the program accessible to and usable by a family member with a disability, the GHA will evaluate and consider granting the extension as a reasonable accommodation.

#### **2.04.02 Extensions Due to Extenuating Circumstances:**

Prior to granting any of the following voucher extensions, the GHA must obtain documentation to substantiate the basis for approval of the extension.

- (1) The GHA must grant a 30 day extension of the voucher, beyond the term noted in Section 2.01 above, if extenuating circumstances such as hospitalization or a family emergency for an extended period of time affected the family's ability to find a unit. A written request for such extension must be submitted within 30 days of the expiration of the voucher.
- (2) A 30 day extension of the voucher must also be granted under the following circumstances:
  - (a) A family member submits a "Request for Tenancy Approval" prior to the expiration of the voucher. After the submission of the Request for Tenancy Approval, the landlord/owner rescinds the agreement and the voucher term, as noted in Section 2.01 above, has expired; or
  - (b) After the submission of the Request for Tenancy Approval and the completion of the HQS inspection, the landlord/owner refuses to correct any HQS deficiencies and the voucher term, as noted in section 2.01 above, has expired.

## **2.05 GHA Assistance to Voucher Holders**

Families who require additional assistance during their search may call the GHA office to request assistance. Voucher holders will be notified at their briefing session if the GHA maintains and updates a listing of available units and how the updated list may be obtained.

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

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

## **SECTION 3.0 SPECIAL ADMISSIONS**

### **3.01 Special Purpose Programs**

The GHA Section 8 Housing Choice Voucher (HCV) Program currently operates the following special purpose program:

- Mainstream with Disabilities Program

Pursuant to HUD requirements that special purpose programs be targeted to families with specific characteristics, GHA will use targeted funds solely for their intended purpose(s).

Where applicable, families with targeted characteristics may be selected from the waiting list before non-targeted families who applied before them. In the selection of families with targeted characteristics within the overall group of other families with similar targeted characteristics, families will be selected in the same order of preference as are those families on the regular waiting list. (See also Sections 1.03 and 1.04.)

### **3.02 Disaster Recovery**

See Sections 1.03 and 1.17 for preference for victims of a Federally-declared disaster.

## **SECTION 4.0 OCCUPANCY POLICIES**

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

1. A **participant with or without children**. Such a family is defined as a group of people

related by blood, marriage, adoption or affinity that lives together in a stable family relationship.

- Children temporarily absent from the home due to placement in foster care are considered participant members.
- A first unborn child and children in the process of being adopted are considered participant members for purposes of determining bedroom size, but are not considered participant members for determining income limit.
- In cases where a parent has joint custody where the child/children reside with the parent at least 51% of the time, the GHA must consider such child/children in determining the voucher (unit) size for the participant. The 51% custody arrangement must be verified and documented. If both parents are participants in the Housing Choice Voucher Program (GHA Local program or another PHA), only one of the parents is allowed to claim the child/children as a dependent.

2. An **elderly family**, which is:

- a family whose head, spouse, or sole member is a person who is at least 62 years of age;
- two or more persons who are at least 62 years of age living together; or
- one or more persons who are at least 62 years of age living with one or more live-in aides.

3. A **disabled family**, which is:

- a participant whose head, spouse, or sole member is a person with disabilities;
- two or more persons with disabilities living together; or
- one or more persons with disabilities living with one or more live-in aides.

4. A **displaced family** is a family in which each member or sole member has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

5. A **remaining member of a tenant family** may qualify as a family.

6. A **single person**, who is not an elderly or displaced person, a person with disabilities or the remaining member of a tenant family, may qualify as a family.

#### **4.02 Family Guests**

Participants in the Housing Choice Voucher program are permitted to have a guest or guests in the household.

If the guest resides in the unit for more than a total of 30 days in a calendar year, the guest(s) will be considered unauthorized household member(s). When this occurs, the GHA must enforce GHA and HUD policies addressing this matter.

#### **4.03 Definition of When an Applicant Is Considered to Be Continuously Assisted**

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

### **SECTION 5.0 ENCOURAGING PARTICIPATION IN AREAS OF NON-CONCENTRATION**

**Currently, there are no areas of concentration of low income and/or minority families in the Geneva Housing Authority's jurisdiction.**

**If such areas should develop** within the GHA's jurisdiction, additional efforts will be taken to recruit and retain owners in non-impacted areas.

The GHA will clearly delineate any areas of concentration and neighboring areas outside these areas of concentration. These efforts by GHA will include establishing maps that show various areas, and information about facilities and services in neighboring areas such as schools, transportation, and supportive and social services.

**If necessary**, the GHA will utilize the following measures to increase owner participation in areas outside of minority or poverty concentration:

- 1) making direct contact with landlords
- 2) providing written information promoting the benefits of owner participation in the Section 8 Housing Choice Voucher Program
- 3) providing historical evidence of overall community benefits derived via deconcentration efforts



- 4) holding formal and/or informal discussions and meetings with landlord groups
- 5) meeting with rental referral companies or agencies; and
- 6) meeting with fair housing groups or agencies

## **SECTION 6.0 AFFIRMATIVELY FURTHERING FAIR HOUSING**

In the provision of housing services and programs, the Geneva Housing Authority (GHA) promotes Fair Housing and Equal Opportunity and carries out its responsibilities pursuant to: Presidential Executive Order #11063 requiring equal opportunity in housing; The Fair Housing Act of 1968 – Title VIII; and The Americans with Disabilities Act (ADA).

It is the policy of GHA's Section 8 Housing Choice Voucher (HCV) Program to ensure that participating owners fully comply with all Federal, State, and local nondiscrimination laws and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the grounds of race, religion, color, national origin, sex, familial status, age, disability, military status, or sexual orientation be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the Section 8 Housing Choice Voucher Program.

### **6.01 Assistance to Families Claiming Discrimination**

GHA will provide Federal/State/local information to applicants for and participants in the Section 8 HCV Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application. All applicable Fair Housing Information and Discrimination Complaint Forms will be made available at GHA's Main Office and at the offices of each GHA-owned or managed site. In addition, all appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo.

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

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

## **6.02 Section 8 Housing Choice Voucher Programs**

In addition to the Housing Choice voucher Program, GHA administers the following program:

- Family Self-Sufficiency (FSS) Program

The purpose of FSS is to create an opportunity for families receiving Section 8 rental assistance to improve and develop their ability to increase employment opportunities and enhance life skills needed to become self-reliant. All families who are currently receiving assistance from GHA's Section 8 HCV program are eligible for voluntary participation in FSS.

As FSS families complete their requirements and graduate from the Housing Choice Voucher program, additional openings are made available for other low income families to qualify.

## **6.03 Fair Housing Policies**

The GHA implements numerous initiatives to further the purposes of the Fair Housing act. Strategies to promote fair housing rights and choice include mobility counseling and ongoing tenant, staff and owner education.

All Housing Choice Voucher programs are marketed to all eligible families including persons with disabilities and those with limited English proficiency.

GHA complies with all fair housing requirements of 24 CFR Section 903.7(o) and takes the following steps in addressing fair housing issues for persons with disabilities:

- a) The agency does not deny participants who qualify for a voucher under its Mainstream Program the opportunity to apply for other subsidized housing programs;
- b) The agency does not restrict access to other housing programs to eligible disabled applicants who decline to participate in the Mainstream Program.

GHA assures that people with disabilities have access to other housing assistance programs that are not limited to disabled families. The HCV program is promoted by conducting outreach to independent living centers, veterans' services offices, and other agencies that service disabled families.

GHA will extend housing search time for people with disabilities when necessary and provide for exceptions to HCV payment standards and utility allowances as needed, including advising disabled families of the availability of these exceptions and the criteria used to evaluate and implement them. The agency advises owners and participants that higher rents will be approved for making structural modifications that result in making units more accessible for persons with disabilities. GHA will approve larger bedroom size payment standards to accommodate disabled

families who need additional space for medical equipment or live-in aides.

GHA makes accommodations for disabled and non-English speaking individuals, such as providing home visits and having translators present. Accessibility for the hearing impaired is provided upon request. Specific steps taken to promote fair housing include advertising in local media outlets with waiting list openings.

Where requested, the GHA will:

- Assist program applicants and participants in gaining access to local supportive services;
- Provide housing search assistance in accordance with Rent Reasonableness requirements; and
- Approve higher rents to owners that provide accessible units with structural modifications for persons with disabilities.

GHA accepts mailed applications from individuals who are unable to come to the management office because of a disability and, if available, provides applicants with disabilities a listing of accessible apartments and reasonable accommodations that remove barriers to HCV participation.

GHA's policy on Housing Choice Vouchers terms, as outlined in Section 2.01 of the Administrative Plan, allows each applicant adequate time for successful housing searches, and provides for extensions in response to requests for reasonable accommodation. Requests for approval of exception payment standards are granted in a timely fashion, as appropriate. Geographic choice is fostered through the Housing Choice Voucher portability provisions.

GHA uses software that tracks participant information such as race, ethnicity, familial status, and disability status in order to insure compliance with Fair Housing regulations.

GHA's applicant briefing package includes information on the fair housing rights of HCV participants and where a discrimination complaint may be filed, including the office address, telephone number, and TTY number of the local fair housing agency, or HUD's Office of Fair Housing and Equal Opportunity. The briefing material also includes the toll free number for the HUD Housing Discrimination Hotline, (800) 669-9777, which may also be accessed via TTY by calling the Federal Relay Service (FedRelay) at (800) 877-8339. Fair Housing Information and Discrimination Complaint forms are available at the GHA main office.

## **SECTION 7.0 PROVIDING PARTICIPANT INFORMATION TO PROSPECTIVE OWNERS**

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

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

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

## **SECTION 8.0 DISAPPROVAL OF OWNER**

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

- 1) The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract;
- 2) The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- 3) The owner has engaged in drug-related criminal activity or any violent criminal activity;
- 4) The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;
- 5) The owner has a history or practice of renting units that fail State or local codes;
- 6) The owner has not paid State or local real estate taxes, fines, or assessments;
- 7) The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the premises by tenants, GHA employees or owner employees, or neighboring residents;

- 8) The owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family; unless the GHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against GHA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to GHA approval of a new tenancy with continued tenant-based assistance in the same unit.

An example of this exception is: A current participant who is residing in a unit that is subsequently purchased by a relative may continue to receive assistance so long as they remain in the same unit within the property purchased by the relative.

Note: A family who resides in a unit owned by a relative, and who is subsequently selected from the waiting list and issued a voucher, cannot remain in that unit unless a household member is a person with disabilities who requires this unit as a reasonable accommodation.

- 9) There exist other conflicts of interest under Federal, State, or local law.

## **SECTION 9.0 GROUNDS FOR TERMINATING ASSISTANCE**

### **9.01 Terminating for Alcohol Abuse or Criminal Drug Activity**

Members of a participant's household must not abuse drugs or alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and/or persons residing in the immediate vicinity of the premises.

Pursuant to the procedures outlined in Section 14.0, "Informal Hearing Procedures for Participants," the GHA may terminate assistance if either of the following occurs

:

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

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

The GHA will waive the decision to terminate assistance if:

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

### **9.02 Other Reasons for Terminating Assistance**

Pursuant to the procedures outlined in Section 14.0, “Informal Hearing Procedures for Participants,” the GHA will terminate assistance to participants who:

1. were admitted to the program after June 25, 2001 and the participant or any household member is subject to a lifetime sex offender registration requirement;
2. have a family member who has been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
3. have a history of criminal activity by any household member involving crimes of physical violence against persons or property, or any other criminal activity, including drug-related criminal activity, that would adversely affect the health, safety or well being of other participants or staff, or cause damage to the property;
4. have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived therefrom;
5. have a family member who is involved in drug-related criminal activity including but not limited to the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell or distribute a controlled substance as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802;
6. have a family member who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The GHA will waive this requirement if:
  - the person demonstrates to the GHA’s satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
  - the person has successfully completed a supervised drug or alcohol rehabilitation program;

- the person has otherwise been rehabilitated successfully; or
  - the person is participating in a supervised drug or alcohol rehabilitation program.
7. have engaged in or threatened abusive or violent behavior towards any GHA staff member.

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

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

## **SECTION 10.0 SUBSIDY STANDARDS**

### **10.01 Determination of Family Unit (Voucher) Size**

The GHA will issue a voucher for a specific bedroom size, taking into consideration the family size and family composition, in determining the family's level of assistance. The subsidy standard provides for the smallest number of bedrooms needed without overcrowding and must be applied consistently for all families of like size and composition. The following guidelines will be used to determine each family's unit size:

#### ***Zero Bedroom:***

-1 adult

#### ***One Bedroom:***

-1 adult

-2 adults (spouse or cohabitants)

***Two Bedroom:***

- 1 adult, 1 child
- 1 adult, 2 children (same sex)
- 1 adult, 2 children (opposite sex, **both** 5 years or younger)
  
- 2 adults (spouses or cohabitants), 1 additional adult
  
- 2 adults (spouses or cohabitants), 1 child
  
- 2 adults (spouses or cohabitants), 2 children (same sex)
  
- 2 adults, 2 children (opposite sex, **both** 5 years or younger)
- 2 adults (spouses or cohabitants), 2 adults (spouses or cohabitants)

***Three Bedroom:***

- 1 adult, 2 children (opposite sex)
- 3 adults (not spouses or cohabitants)
- 1 adult, 2 children (same sex), 1 child (either sex)
- 2 adults (not spouses or cohabitants), 2 children (same sex)
- 2 adults (not spouses or cohabitants), 2 children (opposite sex, **both** 5 years or younger)
  
- 2 adults (spouses or cohabitants), 2 adults (not spouses or cohabitants)
  
- 2 adults (spouses or cohabitants), 2 children (same sex), 1 child (either sex)
  
- 2 adults (spouses or cohabitants), 2 children (same sex) 2 children (same sex)
  
- 2 adults (spouses or cohabitants), 4 children (all same sex)
  
- 2 adults (spouses or cohabitants), 4 children (opposite sex, **all** 5 years or younger)

***Four Bedroom:***

- 4 adults (not spouses or cohabitants)
- 2 adults (not spouses or cohabitants), 2 children (opposite sex)
- 1 adult, 2 children (same sex), 2 children (opposite sex)
- 3 adults (not spouses or cohabitants), 2 children (same sex)
- 1 adult, 2 children (same sex), 2 children (same sex), 1 child (either sex)
- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (opposite sex, 5 years or younger)



- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (same sex), 1 child (either sex)
- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (same sex), 1 adult
- 2 adults (spouses or cohabitants), 2 children (same sex), 2 children (same sex), 2 children (same sex)
- 2 adults (spouses or cohabitants), 2 children (opposite sex, 5 years or younger), 2 children (opposite sex, 5 years or younger), 2 children (opposite sex, 5 years or younger)
- 2 adults (spouses or cohabitants), 6 children (opposite sex, **all** 5 years or younger)

The GHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The GHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines. For subsidy standards, an adult is a person 18 years old or older.

All standards in this section relate to the number of bedrooms on the voucher, not the family's actual living arrangements.

The unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

Generally, the GHA assigns one bedroom to two people within the following guidelines:

- Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom.

For subsidy standard purposes different generations are defined as “*family members from different eras (i.e., grandparents/parents, parents/children, etc)*”

- Separate bedrooms should be allocated for adult siblings of the same sex.
- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship and children under five years old).
- Foster children will be included in determining unit size only if they will be in the unit for more than one month.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

Space may be provided for a child who is away at school but who lives with the family during school recesses.

Space will not be provided for a family member, other than a spouse, who will be absent most of

the time, such as a member who is away in the military.

Adults of different generations will have separate bedrooms.

A single pregnant woman with no other family members must be treated as a two-person family for purposes of determining voucher size..

These standards are based on the assumption that each bedroom will accommodate no more than two persons. In determining bedroom size, the GHA will include the presence of the first child to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, and children who are temporarily away at school or temporarily in foster-care.

The GHA may grant exceptions to normal occupancy standards in accordance with the provisions in Section 10.02.

The family unit size will be determined by the GHA in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be larger or smaller than the family unit size. If the family selects a smaller unit, the payment standard for the smaller size will be used to calculate the subsidy. If the family selects a larger size, the payment standard for the family unit size will determine the maximum subsidy.

### **10.02 Exceptions to Subsidy Standards**

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

The GHA will grant an exception upon request as an accommodation for persons with disabilities.

Circumstances may dictate a larger size than subsidy standards permit when persons cannot share a bedroom because of a need such as a verified medical or health reason or elderly persons or persons with disabilities who may require a live-in attendant.

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

The family may request a larger voucher than indicated by the GHA's subsidy standards. Such request must be made in writing within 30 days of the GHA's determination of voucher size. The request must explain the need or justification for a larger voucher. Documentation verifying the need or justification will be required as appropriate.

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

additions of adult offspring or other adult family members (except by marriage). Requests based on health-related reasons must be verified by a licensed medical professional.

#### **10.04 Errors in Subsidy Standards**

If the GHA commits an error in the bedroom size designation, the family will be issued a voucher of the appropriate size.

#### **10.05 Changes for Applicants**

The voucher size is determined prior to the family's briefing by comparing the family composition to the established GHA subsidy standards. If an applicant requires a change in voucher size, based upon established GHA subsidy standards, the guidelines in Section 10.01 will apply.

#### **10.06 Changes for Participants**

Upon initial lease-up for any unit, the GHA must certify the family and give its approval of the persons who are permitted to reside in the unit as family members. Family members eligible for addition to the household subsequent to the initial lease-up fall into two categories as follows.

*Category 1:*

*Persons added to the participant family by birth or adoption (including minor children previously born to or adopted by the program participant, but not residing in the household at the time of initial lease-up) or by court-awarded custody may be added to the household as a matter of right. The family is required to notify the GHA within 30 days of the addition of such person(s) to the household.*

*Category 2:*

*Persons other than those in category 1, including adult children of the participant, may not be added to the participant household without prior written notification to the owner and the GHA. The guidelines in Sections 10.01 and 10.03 will apply to additions to the household in both categories 1 and 2.*

#### **10.07 Underhoused and Overhoused Families**

If a unit does not meet Housing Quality Standards (HQS) space standards due to an increase in

family size (unit too small), the GHA will issue a new voucher of the appropriate size.

The GHA will also notify the family of the circumstances under which an exception will be granted, such as:

- if a family with a disability is underhoused in an accessible unit;
- if a family requires the additional bedroom because of a health problem, which has been verified by the GHA; or
- the GHA and family have been unable to locate a unit within 180 days.

### **10.08 Ineligible Housing**

The following types of housing are not assisted under the GHA Section 8 Housing Choice Voucher Program:

- a public housing or Indian housing unit;
- a unit receiving project-based assistance under a Section 8 program;
- nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services;
- college or other school dormitories;
- units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- a unit occupied by its owner (this restriction does not apply to cooperatives or to assistance on behalf of a manufactured home owner leasing a manufactured home space);  
or
- a unit receiving any duplicative Federal, State, or local housing subsidy (this does not prohibit renting a unit that has a reduced rent because of a tax credit).

The GHA will not approve a lease for any of the following special housing types, except as a reasonable accommodation for a family with disabilities:

- congregate housing;

- group homes;
- shared housing;
- assisted living facilities; or
- single room occupancy housing.

## **SECTION 11.0 FAMILY ABSENCE FROM THE DWELLING UNIT**

The family must supply any information or certification requested by the GHA to verify that the family is living in the unit or, if the family is absent from the unit, it must provide any GHA requested information or certification on the purposes of family absences.

The family must cooperate with the GHA for this purpose. The family must promptly notify the GHA of its absence from the unit.

Absence means that no member of the family has resided in the unit for 30 or more days. The family must request permission in writing from the GHA for absences that will exceed 30 days. The GHA will make a determination in writing within five business days of the request. An authorized absence may not exceed 180 days. Any family absent for more than 30 days without authorization will be terminated from the program.

Authorized absences may include, but are not limited to:

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

## **SECTION 12.0 DETERMINING ASSISTANCE IF A FAMILY BREAKS UP**

In those instances where a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation or the division of the family; the new families cannot agree as to which new family unit should continue to receive the assistance; and

there is no determination by a court, the GHA will consider the following factors to determine which of the families will continue to be assisted:

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

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

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

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

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

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

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

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

## **SECTION 13.0 INFORMAL REVIEW PROCEDURES FOR APPLICANTS**

### **13.01 Preference Denials**

If the GHA denies a preference to an applicant, the applicant will be notified in writing of the specific reason for the denial and will be offered the opportunity for an informal **meeting** (not an informal review) with GHA staff to discuss the reasons for the denial.

The person who conducts the meeting will be an employee of the GHA who is at or above the level of the employee but not the employee who made the decision.

### **13.02 Informal Review Procedures for Applicants**

The GHA will give an applicant for participation in the Section 8 Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the decision and will state that the applicant may request an informal review within ten business days of the denial and will describe how to obtain the informal review. An applicant should be given an opportunity to submit a written request to reschedule an informal review. The applicant will be granted only one opportunity to reschedule an informal review. The informal review must be conducted within 30 days from the date of the notice.

### **13.03 When an Informal Review is Not Required**

The GHA will not provide the applicant an opportunity for an informal review for any of the following reasons:

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

### **13.04 Informal Review Process**

The GHA will give an applicant an opportunity for an informal review of the GHA's decision denying assistance to the applicant.

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

When the GHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

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

When denying admission for criminal activity as shown by a criminal record, the GHA will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The GHA will provide applicants with the opportunity for an informal review of decisions denying:

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

### **13.05 Procedure for Review**

A request for an informal review must be received in writing by the close of the business day, no later than ten business days from the date of the GHA's notification of denial of assistance. The informal review will be scheduled within five business days from the date the request is received. The informal review must be conducted within 30 days from the date of the notice of denial.

The informal review may not be conducted by the person who made or approved the decision



under review, nor a subordinate of such person.

The review may be conducted by any of the following:

- a staff person who is at the Casework Supervisor level or above;
- the Program Director or Executive Director (if not the same person who made the initial decision to deny assistance); or
- an individual from outside the GHA.

The applicant will be given the option of presenting oral or written objections to the decision. Both the GHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist the family at its own expense. The review may be conducted by mail and/or telephone if acceptable to both parties.

A notice of the review findings will be provided in writing to the applicant within fourteen days after the review. It will include the decision of the review officer and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the applicant's file.

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

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

Examples of mitigating circumstances are:

- A person with a cognitive disorder may not have understood the requirement to report increases in income.
- A person may not understand the need to make regular repayments on a promissory note.
- Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

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

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

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual searches do not verify the claim, the GHA will notify the applicant within ten days of his/her right to appeal to the USCIS within thirty days or to request an informal hearing with the GHA, either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, it must give the GHA a copy of the appeal and proof of mailing or the GHA may proceed to deny assistance. The time period to request an appeal may be extended by the GHA for good cause.

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

Assistance to an applicant will not be delayed or denied on the basis of immigration status if:

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

Assistance to an applicant will be denied if:

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

individual family member.

### **13.09 Informal Review Regarding Citizenship Status with GHA**

The request for a GHA review must be made within 14 days of receipt of the notice offering the review; if an appeal was made to the USCIS, within fourteen days of receipt of that notice. The applicant will be notified that assistance will not be denied until the USCIS appeal process concludes but that assistance may be denied pending the GHA informal hearing.

After receipt of a request for an informal review, the hearing is conducted as previously described in this section. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, the GHA will deny assistance to the applicant.

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

## **SECTION 14.0 INFORMAL HEARING PROCEDURES FOR PARTICIPANTS**

### **14.01 Consideration of Circumstances**

In deciding whether to terminate assistance because of action or inaction by members of the family, the GHA may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The GHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure to act will not reside in the unit. The GHA may permit the other members of a participant family to continue receiving assistance.

If the GHA seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the GHA determines and notifies the participant of the decision to deny or terminate assistance. In determining whether to terminate assistance for these reasons the GHA will consider evidence of whether the household member:

- has successfully completed a supervised drug or alcohol rehabilitation program (as

applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

- has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
- is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

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

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

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

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

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

The GHA will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

- 1) discretionary administrative determinations by the GHA;

- 2) general policy issues or class grievances;
- 3) establishment of the GHA schedule of utility allowances;
- 4) GHA determination not to approve an extension or suspension of a certificate or voucher term;
- 5) GHA determination not to approve a unit or lease;
- 6) GHA determination that an assisted unit is not in compliance with HQS. (However, the GHA will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family);
- 7) GHA determination that the unit is not in accordance with HQS because of the family size; or
- 8) a determination by the GHA to exercise or not exercise any right or remedy against the owner under a HAP contract.

#### **14.04 Notice to the Family**

In the cases described in Section 14.02 entitled “When a Hearing is Required,” the GHA will notify the family that the family may ask for an explanation of the basis of the GHA’s determination, and that, if the family does not agree with the determination, the family may request an informal hearing on the decision.

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

The participant should be given the opportunity to submit a written request to reschedule an informal hearing. The participant will be granted only one opportunity to reschedule an informal hearing.

#### **14.05 Hearing Procedures**

The GHA hearing procedures will be provided to families in the briefing packet.

The GHA and participants will adhere to the following policies and procedures:

## **1. Discovery**

- a. The family will be given the opportunity to examine before the hearing any GHA documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the GHA does not make the document(s) available for examination on request of the family, the GHA may not rely on the document at the hearing.
- b. The GHA will be given the opportunity to examine, at the GHA's offices before the hearing, any family documents that are directly relevant to the hearing. The GHA will be allowed to copy any such document at the GHA's expense. If the family does not make the document(s) available for examination on request of the GHA, the family may not rely on the document(s) at the hearing.

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

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

## **3. Hearing Officer**

The hearing will be conducted by any qualified person or persons designated by the GHA, other than a person who made or approved the decision under review or a subordinate of this person;

The person who conducts the hearing will regulate the conduct of the hearing in accordance with GHA hearing procedures.

## **4. Evidence**

The GHA and the family must have the opportunity to present evidence and to question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

## **5. Issuance of Decision**

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

#### **14.06 Effect of the Decision**

The GHA is not bound by a hearing decision:

- concerning a matter for which the GHA is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under GHA hearing procedures; or
- contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local law.

If the GHA determines that it is not bound by a hearing decision, the GHA will notify the family within 14 calendar days of the determination and of the reasons for the determination.

#### **14.07 Mitigating Circumstances for Participants with Disabilities**

When the GHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal hearing process.

Examples of mitigating circumstances are:

- a person with a cognitive disorder may not have understood the requirement to report increases in income;
- a person may not understand the need to make regular repayments on a promissory note; or
- minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

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

Assistance to a participant will not be terminated:

- 1) on the basis of immigration status if the participant, within all requirements and/or dates specified by Section 5.508 of program regulations, takes all necessary steps to provide required documentation;
- 2) if the GHA has not completed primary and secondary verification of immigration documents submitted by the participant in a timely manner;

- 3) if the USCIS appeals process under Section 5.514 has not been completed;
- 4) if the ineligible family member has left the household;
- 5) if assistance to the participant will be prorated;
- 6) if assistance for a mixed family is continued in accordance with Sections 5.514 and 5.518 of program regulations;
- 7) if the GHA has deferred termination of assistance in accordance with Sections 5.516 and 5.518 of program regulations.

Assistance to a participant will be terminated if:

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

#### **14.09 USCIS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual search do not verify the claim, the GHA will notify the participant within ten days of his/her right to appeal to the USCIS within 30 days or to request an informal hearing with the GHA, either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, it must give the GHA a copy of the appeal and proof of mailing or the GHA may proceed to deny assistance. The time period to request an appeal may be extended by the GHA for good cause.

#### **14.10 Informal GHA Hearing**

The request for a GHA hearing must be made within 14 days of receipt of the notice offering opportunity for the hearing or, if an appeal was made to the USCIS, within 14 days of receipt of



that notice. The participant will be notified that assistance will not be terminated until the USCIS appeal process concludes.

After receipt of a request for an informal hearing, the hearing is conducted as previously described in this section. If the hearing officer decides that the individual is not eligible and there are no other eligible family members, the GHA will:

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

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

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

## **SECTION 15.0 COMPLAINTS**

The GHA will investigate and respond to complaints by participant families, owners, employees, and the general public. All complaints will be documented. The GHA may require that complaints other than HQS violations be put in writing.

Anonymous complaints are investigated when the person making the complaint indicates **in writing** the details of the specific allegations.

### **Categories of Complaints**

- **Complaints from families:** If a participant family disagrees with an action or inaction by a representative of the GHA or owner, complaints will be referred to the supervisor of the GHA representative. If a complaint is not resolved, the GHA may refer the family to the HUD Field Office for resolution. The GHA will inform HUD (preferably via e-mail transmission) prior to referring applicants or participants to HUD.

- **Complaints from owners:** If an owner disagrees with an action or inaction of a family, the complaint will be referred to the appropriate GHA Human Services Worker. If an owner disagrees with an action or inaction of the GHA, complaints from owners will be referred to the GHA Occupancy Administrator, or the GHA Chief Executive Officer as necessary.
- **Complaints from staff:** If a GHA staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to the Occupancy Department for resolution.
- **Complaints from the General Public:** Complaints or referrals from persons in the community in regard to the GHA, a family, or an owner will first be referred to the Occupancy Department. If a complaint is not resolved, it may be referred to the GHA Occupancy Administrator, or the GHA Chief Executive Officer or HUD, as necessary, for investigation and ultimate resolution.

## **SECTION 16.0 PAYMENT STANDARDS**

### **16.01 Setting the Payment Standard**

Payment standards are established within the allowed “basic range” [90 percent and 110 percent of the applicable HUD published Fair Market Rent (FMR)].

GHA may, within the HUD-allowed basic range, approve a higher payment standard for a designated part of the GHA’s jurisdiction if it is needed to expand housing opportunities outside areas of minority or poverty concentration.

GHA may also approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

### **16.02 Revising the Payment Standard**

GHA will review payment standard levels annually, concurrent with publication of Fair Market Rents. The GHA may also consider payment standard adjustments at times other than the annual review when circumstances warrant.

Adequacy/appropriateness of existing payment standard levels will consider:

- 1) the percentage of annual income families pay for rent under the voucher program (rent burdens);
- 2) program utilization rates;

- 3) rents for units currently leased;
- 4) size and quality of units leased under the program;
- 5) rental vacancy rates and rents in the market area; and
- 6) success rates of voucher holders in finding units.

If it is determined that existing payment standard levels present an obstacle to achieving favorable success and/or utilization rates, reasonable rent burdens or that families are generally renting low quality units, GHA may, within the basic range, raise the payment standard to a higher level. GHA will be responsible for initiating this process by conducting analyses that document the nature of the problem and recommending specific payment standard levels that will alleviate these hardships.

GHA may also reduce a payment standard for a specific bedroom size or all bedroom sizes if analysis shows that a significant percentage of leased units of moderate to high quality have rents that are substantially below the payment standard level.

Before increasing any payment standard, GHA will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

### **16.03 Reasonable Accommodation**

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

The tenant must submit a request for reasonable accommodation to the GHA. The request must include the name and contact information for a medical professional who can verify that the nature of the disability requires reasonable accommodation through the use of a higher rent/payment standard.

Payment standards of 111% to 120% for disabled participants require HUD's approval. A request must be submitted to HUD outlining the justification for the request, and must include documentation verifying that the approved gross rent is reasonable, as well as documentation of the need for the reasonable accommodation.

## **SECTION 17.0 OWNER RENTS AND RENT REASONABLENESS**

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

The allowable rent to owner is limited primarily by rent reasonableness. However, if the proposed gross rent for a unit is above the payment standard, the impact this will have on a family's maximum allowed rent burden also becomes a factor. At the time a family initially receives Housing Choice Voucher (HCV) assistance, whether a new admission or a move to a different unit, the family share may not exceed 40 percent of the family's monthly adjusted income when the gross rent for the unit exceeds the applicable payment standard for the family.

All owners will be advised that by accepting each monthly housing assistance payment they are certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the same premises. If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere.

### **17.02 Rent Reasonableness Determinations**

The GHA will not approve an initial rent or a rent increase in the HCV program without determining that the rent amount is reasonable with respect to rents for comparable unassisted units in the market area.

Reasonableness is determined prior to the initial lease and at the following times:

- before an increase in rent to owner is approved;
- if 60 days before the contract anniversary date, there is a 5 percent decrease in the published Fair Market Rent (FMR) as compared to the previous FMR; and
- if HUD directs that reasonableness be redetermined.

As part of the software used for the Section 8 Housing Choice Voucher Program, GHA utilizes an automated database for analyzing and determining rent reasonableness on an individual unit basis. Data for unassisted units has been gathered from contacts via newspaper classified listings, realtors, professional associations, direct inquiries of owners, market surveys, local tax assessors, waiting list queries and other available sources. In order to ensure uniformity and consistency, the rent reasonableness system establishes standard criteria for all units entered in the database. Unit rents within any/all defined housing market areas are individually identified and segregated and are compared to similar units within the same market area.

The following criteria are included in the system database:

- size (number of Bedrooms);
- location;

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

### **17.03 Rent Reasonableness Methodology**

The GHA rent reasonableness system is based on unit comparison per the criteria listed above. The system uses a non-weighted total point count determined by summing the responses to questions about each criterion.

Based on the number of points derived for each unit, the automated rent reasonableness system then displays three comparable units and their associated rent amounts, along with a percentage indicating how closely each comparable unit matches the features of the unit to be assisted, based on the criteria listed in 17.02.

GHA currently requires a minimum of three comparable units in order for the unit to pass the rent reasonableness test.

Information on unassisted units only is maintained in the automated database and is updated or purged when that data is more than 12 months old.

## **SECTION 18.0 SPECIAL HOUSING TYPES**

The GHA Housing Choice Voucher (HCV) Program will only approve one of the following special housing types when it is necessary to provide a reasonable accommodation for a family with disabilities:

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

The Section 8 HCV Program will approve other HUD-permitted housing types including:

- Single family dwellings;

- Apartments;
- Manufactured housing; and
- Manufactured home space rentals.

## **SECTION 19.0 PARTICIPANT PAYMENTS FOR AMOUNTS OWED THE PHA**

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

In such cases the GHA is responsible for making every effort to recoup any overpayment of HAP, and may only proceed to termination of assistance after considering the seriousness of the case, such as:

- Whether or not there was a prior similar violation,
- The participant used false names or Social Security numbers, or
- Falsified, forged or altered documents.

The GHA may also consider the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or inaction (*see Section 14.01 of this Administrative Plan*). The analysis of all these factors must be documented in writing before proceeding to termination for any first time offender.

Participant obligations of this nature may be satisfied by either paying the full amount due immediately upon request of the GHA or through a repayment agreement approved by the GHA.

The length of a repayment agreement, as determined by the GHA, cannot exceed 36 months. The GHA will carefully evaluate each case to determine the terms of the agreement and to assure repayment of the debt within the prescribed time. If the participant is not current on a repayment agreement, the family will not be issued a voucher to move to a new unit. If the family has a repayment agreement in place and incurs an additional debt to the GHA, the additional debt must be paid in full within 30 days.

An applicant owing money may apply to the program and remain on the waiting list until his/her time of selection. If it is determined, based on information in HUD's Enterprise Income Verification (EIV) System, that an applicant still owes money to a PHA or a Section 8 landlord

when he/she/ is contacted for selection, assistance may be denied subject to resolution of the reported outstanding debt. Refer to HUD's January 28, 2010 EIV Training Webcast: *Refinement of Income and Rent Rule*, and Form HUD-52675 (Debts Owed to Public Housing Agencies and Terminations) for detailed guidance. The applicant's name will remain on the waiting list in accordance with the aforementioned guidelines.

### **19.01 Repayment Agreements – General**

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

The repayment agreement must contain the following provisions:

1. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income, or;
2. A change in income cycle (i.e.; weekly to bi-weekly or bi-monthly, and vice versa);
3. The monthly repayment amount is in addition to the family's regular rent contribution.

GHA will **not** enter into repayment agreements under the following circumstances:

- the participant already has an agreement in force;
- the GHA determines that the family has committed additional program fraud during the term of the repayment agreement.

There is no maximum dollar amount for considering whether or not the GHA will enter into a repayment agreement.

Although the GHA may enter into a repayment agreement of up to 36 months, the maximum term should not be automatically granted. Each family should be evaluated on a case-by-case basis. The term of the agreement may range from one (1) to thirty-six (36) months depending on the family's income and the amount owed. Repayment options include lump sum payments, monthly installments, or a combination of both.

If a participant refuses to enter into a repayment agreement or defaults on an existing agreement, the participant must be terminated from the program and collection/enforcement actions should be pursued.

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

PHAs are required by HUD to report fraud recovery in HUD's Voucher Management System reports. A PHA is allowed to keep 50% of the recovered funds resulting from fraud repayments.

It is the GHA's responsibility to distinguish between what is an error of omission and what is fraud. HUD guidance has indicated that fraud can best be categorized as intentional deception for the purpose of receiving funds that the recipient is not entitled to. This could include, but is not limited to:

- intentional misrepresentation of income, assets and allowances;
- intentional misrepresentation of family composition;
- initiation or participation in bribery;
- falsification, forging or alteration of document(s);
- falsification of name(s) or Social Security number(s); or
- repeated misreporting of material information.

In order to establish fraud, GHA is responsible for ensuring that the tenant file contains documentation indicating that they were made aware of program requirements and prohibitions, and that they intentionally misstated or withheld material information.

GHA is responsible for determining, on a case-by-case basis, what is intentional misreporting. GHA is entitled to 50% of the full recovery amount only for cases of documented fraud. If a family disputes that fraud was committed, GHA must conduct an informal hearing.

Once an act of fraud has been determined, the GHA will initiate a Repayment Agreement with the family and set up a monthly repayment schedule following **the guidelines in Section 19.0 and 19.01 of this Plan.**

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

GHA is responsible for recouping all overpayment of HAP following the guidelines contained in



Section 19 of this Administrative Plan.

### **19.03 Late Payments**

A payment under a participant repayment agreement will be considered in arrears if payment has not been received by the GHA within 5 business days of the due date.

Payment is due by the close of business on the due date. If the due date is on a weekend or holiday, the due date will be at the close of the next business day. If a participant's repayment agreement is in arrears and the participant has not contacted or made arrangements with the GHA, the GHA will require the participant to pay the balance in full within 30 days. If the participant subsequently fails to pay the full amount due within the 30 days, the participant will be terminated from the program.

If a family requests a move to another unit, and has an existing repayment agreement in place for the payment of an owner claim, the family will not be permitted to move with continued HCV assistance until the family pays the balance in full.

If a family who has an outstanding balance on an existing repayment agreement requests to port to another jurisdiction, the outstanding balance must be paid in full before the family will be permitted to port.

## **SECTION 20.0 MINIMUM RENTS**

GHA has a minimum rent policy of \$50 for all participants in the Section 8 HCV Program. Adjustments to rent shares for affected families are to be implemented immediately at the next annual review or interim recertification, whichever comes first.

## **SECTION 21.0 UTILIZING THE ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM**

Use of EIV is mandatory. The GHA will use the EIV system to identify potential discrepancies in income reporting by participants during the annual and interim reexamination processes. In order to identify any discrepancies, the GHA will use EIV wage/benefit data in conjunction with third party income verification documents received during the annual and interim recertification processes. If there are discrepancies in the amount of income, or if the income is outdated, the GHA will use the most accurate and reliable source of income verification.

The data contained and provided by the EIV system will be protected by the GHA and will only

be used for official program purposes. Data will not be disclosed to anyone in any manner that would violate the privacy of the individuals represented.

The GHA will adhere to EIV security awareness measures to ensure that only authorized system users may access the EIV system in order to maintain overall privacy and security compliance.

The GHA will use the EIV system to verify household income on such sources as Social Security, Social Security Disability, SSI, wages and unemployment compensation for each family member. The GHA will use the EIV system to compare the income source and amount recorded in the participant-supplied income data and form, HUD 50058 which is maintained in the Public Housing Information Center (PIC) database.

### **21.01 Demonstrating Compliance with Mandatory Use of EIV**

In accordance with 24 CFR §5.233(a)(2)(i), GHA will demonstrate compliance with mandated use of EIV by doing the following:

- A. For each new admission:
  - a) Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date;
  - b) Print and maintain a copy of the EIV Income Report in the tenant file; and
  - c) Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
  
- B. For each historical adjustment (action type 14):
  - a) Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date;
  - b) Print and maintain a copy of the EIV Income Report in the tenant file; and
  - c) Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
  
- C. For each interim reexamination (actiontype 3):
  - a) Maintain in the tenant file, a copy of the ICN Page when there is no household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. (GHA has the discretion to print the EIV Income Report; however, only the ICN page is required.)
  - b) Maintain in the tenant file, a copy of the EIV Income Report when there is an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.

- D. For each annual reexamination where the *tenant does not dispute EIV information, the GHA will:*
  - a) Maintain the EIV Income Report, current acceptable tenant-provided documentation, and *if necessary* (as determined by the GHA) traditional third party verification form(s).
  
- E. For each annual reexamination where the *tenant disputes EIV information, the GHA will:*
  - a) Maintain the EIV Income Report, current acceptable tenant-provided documentation, and/or traditional third party verification form(s)
  
- F. Where the *Tenant-reported income is not verifiable through EIV system, the GHA will:*
  - a) Maintain current tenant-provided documents, and *if necessary*, traditional third party verification form(s).

**21.01.1 Debts Owed to PHAs & Termination Module**

HUD has established a national data base to serve as a repository for debt and termination information on former program participants. It is now mandatory that each PHA designate at least one staff person whose responsibility it will be to enter information into this Debt Termination Data Base (DTDB).

The designated staff must obtain prior approval from HUD, before the system will allow them to enter information into the DTDB. Prior approval from HUD can only be obtained by submitting an EIV Access Authorization Form to the GHA’s EIV Coordinator, requesting user access role **Program Administrator – Voucher Section 8**.

**21.01.2 Policy Governing DTDB Entries**

The following practice must be adhered to when entering debt/termination information into DTDB:

- 1) Debt/Termination information must not be entered into DTDB until an End of Participation (EOP) action has been entered in PIC for the former participant;
- 2) Debt//Termination information must be entered within 90 days from the EOP date;
- 3) Debt/Termination information will be maintained in DTDB only up to a period of 10 years;
- 4) Families who have never, or no longer, warrant being in the data base must be

removed following HUD guidelines under *Debts Owed to PHAs and termination Information*;

- 5) A tenant record may be modified only 3 times;
- 6) Debts should not be modified as payments are being made; the debt is to be removed only after being paid in full.

### **21.01.3 Screening Families Through EIV's "Former Tenant Search" Module**

Procedures governing use of the EIV "Former Tenant Search" module must include the following:

- 1) Prior to admission, GHA will query each adult household member's SSN to determine if a PHA has reported a debt or adverse termination;
- 2) Former participants who owe debts to a PHA may not be admitted to the program until the debt is paid in full to the PHA that is owed the outstanding amount;
- 3) Adverse Terminations will be denied assistance in accordance with PHA or HUD policy; and
- 4) Families denied assistance due to information in DTDB must be provided with a copy of the Debts Owed & Termination report, and as with other denials, offered an informal review.

### **21.01.4 Mandatory Monitoring of EIV Reports**

GHA will monitor the following EIV reports on a *monthly* basis:

1. Deceased Tenants Report
2. Identity Verification Report
3. Immigration Report

GHA will monitor the following EIV reports on a *quarterly* basis:

1. Income Discrepancy Report
2. Multiple Subsidy Report
3. New Hires Report

## **21.02 Income Discrepancy Resolutions**

When the EIV income data differs from the participant-provided income data by at least \$200.00 per month, this constitutes a "substantial difference."

In cases where the EIV income data is **NOT** substantially different than participant-reported income, the GHA will:

- Use participant documents or third party income verification to calculate anticipated

annual income if the EIV income is less than current participant-provided documentation;  
or

- Use EIV income data unless the participant provides documentation of a change in circumstances when the EIV data is more than the current participant-provided documentation. If acceptable participant documentation is provided to justify a change in circumstances, the participant's documents will be used to calculate income.

In cases where EIV income is substantially different than the participant-reported income, the GHA will:

- Request written third-party verification from the income source in accordance with 24 CFR 5.236(3) (i).
- Review historical income data for patterns of employment, paid benefits, and/or receipt of other income when the GHA cannot readily anticipate income such as in the cases of seasonal employment, unstable working hours and suspected fraud.
- Analyze all data and attempt to resolve the income discrepancy.
- Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

### **21.03 EIV Security Measures**

#### ***21.03.1 Handling of Discrepancy Reports***

The GHA will handle EIV discrepancy reports in the following manner:

- If a participant disagrees with the discrepancy report issued by the EIV system, a meeting will be scheduled by the GHA with the participant to resolve the dispute. All details of the discrepancy report must be documented and the participant will have 15 business days from the date of the meeting to obtain third-party verification of the discrepancy and submit supporting documentation to the GHA. All participant-provided information and submitted documentation should be dated not more than 60 days prior to the initial resolution meeting. Once the information is received from the participant, the GHA will review and make a final decision within ten business days from the date that the information was received from the participant.
- If a situation arises where facts indicate that a participant has not reported or has under-reported income, a repayment agreement will be executed between the participant and the GHA. A revision to the current and future participant's share must also be made. If a

participant refuses to enter into a repayment agreement and/or refuses to pay the newly calculated rent, termination of assistance will occur using the established policies and procedures in accordance with GHA's Administrative Plan.

### ***21.03.2 Records Retention***

During the term of the assisted tenancy and for at least three years thereafter, the GHA must retain the documents in the participants' files. EIV information must be destroyed three years from the End of Participation (EOP) unless there is pending litigation.

### ***21.03.3 Disposal of Applicant and Participant Records***

All EIV documents must be destroyed at the end of the three-year retention period. They should be destroyed in a manner that would not compromise the confidentiality of the applicants and/or participants. The preferred method for destroying documents is by shredding.

### ***21.03.4 EIV Security Monitor***

GHA will designate someone as the agency's "**EIV Security Monitor.**" The agency's EIV security monitor will be responsible for ensuring that the minimal EIV security procedures outlined in this document are adhered to.

The local EIV security monitor will update EIV access rights in HUD's WASS system when:

- a staff member associated with EIV information is no longer employed with the agency, or
- a staff member who previously had access rights to the EIV system no longer has such rights.

As an added security measure, on an annual basis the GHA EIV security officer will review a listing of GHA staff members who have GHA approved access to EIV wage/benefit data and make any necessary updates to access rights.

### ***21.03.5 Storage of EIV Documents***

The GHA will maintain a lockable container, file cabinet, or room to store EIV documents that are:

- outdated and are destined to be destroyed; or

- printed but not yet placed in the participants' files.

Caution will be taken to prevent the combining of each of the above types of documents.

#### ***21.03.6 Key Control Form***

GHA will utilize a **Key Control Form** to document:

- the number of keys issued for the lockable container, file cabinet or room;
- the names of program staff who are in possession of these keys; and
- a change in the number of keys available or a change in the identity of the staff in possession of the key.

#### ***21.03.7 EIV Security Awareness Training***

Staff applicants requesting EIV access must satisfy the required annual EIV Security Awareness Training before they can be approved for EIV access. In order to satisfy this requirement, an applicant must watch the most recent HUD EIV Security Awareness Training Webcast.

#### ***21.0.8 Breach of EIV Security Policy***

Any breach of the EIV security policy should be immediately reported to the designated GHA security officer.

## **SECTION 22.0 RECERTIFICATIONS**

### **22.01 Interim Income Recertifications**

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

Upon receiving any documentation requested from the family, the GHA will process interim recertifications in the following circumstances **only**:

- recertifications requested by a participant which result in a decrease in tenant rent;
- recertifications due to an increase in yearly household income which would result in a monthly increase of \$50 or more in participant rent share; or
- recertifications that are a result of a change in family composition and that result in either an increase or decrease in the tenant rent as described above.

In order to add a household member (other than through birth, adoption or custody award), including a live-in aide, the family must request that the new member be added to the lease. The new household member must first be approved by the landlord. Before adding the new member to the lease, the individual and participant head of household must undergo a recertification and document the income, assets, and all other information normally required of applicants and participants.

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

**NOTE:** Housing assistance will only be delayed if caused by family action or inaction.

The family's revised annual income will be recalculated taking into account the income and circumstances of the new family member.

## **22.02 Effective Date of Changes for Interim Recertifications**

The GHA will give 30 days notice of any rent increase to the family. If notice of an increase in rent is delayed due to a reason beyond the control of the family, the rent increase will be effective the first of the month after the month in which the family receives a 30-day notice of the amount.

If a participant family has caused the delay, the increase will be effective on the date the GHA would have been otherwise able to issue the notice if the family had not caused the delay.

A reduction in participant rent share will be effective the first of the month after the revised family share of rent is determined. The participant is responsible for reporting changes to income and household that will affect the family share of rent within two weeks of the change. The GHA will not make rent share reductions retroactive if the family failed to report a change in a timely manner.



### **22.03 Annual Recertifications**

An annual recertification must be completed for each Section 8 family. The recertification must be completed on or prior to the date of the previous year's recertification.

The information used for reexamination must be current (within 120 days) of the effective date of the recertification. The family should be given a minimum of 90 days, but not more than 120 days, written notice prior to the anniversary date of the recertification.

The GHA will require the participant(s) to visit the Section 8 office for the purpose of conducting the recertification. However, as a reasonable accommodation, the GHA may conduct a home visit for the purpose of completing the annual recertification, if the participant is homebound and/or disabled.

The initial recertification notice will inform the family of the required documents and the deadline (or the date to appear in the Section 8 office for the reexamination) for submitting all required documents and requested information.

If the family fails to respond to the initial/first notice, a second notice will be sent to the family informing them that they have failed to submit the required information for recertification. A second request and a copy of the previously sent notice will be sent to the family.

If the family fails to respond to the second notice a termination notice must be mailed to the family.

### **22.04 Verification Guidance and Public Assistance Income Calculations**

HUD regulations stipulate in 24 CFR Part 5.609 (b) (6) that welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) be included in annual income only to the extent that such payments :

- Qualify as assistance under the TANF program as defined in 45 CFR 260.31; and
- Are not otherwise excluded from income under 24 CFR 5.609 (c).

If the welfare assistance payments include an amount specifically designated for shelter and utilities, the amount of welfare assistance income to be included as income should consist of:

- The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

- The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities; or
- The prorated amount as determined by the Department of Social Services (DSS) for families receiving SSI income.

### **22.05 Zero Income Families**

When a family reports zero income to the GHA, the GHA will conduct an in office interim recertification every 30 days. The purpose of the interim recertification is to verify the family's expenses, and to have the family provide an explanation of how their expenses are being paid. Any regular contributions received by the family from outside sources must be considered as household income. In addition, the family must complete the HUD "*Zero Income Checklist and Worksheet*" Form on a monthly basis, which can be found in the HUD Public Housing Occupancy Guidebook. For further guidance on this topic, see the HUD Public Housing Occupancy Guidebook, published June 2003.

### **22.06 Minimum Rent Hardship Exemption**

The GHA will advise a family who is paying the minimum rent of their right to request an exemption of the minimum rent payment. If the family requests the exemption the GHA will suspend the minimum rent and adjust the HAP payment effective on the first of the month following the change in the family's circumstances. The GHA will request documentation to substantiate the hardship, and must promptly determine if the hardship is temporary or long-term.

If the GHA determines the financial hardship to be temporary (90 days or less), the minimum rent must be suspended for a period of 90 days from the date of the family's request. At the end of the 90-day period, the minimum rent must be reinstated retroactive to the date of suspension. If the amount the family owes as a result of the suspension of the minimum rent exceeds the family's ability to pay in one lump sum, the GHA will offer the family a repayment plan.

Financial hardship includes the following circumstances:

- When a family has lost eligibility for or is awaiting an eligibility determination for a government assistance program;
- When a family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances including loss of employment;
- When a death has occurred in the family; and
- Other circumstances determined by the GHA or HUD.

GHA will conduct an in-office interim recertification every 30 days for a family that is receiving

a minimum rent hardship exemption. The purpose of the interim recertification is to verify the family's expenses, and to have the family provide an explanation of how their monthly expenses are being paid. Any regular contributions received by the family from outside sources must be considered as household income.

In addition, the family must complete the HUD "*Zero Income Checklist and Worksheet*" Form on a monthly basis, which can be found in the HUD Public Housing Occupancy Guidebook. For further guidance on this topic, see the HUD Public Housing Guidebook (published June 2003).

### **SECTION 23.0 RESTRICTIONS ON MOVES BY A PARTICIPANT FAMILY**

During the initial 12 months of assisted occupancy, families who resided in the GHA's jurisdiction prior to admission and wish to move within the same GHA jurisdiction will be allowed to move only under the following conditions:

- the GHA has terminated the Housing Assistant Payment (HAP) contract due to an owner's breach of responsibility (e.g.-failure to correct Housing Quality Standards (HQS) violations); or
- the owner and family have agreed to mutual rescission of the lease;

**NOTE:** This provision may only be utilized once within any 12-month period by a participant and owner.

Families will **not** be permitted to move more than once in a 12-month period unless the GHA approves the move based on a documented reason over which the participant has no control (e.g.-owner's failure to correct HQS violations).

As allowed by program regulations, families will **not** be permitted to move outside the GHA's jurisdiction under portability provisions during the initial 12 months of assisted occupancy.

The GHA may deny permission to move if:

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

Families are required to give proper written 30-day notice of intent to terminate the lease. During the initial term families may not end the lease unless the family and the owner mutually agree to

end the lease and submit in writing to the GHA a statement signed by the owner and tenant that the lease is being mutually terminated and the effective date of the termination. If the family moves from the unit before the initial term of the lease ends without the owner's and the GHA's approval, it will be considered a serious lease violation and may subject the family to termination from the program.

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

## **SECTION 24.0 HOUSING QUALITY STANDARDS (HQS) INSPECTION POLICIES**

Housing Quality Standards (HQS) are minimum standards for tenant-based programs and are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as to the unit. Newly leased units must pass the HQS inspection **before** the beginning date of the assisted lease and Housing Assistance Payments (HAP) contract.

The GHA will inspect each unit under contract at least annually. The GHA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by the Section 8 Management Assessment Program (SEMAP) annually to maintain the GHA's required standards and to assure consistency in the GHA's program. In addition, the GHA will engage a third party HQS inspector for GHA-owned and GHA-managed units in order to avoid the appearance of a conflict of interest.

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

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

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

The GHA will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Program unless HQS is met. Units will be inspected at least annually, and at other times as needed, to determine if units meet HQS.

The GHA must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by mail or by phone. If the owner and/or family can not be at home for the scheduled inspection appointment, the owner or family must make arrangements to enable the GHA to enter the unit and complete the inspection.

If the owner or family misses the scheduled inspection and fails to reschedule the inspection, the GHA will only schedule one more inspection. If the family misses two inspections, the GHA may consider the family to have violated a Family Obligation and may terminate their assistance.

HQS will be the minimum requirement for approving units proposed for Section 8 Housing Choice Voucher (HCV) assistance. Although the GHA is **not** required to enforce standards set forth in the New York State Building/Housing Codes and/or the other building/housing codes in any areas within the GHA's jurisdiction, GHA will cooperate, to the greatest extent possible, with local code enforcement officials to obtain uniformity of inspections.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The GHA will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the HQS inspection. If the utilities are not in service at the time of inspection, the inspector will notify the tenant or owner (whomever is responsible for the utilities according to the Request for Tenancy Approval) to have the utilities turned on. Either the inspector will schedule a reinspection or the owner and tenant will both certify that the utilities are on.

If the tenant is responsible for supplying the stove and/or the refrigerator, the GHA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working. Although not required, the GHA may conduct a reinspection if deemed necessary.

Following are the types of inspections the GHA will perform:

1. **Initial**--an inspection that must take place to insure that the unit passes HQS before assistance can begin; Conducted upon receipt of Request for Tenancy Approval;
2. **Annual**--an inspection to determine that the unit continues to meet HQS; this inspection must be conducted within 12 months of the last annual inspection;
3. **Complaint**--an inspection caused by the authority receiving a complaint regarding the unit by anyone;
4. **Special**--an inspection requested by a third party (i.e. - HUD request);

5. **Emergency**--an inspection that takes place in the event of a perceived emergency; these will take precedence over all other inspections; and
6. **Supervisory**--quality control inspections on units under lease during any specific GHA fiscal year.

#### **24.02 Initial HQS Inspections**

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

The GHA will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

The GHA will periodically review the average time required for a family and owner to have a unit inspected from the time the RTA is submitted by the family and owner to the GHA.

The initial inspection will be conducted to:

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

If the unit fails the initial HQS inspection, the family and owner will be advised to notify the GHA once repairs are completed.

#### **24.03 Annual HQS Inspections**

The GHA will conduct HQS inspections within 12 months of the last annual inspection. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a deficiency for which the tenant is responsible.

The owner and/or family must allow the GHA to inspect the unit at reasonable times and with reasonable notice.

Inspections will be conducted on business days only during normal business hours of the GHA. Weekend inspections may be conducted under extenuating circumstances at the GHA's

discretion. The GHA will provide the family with as much notice as possible when scheduling the inspection.

If the owner or family is unable to be present at the inspection, he/she must reschedule the appointment within five business days.

If the family or their designee misses an inspection appointment and does not contact the GHA to reschedule the inspection, or if the family misses two scheduled inspection appointments, the GHA will consider the family to have violated a family obligation and the family's assistance will be terminated in accordance with the termination procedures in this Plan.

#### **24.04 Verification of HQS Deficiencies**

The GHA may elect to do a reinspection to comply with 23 CFR 982.404 (a) (3) to verify that all HQS deficiencies have been corrected. A reinspection is not necessary if the GHA can obtain verification by other means.

Other than in the case of life threatening deficiencies the GHA may accept an owner's and/or family's written certification that the deficiencies have been corrected.

When the deficiencies are the responsibility of the family, the owner or a representative of the owner must also certify that the deficiencies have been corrected.

When the deficiencies are the responsibility of the owner, the family must also certify that the deficiencies have been corrected.

Verification that repairs were completed may be made at the next on-site inspection.

The GHA will base the verification process on the severity of corrections to be made and/or the GHA's experience with the owner and property.

#### **24.05 Reinspections**

If an on-site reinspection is required and the family and/or owner is not at home for the reinspection appointment, the GHA will leave a notice at the unit verifying the inspector's attempt to conduct the inspection.

The GHA will schedule a reinspection of the unit. A notice of the reinspection will be provided to the owner and the family. The notice may contain a warning that payments will be abated (in the case of owner's responsibility), or a warning of intent to terminate (in the case of family's responsibility).

#### **24.06 Notification of HQS Failures**

When a unit fails HQS inspection, the GHA must notify the owner in writing of the amount of time that will be allowed to correct any items noted as fail. The amount of time allowed will be determined by the GHA based on the time standards described in Section 24.07.

If the time period allowed to correct the repairs has elapsed without corrections being made, and the GHA has not granted an extension of time, the family must select another unit for assistance.

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

**Emergency items** which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See "Emergency Repair Items," Section 24.13.)

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

For **major repairs**, the GHA may approve an extension beyond 30 days.

#### **24.08 Rent Increases**

Rent to owner increases may not be approved if the unit fails inspection.

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

The GHA may, at their discretion, conduct a move-out inspection at the request of the tenant and/or landlord. If possible, both the tenant and landlord should be present for this inspection. A move-out inspection, when performed, is for documentation purposes only. Per HUD regulations, an owner may not make any claim against GHA for damage to the unit caused by the tenant.

#### **24.10 Special/Complaint Inspections**

If at any time the family or owner notifies the GHA that the unit does not meet HQS, the GHA will conduct an inspection.

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

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



### **24.11 Quality Control Inspections**

Quality control inspections will be performed by the GHA on the number of files required by SEMAP. The purpose of quality control inspections is to ascertain that each inspector is conducting accurate and complete inspections and to ensure that there is consistency among inspectors in application of HQS.

The sampling of files will include recently completed inspections (within the prior three months), a cross-section of neighborhoods, and a cross-section of inspectors.

### **24.12 Accessibility Modifications to HQS**

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

### **24.13 Emergency Repair Items**

HQS deficiencies of an emergency nature must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector. Deficiencies of an emergency nature include but are not limited to the following:

- lack of security for the unit;
- waterlogged ceiling in imminent danger of falling;
- major plumbing leaks or flooding;
- natural gas leak or fumes;
- electrical problem which could result in shock or fire;
- no heat when outside temperature is below the Fahrenheit degree level consistent with GHA's local building codes and temperature inside is below the Fahrenheit degree level consistent with GHA's local building codes;
- inoperable smoke detector;
- inoperable carbon monoxide detector;
- utilities not in service;
- no running hot water;
- broken glass where someone could be injured;

- obstacle which prevents tenant's entrance or exit; and
- lack of functioning toilet.

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

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

If the emergency repair items are not corrected in the time period required by the GHA and it is an HQS breach which is a family obligation, the GHA may terminate the assistance to the family.

#### **24.14 Lead Based Paint**

The GHA is responsible for complying with HUD's Lead Based Paint requirements as outlined in 24 CFR Section 35.

##### ***24.14.1 Initial Inspection***

HUD regulations require that all stabilization of lead-based paint surfaces be completed before the commencement of assisted occupancy. While 24 CFR Section 35.115 (12) permits a reasonable delay in the performance of an evaluation, lead-based paint hazard reduction, or lead-based paint abatement on an exterior painted surface during a period when the weather conditions are unsuitable for conventional construction activities, such delays are **not** permitted for initial HQS inspections. A unit must pass its initial HQS inspection before assistance commences under the HAP contract. Under no circumstances should a waiver be granted for a unit that fails initial inspection.

##### ***24.14.2 Annual/Periodic Inspection***

If a unit fails its annual reinspection due to lead-based paint hazards, the GHA will ensure the the following actions are taken:

##### ***Pursuant to 24 CFR Section 35.1345:***

- (a) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of those activities at the worksite), until after hazard reduction work has been completed and clearance, if

- required, has been achieved; and
- (b) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, unless the exceptions noted in 24 CFR 35.1345 exist.

***Pursuant to 24 CFR Section 35.1215:***

- (a) If assisted occupancy has commenced prior to a periodic inspection, such paint stabilization must be completed within 30 days of notification of the owner of the results of the visual assessment. Paint stabilization is considered complete when clearance is achieved in accordance with §35.1340. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of Housing Quality Standards (HQS) until the hazard reduction is completed or the unit is no longer covered by this subpart because the unit is no longer under a housing assistance payment (HAP) contract with the housing agency; and
- (b) The GHA may grant the owner an extension of time to complete paint stabilization and clearance for reasonable cause, but such an extension will not extend beyond 90 days after the date of notification to the owner of the results of the visual assessment.

**24.15 Smoke and Carbon Monoxide Detectors**

Pursuant to Amanda's law, which modified New York State's Uniform Fire Prevention Building Code effective February 22, 2010, Carbon Monoxide (CO) alarms must be installed in all new and existing one- and two-family dwellings, multifamily dwellings, and rentals with a fuel-burning appliance, system or attached garage.

The Geneva Housing Authority is requiring that this code be adhered to for all units receiving Section 8 assistance.

Inoperable smoke **and carbon monoxide** detectors are a serious health threat and will be treated by the GHA as emergency (24-hour) fail items. If the smoke **and/or carbon monoxide** detectors **are** not operating properly, the GHA will contact the owner by phone and request the owner to repair **or replace** the smoke **and/or carbon monoxide** detector within **24** hours. The GHA will reinspect the unit the following day.

If the GHA determines that the family has disconnected the smoke **and/or carbon monoxide** detector (by removing batteries or other means), the family will be required to repair or replace the smoke **and/or carbon monoxide** detector within **24** hours and the GHA will reinspect the unit the following day.

The GHA will issue a written warning to any family determined to have purposely disconnected **one or both** detector(s). The warning will state that deliberate disconnection of the unit's smoke or carbon monoxide detector is a health and fire hazard and is considered a violation of HQS.

#### **24.16 Determination of Responsibility**

Certain HQS deficiencies are considered the responsibility of the family:

- tenant-paid utilities not in service;
- failure to provide or maintain family-supplied appliances; and
- damage to the unit or premises caused by a household member or guest beyond normal wear and tear. Normal wear and tear is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

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

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

When it has been determined that a unit on the program fails to meet HQS, and the owner is responsible for completing the necessary repair(s) in the time period specified by the GHA, the assistance payment to the owner will be abated.

A Notice of Abatement will be sent to the owner stating that the abatement will be effective from the day after the date of the failed inspection. The GHA will determine the deadline for completing deficiencies, depending on the nature of the repair(s) needed.

The GHA will also determine the time period for which abated units should be inspected, depending on the owner's notification that the work has been completed.

Upon notification that the required work is completed, the GHA will advise both owners and tenants of the reinspection date. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and

the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the GHA's portion of rent that is abated.

#### **24.18 Reduction of Payments**

The GHA may grant an extension in lieu of abatement in the following cases:

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

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

#### **24.19 Termination of Contract**

If the owner is responsible for repairs and fails to correct all the deficiencies cited, HAP payments may be abated for a period of up to 180 days. The owner will be sent a HAP Contract Proposed Termination Notice prior to the end of the abatement period. During this period the tenant should pay their share of the rent unless directed otherwise by legal counsel. If the tenant chooses to remain in the unit after the HAP contract is terminated, they should be advised by GHA to seek legal guidance.

If the unit is uninhabitable, the tenant should be notified. The GHA will work with the tenant to determine, based on the specific circumstances, when to issue a new voucher.

If repairs are completed before the effective termination date, the termination may be rescinded by the GHA if the tenant chooses to remain in the unit.

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

If emergency or non-emergency violations of HQS are determined to be the responsibility of the

family, the GHA will require the family to make any repairs or corrections within a time period consistent with the owner requirement for completing deficiencies. If the repairs or corrections are not made in this time period, the GHA may terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the GHA. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

#### **24.21 PHA-Owned Units**

For purposes of program integrity, and to avoid the appearance of conflict of interest, GHA will outsource inspections of GHA-owned and –managed units.

### **SECTION 25.0 SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

The GHA will conduct an annual SEMAP review, as required by HUD regulations. The review will cover the program's fiscal year: *October 1<sup>st</sup> through September 30<sup>th</sup>*.

In addition to other documents, records and reports that are required to be maintained for the SEMAP review, the GHA will maintain the following information for each of the SEMAP indicators identified below:

#### **Indicator #5:           HQS Quality Control Inspections**

A **Supervisory Inspection Log**, including:

- The dates of the first and second inspections;
- The names of the first and second inspectors; and
- Each tenant's name and address.

#### **Indicator #6:           HQS Enforcement**

A **Failed Inspection Log**, including:

- Each tenant's name and address;
- Name of inspector(s);
- Date(s) of each failed inspection; and

- Date the unit passed inspection (if applicable).

## **SECTION 26.0 PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

The Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA) protects applicants, tenants and family members of tenants who are victims of domestic violence, dating violence or stalking from being denied assistance, evicted or terminated from HUD Section 8 assistance based on acts of such violence against them.

### **26.01 Definitions:**

**The following definitions were incorporated into the United States Housing Act and apply to this section:**

**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 share a child in common, by a person who is cohabitated 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:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

**Stalking:** to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or 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 (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

**Immediate Family Member:** a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a

parent); or any other person living in the household of that person and related to that person by blood or marriage.

### **26.02 Protections for Applicants**

Being, or having been, a victim of domestic violence, dating violence or stalking is not an appropriate basis for denying assistance to an otherwise qualified applicant. If grounds for denial of assistance are discovered during processing of an applicant family, and they are the result of one or more incidents of domestic violence, they will not be used as a basis for denial of assistance.

### **26.03 Protections for Participants**

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

The GHA may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.

The GHA may honor court orders regarding the rights of access or control of the property issued to protect the victim and used to address the distribution or possession of property among household members where the family “breaks up.”

There is no limitation on the ability of the GHA to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on the GHA terminating assistance if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated.”

GHA will not deny portability to a participant who violates a lease by moving without notice because of fear of domestic violence, if the participant is otherwise in compliance with program rules

Information provided by a victim of domestic violence will be retained in confidence. Such information will not be entered into any shared database, and will not be provided to any related entity without consent in writing, unless required for legal proceedings.



Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

#### **26.04 Documentation of Victim Status**

The GHA will require certification of victim status from both applicants and participants. The victim may self-certify using form HUD-50066 “Certification of Domestic Violence, Dating Violence or Stalking”. Whether or not the victim uses form HUD-50066 to self-certify, a third-party certification must also be obtained to document victim status. This additional certification requirement may be satisfied with

1. 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 domestic violence, dating violence, or stalking or the effects of the abuse. The professional providing the documentation must attest under penalty of perjury to the professional’s belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definitions set forth in Section 26.01 of this Administrative Plan. The victim of domestic violence, dating violence or stalking must also sign and attest to the documentation under penalty of perjury. OR
2. Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

All documentation requested from the victim, whether by self-certification (form HUD-50066) or by third-party certification, must be received by the GHA within 14 business days of the request. If the individual does not provide the form HUD-50066 or the information that may be provided in lieu of the self-certification by the 14<sup>th</sup> business day, or any extension of that date authorized by the GHA, none of the protections afforded under the Act will apply.

GHA staff must remain aware of the confidential nature of all VAWA-related documentation and must observe confidentiality requirements set forth in HUD PIH Notice 2006-42 and/or more recent Notices or guidelines issued by HUD.

#### **26.05 Notifications**

The GHA will provide notification to all applicants and residents of their rights under VAWA. Whenever the need is indicated, GHA will make referrals to Family Counseling Service of the Finger Lakes, Inc., a state-approved Domestic Violence Service Provider in Ontario County.