

DISTRICT OF COLUMBIA HOUSING AUTHORITY  
NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority ("DCHA") hereby gives notice of intent to take final rulemaking action to amend Title 14 by adopting "Chapter 83 "HCVP: Rent and Housing Assistance Payments" in not less than fifteen (15) days from the date of publication of this notice in the D.C. Register. The Board of Commissioners of DCHA finds good cause to publish these proposed regulations for less than thirty days as the emergency rules published on January 21, 2005 will expire prior to the next regularly scheduled meeting of the Board of Commissioners on May 11, 2005, and the modifications to the emergency regulations as incorporated in these proposed regulations are necessary to reconcile these regulations and program operations to existing federal regulations.

**DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS**

**TITLE 14  
CHAPTER 83**

**RENT AND HOUSING ASSISTANCE PAYMENTS**

**8300 PAYMENT STANDARD AMOUNT**

8300.1 Fair Market Rents. HUD publishes annually the fair market rents for each market area in the United States.

(a) DCHA uses the fair market rent published by HUD annually for the Washington, D.C. Metropolitan Statistical Area.

(b) The Fair Market Rent (FMR) is set by HUD for the District at the 50<sup>th</sup> percentile rent to provide a broad range of housing opportunities throughout the District in order to assist in achieving deconcentration objectives.

8300.2 Payment Standard Schedule. The Payment Standard schedule is used to calculate the monthly housing assistance payment to a participant household.

(a) After publication by HUD of the Fair Market Rent, DCHA annually adopts, by resolution of the Board of Commissioners, the Payment Standard Schedule for the upcoming year for each unit size.

(b) The Commission may set the Payment Standard amount for each size of unit at any level between 90 percent and 110 percent of the Fair Market Rent, or up to 120 percent as permitted under 8300.2(d) below.

(c) Within the basic range for Payment Standards as specified in 8300.2(b) above, a separate payment standard may be set for a designated part of the FMR area.

(d) Exception Payment Standards between 110 percent and 120 percent may be approved by the HUD Field Office for an exception area for all size units, or all units of particular sizes in an exception area.

8300.3 HUD Discretion. Payment Standard Schedules are subject to review by HUD and HUD, at its discretion may modify payment standard amounts for any unit size on the DCHA Payment Standard Schedule.

### **8301 REASONABLE RENT TO OWNER**

8301.1 Lease Approval. DCHA may not approve a lease unless it determines that the initial gross rent does not exceed the LESSER OF:

(a) The reasonable rent as determined by DCHA in accordance with this Chapter; and

(b) Forty percent (40%) of the participant's adjusted monthly income.

8301.2 When Determinations Required. DCHA is required to make a determination of rent reasonableness upon any of the following eventualities:

(a) At initial lease up, or lease up upon transfer;

(b) Before any increase in rent to Owner is approved;

(c) If sixty (60) days or more before the contract anniversary date there is a 5% decrease in the published FMR for the unit size as compared to the previous FMR;

(d) At the election of DCHA;

(e) At the discretion of the US Department of Housing and Urban Development.

8301.3 Reasonable Rent Determination. The reasonable rent determination is undertaken on a case-by-case basis. At any time a rent determination is undertaken in accordance with 8301.2 above, the following process is used for determining whether the gross rent proposed to be charged by the Owner is reasonable.

(a) DCHA when determining reasonable rent always considers items (i) through (ix) and may consider items (x) and (xi) at its option as follows:

- (i) Square Feet
- (ii) Number of Bedrooms
- (iii) Maintenance Services provided by the lease
- (iv) Location
- (v) Unit Type
- (vi) Quality
- (vii) Date Built
- (viii) Amenities included in the lease
- (ix) Utilities if provided by Owner
- (x) Number of Bathrooms
- (xi) Other Services provided under the lease

(b) DCHA maintains an automated database which includes data on comparable unassisted units for use by staff in making rent reasonableness determinations.

(c) DCHA does not establish minimum base rent amounts.

(e) DCHA shall use at least two comparable unassisted units for each rent determination with all comparables based on the rent that the unit would command if leased in the current market within the last twelve (12) months.

(f) The data for other unassisted units may be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.

(g) The market areas for rent reasonableness are indicated by census tract, within the District of Columbia and the determination of reasonable rent is made by comparable rents on similar units within the same or nearby census tracts.

8301.4 Owner Information. The Owner is required to provide DCHA with information if requested on rents charged by the owner for other units owned by the Owner either at the same premises or elsewhere in the District of Columbia.

8301.5 Owner Certification. Acceptance of each monthly housing assistance payment is a certification by the Owner that the gross rent to the owner is not more than rent charged by the owner for comparable unassisted units in the premises for multi-unit premises, or in the same market area for single unit premises.

**8302 HOUSING ASSISTANCE PAYMENTS FOR ASSISTED HOUSEHOLDS**

- 8302.1      Applicable Payment Standard. The Payment Standard, except in the case of enhanced vouchers, for each Household is the LOWER of:
- (a) The payment standard for the household unit size and composition as set under Section 8300.2 above; OR
  - (b) The payment standard amount for the size of the dwelling unit rented by the household.
- 8302.2      Amount of Monthly Housing Assistance Payment. DHCA shall pay a Monthly Housing Assistance Payment to the Owner on behalf of a participating Household that is equal to the payment standard for the Household as determined under 8302.1 above, minus the Total Tenant Payment notwithstanding the amount of the gross rent and the household's Family Share as determined under 8303 below.
- 8302.3      Decreases in Payment Standards During the HAP Contract. If the amount of the Payment Standard Schedule for the Unit Size decreases during the term of a HAP contract, DCHA shall determine the Total Tenant Payment and Monthly Housing Assistance Payment for the household as follows:
- (a) At the second annual reexamination of the Household following the effective date of the decrease in the Payment Standard Schedule amount, DCHA shall redetermine the Total Tenant Payment as provided under 8302.1 above, using the lower Payment Standard.
  - (b) DCHA shall determine whether the Monthly Housing Assistance Payment amount using the prior (higher) Payment Standard, or the monthly Housing assistance Payment amount using the decreased Payment Standard provides a lower or higher amount than the prior monthly Housing Assistance Amount (a higher amount being possible due to changes in household or unit size during the preceding examination period as required under 8302.5 below).
  - (c) If the Monthly Housing Assistance Amount is increased before the implementation of the decrease, then the provisions governing increases in Section 8302.4 below shall apply.
- 8302.4      Increases in Payment Standards during the HAP Contract. If the amount on the Payment Standard Schedule for the Unit Size increases during the term of a HAP contract, then:
- (a) The increased Payment Standard shall be used as provided under 8302.1 above, to calculate the Monthly Housing Assistance Payment; and

(b) The increase shall go in to effect as of the first annual reexamination on or after the effective date of the increase in the Payment Standard.

8302.5 Changes in Family Size and Moves. Notwithstanding the provisions in 8302.2 and 8302.3 above,

(a) The Payment Standard in effect at the time there is any increase or decrease in household size during the HAP contract term shall be used to determine the Total Tenant Payment and monthly Housing Assistance Payment for the household beginning at the first annual reexamination following the change in household size;

(b) If a family moves to a new unit, the Payment Standard in effect at the time of the move shall be used to determine the amount of the Total Tenant Payment and the monthly housing assistance payment; and the new lease shall be approved in accordance with 8301.1 above.

### **303 FAMILY SHARE OF RENT**

8303.1 Family Share of Payment. The family share of the gross rent stated in the lease is calculated by subtracting the amount of the monthly housing assistance payment from the gross rent. The family must pay the difference between the maximum housing assistance payment and the rent due to the Owner.

8303.2 Limits on DCHA Payments. DCHA may not use housing assistance payments, or any other program funds, including administrative fee reserves, to pay any part of the family share.

8303.3 Maximum Family Share of Rent. DCHA may only approve a tenancy for a unit if:

(a) For the initial occupancy period (usually one year), if the gross rent, as determined to be reasonable by DCHA, does not result in the maximum Family Share exceeding 40% of the household's adjusted monthly income;

(b) After initial occupancy, there is no limit (other than rent reasonableness determinations) on the gross rent and percent of adjusted monthly income that a participating household may elect to pay as the Family Share.

8303.4 Other Fees and Charges. Leases or separate agreements providing for additional fees and charges are subject to the following requirements:

(a) Additional fees and charges will NOT be approved if:

(i) The cost of meals or supportive services is included in the rent to the Owner, with such costs being included in the calculation of reasonable rent;

(ii) Non-payment of such charges is grounds for termination of the lease;

(iii) Inclusion of any extra fees or charges are for items that are customarily included in rent in the District of Columbia;

(iv) Fees or charges are included for items provided at no additional cost to unsubsidized tenants in the premises.

(b) DCHA is not liable for unpaid charges for any additional items whether set forth in the lease or covered by separate agreements;

(c) If the tenant and owner have come to an agreement on the amount of charges for a specific item that is not prohibited under (a) above, and so long as those charges are reasonable and not a substitute for higher rent, they will be allowed. Costs for seasonal items can be spread out over 12 months.

(d) Copies of all separate agreements must be provided to DCHA.

8303.5 Negotiating Rent. Negotiations over the gross rent to the Owner are conducted between the Owner and the Household. DCHA may assist the Household in the negotiations at the request of the Household.

#### 8304 RENT INCREASES TO OWNER

8304.1 Written Request Required. Owners may request a rent increase no later than 90 days prior to any family annual reexamination date. The request must be in writing.

8304.2 Amount of Rent Adjustment. Rent to the Owner may be adjusted either up or down. Subject to compliance with 8304.1 above, the adjusted rent to an Owner who has submitted a written request shall be the LESSER of:

(a) The current rent multiplied by the applicable annual adjustment factor published by HUD as in effect 60 days before the HAP anniversary date; OR

(b) The reasonable rent as most recently determined (or redetermined) by DCHA; OR

(c) The amount requested by the Owner.

8304.1 Prerequisites to a Rent Increase. The rent may not be increased on the family annual reexamination date unless:

(a) The Owner has requested a specific increase amount at least 90 days before the family annual reexamination date; AND

(b) The request is made in writing on DCHA provided forms for each unit for which an increase is being requested; and

(c) In the preceding year, the Owner has complied with all requirements of the HAP contract, including compliance with the Housing Quality Standards.

8304.4 Timing of any Increases to Rent. Housing Assistance Payment increases, if approved by DCHA, shall be effective as of the first day of the first month commencing on or after the Participant's annual reexamination (anniversary) date;

Comments on these proposed regulations should be submitted, in writing, to Margaret McFarland, General Counsel, 1133 North Capitol Street, NE, Washington, DC 20002, Suite 210, within fifteen (15) of the date of publication of this notice in the DC Register. Additional copies of these proposed rules are available from the above address.

DISTRICT OF COLUMBIA HOUSING AUTHORITY  
NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority ("DCHA") hereby gives notice of intent to take final rulemaking action to amend Title 14 by adopting an Amended and Restated "Chapter 92: Housing Choice Voucher/Home Ownership Assistance Program (HCV/HOAP)", in not less than fifteen (15) days from the date of publication of this notice in the D.C. Register. The Board of Commissioners of DCHA finds good cause to publish these proposed regulations for less than thirty days as the rules are amendments to an existing program and are critically important in order to timely facilitate the closing of homeownership purchases by program beneficiaries who are awaiting the final real estate conveyance in order to occupy their new homes.

**CHAPTER 92      HOUSING CHOICE VOUCHER/HOME OWNERSHIP ASSISTANCE PROGRAM (HCV/HOAP)****9200      GENERAL PROGRAM DESCRIPTION**

The Housing Choice Voucher/Home Ownership Assistance Program (HCV/HOAP) is designed to offer eligible households who are participating in the Housing Choice Voucher Program the opportunity of becoming a home owner. The HOAP provides for DCHA to make a Housing Choice Voucher Payment on behalf of a Participating Household to a Participating Mortgage Lender who has provided a mortgage loan to the Participating Household for the purchase of a home. The program requirements, conditions of HOAP assistance, as well as, other pertinent terms and program elements are all set forth in the Sections herein.

**9201      PURPOSES**

9201.1      The purposes of the HCV/HOAP are to:

- (a)      Provide safe, adequate and affordable housing;
- (b)      De-concentrate areas of geographic poverty;
- (c)      Encourage upward mobility;
- (d)      Foster economic self sufficiency; and
- (e)      Increase home ownership, while minimizing mortgage default risk.

**9202      DEFINITIONS**

9202.1      "Cooperative" - A cooperative is defined as housing owned by a nonprofit corporation or association and where a member of the corporation or association has the right to reside in a particular apartment and to participate in the management of

the housing.

- 9202.2 "Cooperative Member" - A Cooperative member is defined as a family in which one or more members own membership shares in a cooperative.
- 9202.3 "DCHA" means District of Columbia Housing Authority or any successor agency, thereto.
- 9202.4 "Disabled Household" - means a household whose head, spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.
- 9202.5 "Elderly Person" - One who is at least 62 years of age.
- 9202.6 "Eligible Household" - an Eligible Household is a household of one or more persons that meets the minimum eligibility requirements set forth in Section 9203.
- 9202.7 "Elderly Household or Family" - A household whose head or spouse or whose sole member is at least 62 years of age or a disabled person as defined in this Section. A Household may include two or more elderly or disabled persons living together or one or more such persons living with another person who is determined to be essential to his or her care and well being.
- 9202.8 "Family Self-Sufficiency Program" - Family Self-Sufficiency program or FSS program means the program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the provision of supportive services to these families, as authorized by Section 23 of the 1937 Act.
- 9202.9 "Full-time Basis" means at least 30 hours per week.
- 9202.10 "HCV/HOAP" means the Housing Choice Voucher/Home Ownership Assistance Program operated by the District of Columbia Housing Authority. Within this document "HCV/HOAP" and "HOAP" are used interchangeably.
- 9202.11 "HOAP Subsidy" or "HCV/HOAP Assistance" means the home ownership subsidy assistance for payment to a mortgage lender on behalf of a Participating Household as provided through the Housing Choice Voucher program in the amount as determined under Subsection 9212.2.
- 9202.12 "HOAP Applicant Household" - An Eligible Household that has been issued a Certificate of Completion and is in the process of obtaining a Preliminary Certificate of Assistance; Mortgage Pre-approval; Home Search Authorization; Final Certificate of Assistance.

- 9202.13 "HOAP Participating Household " - A HOAP Applicant Household who has completed all the steps necessary to the purchase of a home and closed on their mortgage loan.
- 9202.14 "Housing Choice Voucher Program" or HCVP or HCV program means the rental assistance program established by Section 8 of the 1937 Housing Act in its entirety, unless otherwise specified.
- 9202.15 "Income Eligible Household" - A Household that meets the eligibility requirements set forth in Subsection 9203.2(c).
- 9202.16 "Lease-Purchase Agreement" - A lease-purchase agreement is a lease agreement with an option to purchase a property entered into between a property owner and a tenant with the objective of the tenant having a right to exercise the right to purchase the leased property within a specified period time.
- 9202.17 "Membership Share" - Membership share is defined as ownership of a share of a cooperative that gives the shareowner the right to reside in a particular unit in the cooperative and the right to participate in management of the housing.
- 9202.18 "Participating Lender" - A lender who has agreed to participate in the HCV/HOAP and provide loans to borrowers under the terms and conditions of this program. Additionally, participating lenders agree to make loans to Participating HOAP Families which comply with the regulations herein, and are characterized by reasonable interest rates and repayment terms.
- 9202.19 "Payment Standard" - The maximum monthly assistance payment for a Household as determined in accordance with Chapter 83 of this Title 14.
- 9202.20 "Total Tenant Payment" - The amount toward a mortgage payable by a tenant which shall be determined in accordance with Chapter 83 of this Title 14.

### **9203 ELIGIBILITY REQUIREMENTS**

- 9203.1 As a threshold determination for participation in the HCV/HOAP, a Household either shall already be a participant under lease in the Housing Choice Voucher Program or be eligible for home ownership under any other DCHA program
- 9203.2 A household that meets the threshold determination shall then meet the following eligibility requirements:
- (a) First Time Homeowner. The household may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement of the HOAP Subsidy, except as follows:

- (1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option.
  - (2) An individual who is now single, but had previously owned a home with his or her former spouse even within the three year period;
  - (3) A household in which a household member is a person with a disability, if homeownership assistance is needed as a reasonable accommodation; and
  - (4) A household that owns or is acquiring shares in a cooperative.
- (b) Employment. Except as provided in 9203.4 and 9203.5, the household shall provide proof of employment such that:
- (1) One or more of the adult household members who shall be a borrower or co-borrower at the commencement of receiving HOAP assistance, is currently employed on a Full-time Basis; and
  - (2) At least one borrower shall have been employed for at least two (2) continuous years preceding the beginning of HOAP Subsidy.
- (c) Minimum Income.
- (1) The household shall demonstrate that gross annual income of the borrower or co-borrowers is either:
    - (i) Equal to at least 2,000 full-time work hours at the Federal Minimum Wage (FMW); or
    - (ii) For Disabled Households, equal to the monthly federal Supplemental Security Income Program benefit for an individual living alone multiplied by 12.
  - (2) Except in the case of Elderly or Disabled Households,, income shall come from a source other than the governmental assistance program Tenant Assistance for Needy Families.
- (d) Family Self Sufficiency. Applicants for the HCV/HOAP shall be enrolled in a self sufficiency program recognized by DCHA, unless the applicant an Elderly or Disabled Household..
- (e) Good Standing. The household shall be in Good Standing as follows:
- (1) The household shall have disclosed all prior debts to DCHA or any other public housing agency and have repaid all such debt at least a

year prior to the household applying to participate in the HCV/HOAP program.

- (2) The household shall not have committed fraud in connection with the HCV program or any other federally funded program.
  - (3) The household shall not have defaulted, or be in default, on any mortgage securing debt to purchase a home under any prior HCV/HOAP participation.
- (f) **Current Lease.** The household shall be current in all monetary lease obligations and shall not otherwise be in violation of their lease and shall give proper notice as provided under their lease or, in the absence of a specified notice period in the lease, in accordance with District of Columbia law, prior to commencement of HCV/HOAP assistance payments.
- (g) **Recertification.** If the household is a current participant in the HCV program or other DCHA program they shall qualify through an updated annual income recertification and determination that the household is otherwise in compliance with all program requirements.

9203.3 If a household purchases or takes title to a home before receiving approval to participate in the HCV/HOAP, the household shall be determined ineligible.

9203.4 The employment requirement does not apply to an Elderly or Disabled Household.

9203.5 If a household that does not otherwise qualify as a Disabled Household pursuant to Subsection 9202.4, includes a person with a disability, the HCV/HOAP shall grant an exemption from the employment requirement, if it is determined that the exemption is needed as a reasonable accommodation.

9203.6 Elderly and Disabled Families are exempt from the maximum assistance terms applicable for receiving subsidy from the HCV/HOAP, as follows:

- (a) In the case of an Elderly Household, this exemption is only applicable if the household qualifies as elderly at the commencement of assistance.
- (b) In the case of a Disabled Household, this exemption applies if at any time during receipt of housing assistance the household qualifies as a Disabled Household.
- (c) If during the course of the receipt of HOAP Subsidy the household ceases to qualify as a Disabled or Elderly Household, the maximum term of the Subsidy becomes applicable from the date the housing assistance commenced, provided that the Participating Household, that was formerly qualified as a Disabled or Elderly Household shall receive the greater of the following;

- (1) At least six (6) months of assistance after the maximum term becomes applicable; or
- (2) The remaining term of assistance.

#### **9204 PARTICIPANT SELECTION PROCESS**

9204.1 The HCV/HOAP program may select participants for the homeownership program in in one of the following two ways::

- (a) Designation of a pool of interested current HCV participants, which may be determined by phone, in-person, or paper application, who shall be selected by a lottery or assignment of a random number for a predetermined number of program participants, or
  - (b) Designation of all HOAP applicants that meet the threshold and eligibility criteria and selection from such group on the following basis:
    - (1) HCVP Families participating in the Family Self-Sufficiency Program with homeownership as a stated goal;
    - (2) HCVP Families or public housing residents participating in the Community Self Sufficiency Program (or a similar program with homeownership being a stated goal of their program participation), in connection with public housing development or redevelopment efforts of DCHA, its subsidiaries, or its joint venture partners.
    - (3) Participating HCVP Families who otherwise do not qualify under (1) or (2) above and are income eligible and are pre-approved for credit by a lender,
    - (4) Families who wish to exercise their "right of first refusal" to purchase a unit that they currently occupy with a housing subsidy under a housing assistance payment contract .

9204.2 Those individuals or families selected for participation, who meet the eligibility requirements stated under Section 9203, above, shall proceed to homeownership by those steps identified beginning in Section 9205 through Section 9212.

#### **9205 PROGRAM PARTICIPATION REQUIREMENTS**

9205.1 HCV/HOAP Briefing. As a first step in the participation process, each selected family is required to attend a briefing about the HCV/HOAP.

- 9205.2 Participation Eligibility Assessment. Before proceeding to the next steps:
- (a) DCHA shall verify that the Household meets the minimum participation requirements of Section 9203; and
  - (b) DCHA or its designee shall make a preliminary assessment of the household's credit history and assess what intermediate steps, if any, shall be taken by the household to repair their credit in order to enter the home buying process.
- 9205.3 Home Ownership Counseling. The household shall satisfactorily complete a minimum of eight (8) hours of home ownership and housing counseling training, before the household can proceed to the home buying process. This training for homebuyers shall be provided by the HCV/HOAP or its designee and cover the following topics:
- (a) Credit Counseling, including credit repair;
  - (b) The Home Purchase Process, including the selecting of a real estate agent and home inspection professional;
  - (c) Homeownership Financing, including selection among the program's Participating Lenders;
  - (d) Mortgage delinquency/default prevention;
  - (e) Consumer (Homebuyer) Protection;
  - (f) Home Maintenance and Repair; and
  - (g) Choosing a good location.
- 9205.4 Certificate of Completion.
- (a) Before proceeding to the next step of the process, the household's credit shall be sufficiently acceptable to pass credit report review by the Counseling Agency.
  - (b) If the household has issues that would impede the lender giving loan approval, the counseling agency shall provide credit repair counseling or refer the household to another agency who shall provide such counseling and the steps the household shall take before receiving a Certificate of Completion and permission to proceed with the home purchasing process.
  - (c) A Certificate of Completion shall be issued upon:
    - (1) Successful completion of the home ownership and housing counseling

sessions;

- (2) Verification by the agency that the Applicant Household has an acceptable credit report; and
- (3) Verification that the Applicant Household has sufficient assets to make a least a 1% down payment investment from personal resources.

9205.5 Initial Certificate of Assistance. The Initial Certificate of Assistance shall identify the Payment Standard applicable to the household based on the household size and composition in accordance with Chapter 83 of this Title.

9205.6 Mortgage Pre-approval.

- (a) Upon receipt of their Preliminary Certificate of Assistance the household shall select a Participating Lender and present their Preliminary Certificate of Assistance to apply for their mortgage pre-approval.
- (b) The household shall be allowed sixty (60) days after completion of the home ownership counseling to obtain mortgage pre-approval. An extension may be granted depending on the circumstances and/or where the household is in the pre-approval process.
- (c) The mortgage pre-approval letter shall reflect the HCV/HOAP Assistance payment and the household's contribution as detailed on the Certificate of Assistance.
- (d) Families shall submit their mortgage pre-approval letter to the HCV/HOAP or its designee within ten (10) days of receipt.

9205.7 Home Search Authorization

- (a) Subsequent to receipt of a mortgage pre-approval letter from a Participating Lender, HCV/HOAP shall issue the Applicant Household written authorization to begin their search for a home that is eligible under the provisions of Section 9207, hereof.
- (b) The Applicant Household shall be responsible for selecting a lender participating in the HCV/HOAP, as well as an independent professional housing inspector and a real estate agent.
- (c) The HCV/HOAP and the Counseling Agency may maintain information about properties for sale, participating lenders, real estate agents, and down-payment programs, which the household may choose to use at their discretion.

9205.8 Home Search Time Limits and Extensions.

- (a) From the date of issuance of a Home Search Authorization, the household shall be allowed a total time period of one hundred and eighty (180) days to:
- (1) Search for and find a home;
  - (2) Execute a contract of sale, including the HCV/HOAP contract addendum as required under Section 9209;
  - (3) Submit the sales contract to HCV/HOAP for review;
  - (4) Obtain a firm loan commitment;
  - (5) Obtain a HQS inspection from HCV;
  - (6) Submit a Professional Inspection Report to HOAP, as provided under Section 9209;
  - (7) Obtain HOAP Notice of Inspection Approval, as provided under Section 9208;
  - (8) Obtain a Final Certificate of Assistance from HCV/HOAP;
  - (9) Sign all required HCV/HOAP forms and attachments, including:
    - (i) Statement of Homeownership Obligations, required under Section 9215 hereof;
    - (ii) A Recapture Agreement and Subordinate Mortgage, as required under Section 9214 hereof;
  - (10) Close on the purchase of the property and the mortgage loan;
  - (11) Notify HCV/HOAP that the Loan Closed and the first mortgage payment date for HOAP subsidy payments.
- (b) Extenuating circumstances which prohibited closing on the purchase of a home within the designated time period shall be reviewed upon request, and an extension granted, at the discretion of the DCHA.
- (c) An Applicant Household shall be withdrawn from the HCV/HOAP and required to wait one year before they shall be allowed to participate again under any of the following circumstances:
- (1) The household has executed a contract of sale and has failed to complete the purchase for reasons within their control;

- (2) The household at any time during the one hundred eighty (180) day period decides to withdraw from participation in the HCV/HOAP;
- (3) The household is unable to locate a home to purchase and close on the purchase within the time provided, and does not want or qualify for an extension of time to continue the process.

9206. Purchase Agreement Requirements

9206.1 A household shall execute a purchase agreement with the owner of the property to be purchased, except, in the case of a cooperative member with existing cooperatives shares.

9206.2 The sales contract, or an addendum, thereto, shall include provisions making the sale contingent, and the household having no obligation to complete the purchase, unless there is satisfaction of the following minimum conditions:

- (a) An HQS inspection of the property with such inspection being satisfactory to HCV/HOAP;
- (b) An inspection of the home by a licensed professional home inspector, obtained at the expense of the purchaser, with such inspection being satisfactory to HCV/HOAP;
- (c) The purchaser is not obligated to pay for any necessary repairs without HCV/HOAP approval
- (d) Any repairs made by the seller shall be completed and a satisfactory HQS re-inspection completed before the purchase process continues.
- (e) Purchase terms, inspection reports and mortgage financing terms acceptable to HCV/HOAP or its designee.
- (f) A seller certification that the seller is not debarred, suspended or subject to limited denial or participation, under 24 CFR part 24.
- (g) All good faith money provided shall be returned in full if the purchase is not approved by HCV/HOAP.

9207 **HOMES AND PERMITTED OWNERSHIP ARRANGEMENTS**

9207.1 Permitted types of homes for purchase with a HOAP subsidy under the HCV/HOAP, provided the home purchased is located in the District of Columbia.

- (a) Single family home,

- (b) Townhome;
- (c) Condominium;
- (d) Cooperative.

9207.2 Types of housing not approved for HOAP subsidy under the HCV/HOAP:

- (a) Multi-unit buildings or homes with one or more rental units;
- (b) Congregate Housing;
- (c) Group Homes;
- (d) Shared Housing;
- (e) Cooperative Housing that exclude families with children;
- (f) Manufactured Homes;
- (g) Single Room Occupancy Units' and
- (h) A home located outside of the District of Columbia..

9207.3 The construction status at the time of issuance of the Certificate of Assistance, may be any of the following:

- (a) Under construction (provided construction is complete upon closing the loan and commencement of the HOAP assistance);
- (b) New construction ready for occupancy; or
- (c) Existing housing, with no age limitations.

**9208 REVIEW OF PURCHASE CONTRACT AND ISSUANCE OF FINAL CERTIFICATE OF ASSISTANCE**

9208.1 Once the Applicant Household has found a home and executed a purchase agreement, the household shall provide the HCV/HOAP or designee with the following required documents for review and/or approval:

- (a) Verification of funds for the 3% initial down-payment; t
- (b) The executed purchase agreement or contract of sale;

- (c) The professional home inspection report.
- 9208.2 Based on the purchase amount identified in the purchase agreement and the loan terms of the mortgage pre-approval submitted by the Applicant Household, the HCV/HOAP shall determine the amount of the HOAP Subsidy and the Total Tenant Payment, taking into account:
- (a) The family composition;
  - (b) The bedroom size of the home;
  - (c) The applicable Payment Standard;
  - (d) The Household Income as determined on the last annual recertification;
  - (e) The estimated homeownership expenses, taking into account the projected mortgage payment, insurance and taxes, and homeownership expenses, calculated in accordance with Subsection 9212.2, hereof.
- 9208.3 HCV/HOAP shall review the seller against the debarment and suspension lists provided by HUD and disapprove the contract if the seller appears on such lists..
- 9208.4 HCV/HOAP shall issue a Notice of Approval or Disapproval of Inspection under the provisions in Section 9209, below.
- 9208.5 Unless the purchase contract is disapproved or the Inspection is for Disapproval, the HCV/HOAP shall issue a Final Certificate of Assistance, which the Applicant Household shall submit to their Participating Lender in applying for a mortgage loan.
- 9209 HOME INSPECTION**
- 9209.1 Before issuance of a Final Certificate of Assistance, the Applicant Household shall schedule two kinds of physical inspections required in the HCV/HOAP.
- (a) A Housing Quality Standard (HQS) inspection conducted by the HCV/HOAP.
    - (1) The HQS inspection does not include an assessment of the adequacy and life span of the major building components, building systems, appliances or other structural components.
    - (2) However, the HQS inspection shall indicate the current physical condition of the home and any repairs necessary to ensure that the home is safe and otherwise habitable.
  - (b) An independent professional home inspection by an inspector who is certified,

licensed, and bonded and is neither an employee, nor a contractor of DCHA.

- (1) The inspection shall be a comprehensive evaluation of the major building components and systems of the home, determining the existing condition and the need, if any, for repairs.
- (2) At least the following shall be examined for deficiencies:
  - (i) the structure;
  - (ii) basement/crawl space(s);
  - (iii) electrical and heating/cooling systems;
  - (iv) energy/insulation;
  - (v) ventilation;
  - (vi) kitchen appliances;
  - (vii) plumbing;
  - (viii) walls/ceiling;
  - (ix) floors;
  - (x) roof/attic;
  - (xi) exterior finish;
  - (xii) fireplace/chimney;
  - (xiii) windows/doors; and
  - (xiv) gutters/drainage.

9209.2 Request and payment for professional home inspection.

- (a) The independent professional home inspection shall be requested and paid for by the household.
- (b) A copy of the inspection report shall be provided to HCV/HOAP within five (5) working days of receipt of the report.
- (c) The source(s) of funds for payment of the professional home inspection may be a source other than household personal income.

## 9209.3 HCV/HOAP Review of Inspection Reports.

- (a) The HCV/HOAP shall review the professional inspection report and the HQS report to determine whether repairs are necessary prior to purchase and to generally assess whether the purchase transaction makes sense in light of the overall condition of the home and the likely cost of repairs.
- (b) Notice of Inspection Approval.
  - (1) No deficiencies. If the HQS inspection report and the professional inspection report reveal that the home meets satisfactory standards and there are no deficiencies, the program shall provide a notice of inspection approval.
  - (2) Contingent Approval for Minor Repairs. If the inspection reports indicate the need for repairs that can be corrected in a time period that compliments the purchaser's time table, the program shall provide the household with a notice of inspection approval, subject to the completion of repairs at the seller's expense, and a satisfactory follow up inspection by HQS or the professional inspector.
- (c) Options if Major Repairs Required. If the HQS inspection report and/or the report from the professional inspector reveals major defects in and/or repairs to the home, the HCV/HOAP shall either issue a Contingent Disapproval or a Notice of Disapproval.
- (d) Contingent Disapproval.
  - (1) If HCV/HOAP considers the major repairs to be feasible, the HCV/HOAP shall outline those defects/repairs noted in the inspection report that shall be corrected by the Seller, at Seller's expense, prior to purchase and stipulate the specific time frame by which they shall be corrected.
  - (2) Re-inspection shall be required upon completion of the repairs. The HCV/HOAP shall complete a follow-up HQS inspection. The Applicant Household shall be required to obtain a follow up inspection from the professional inspector to review the corrections, with any additional fee to be paid by the Household.
  - (3) HCV/HOAP shall receive a copy of the follow-up home inspection report from the professional inspector.
  - (4) The home inspection report shall be acceptable to HCV/HOAP before approval to continue shall be granted.

- (e) Notice of Disapproval.
  - (1) If HCV/HOAP determines that the home is not suitable for HOAP Subsidy because of the major physical problems and/or the cost of the subsequent repairs HCV/HOAP shall issue a written Notice of Disapproval. The notice shall state the reason(s) for the disapproval.
  - (2) The notice shall direct the Seller to return all earnest money and inform the household that they shall withdraw their offer and search for another home to purchase.
  - (3) The time period between the inspections and the disapproval shall not be counted against the 180 days allowed for the search and closure process under Subsection 9205.8, above.

**9210 ELIGIBLE TYPES AND TERMS OF FINANCING**

9210.1 Household Responsibility. The household is responsible for securing their own mortgage loan financing from a Participating Lender.

9210.2 Permitted Types of Loans: The following types of loans are acceptable:

- (a) Primary fixed rate mortgage loans that are:
  - (1) Insured by the FHA;
  - (2) Guaranteed by VA or other governmental entity;
  - (3) Insured with private mortgage insurance, if:
    - (i) The terms comply with secondary mortgage market underwriting of Fannie Mae, Freddie Mac, or the Federal Home Loan Bank; or
  - (4) Obtained through any other local or federal governmental lending program.
- (b) Subordinated mortgage loans, using
  - (1) Local Community Development Block Grant funds; or
  - (2) Other subsidized subordinate funding available in conjunction with the HCV/HOAP.

9210.3 Prohibited Loans. The following types of financing are considered high risk and are

not approved for use:

- (a) Balloon payments;
- (b) Adjustable rate mortgages;
- (c) Loans to persons in addition to those listed in the household's HCV/HOAP application;
- (d) Owner financing except as may be approved on a case by case basis; and
- (e) Any other type of loan that may come to the attention of HCV/HOAP that demonstrates a high-risk factor, as may be determined on a case by case basis.

9210.4 Minimum Down Payment. The minimum down payment requirements are:

- (a) The household shall contribute a minimum of three (3%) percent of the purchase price of the home as a down payment.
- (b) The source of the down payment (3%) funds can include, but is not limited to, the following:
  - (1) Gifts from family members or friends;
  - (2) Loans from family members or friends;
  - (3) Loans from any governmental program secured by a subordinate lien.

9210.5 Delinquency Notification by Lenders. Participating lenders shall agree to notify HCV/HOAP of any mortgage payment delinquency, in order to initiate prompt intervention and to avoid serious mortgage delinquency/default.

## 9211 LOAN APPROVAL

9211.1 The HCV/HOAP or its designee reserves the right to:

- (a) Determine if the financing terms secured for the mortgage are acceptable under the program; and
- (b) Reject the terms of a loan upon determination of any of the following:
  - (1) The household income, combined with home ownership assistance is not sufficient to cover all housing costs, taking into account other expenses, such as childcare, non-reimbursed medical expenses, transportation costs, education and training expenses;

- (2) The loan or purchase contract has terms and conditions that are burdensome and/or inconsistent with the HCV/HOAP rules, requirements and objectives;
- (3) The loan is being made to include persons other than those listed in the household HCV/HOAP application;
- (4) The loan financing chosen is a non-approved type, under Subsection 9210.3, above;
- (5) The loan financing is another type that is determined to have a high risk factor at a later time.
- (6) An independent third party appraisal has not confirmed a market value for the property which is sufficient to support the actual sales price.
- (7) Closing costs and sales commissions exceed reasonable and customary fees.

9211.2 Notice of Loan Disapproval. In the event HCV/HOAP or its designee rejects a loan:

- (a) The household shall be issued a Notice of Loan Disapproval. The notice shall state the reason for the disapproval and inform the household that they shall seek another type of financing; and
- (b) The time between submission of the loan documents and the disapproval shall not be counted against the time the household has to find a home under the HCV/HOAP.

## 9212 SUBSIDY TERMS AND CONDITIONS

9212.1 Maximum Term of Subsidy

- (a) If the initial mortgage loan obtained to finance the purchase of the home has a term of twenty (20) years or more, The HCV/HOAP Subsidy may be paid for a maximum period of fifteen (15) years, provided the Household continues to qualify for Subsidy assistance.
- (b) If the initial mortgage loan has a term of less than twenty (20) years, the maximum term of home ownership assistance is ten (10) years.
- (c) The maximum term for the HCV/HOAP does not apply to an Elderly Household if the household qualifies as an Elderly Household at the commencement of the HCV/HOAP.
- (d) In the case of a Disabled Household, the Household is exempt from the

maximum term if at any time during receipt of the assistance payments, the head of the household or any family member becomes disabled.

- (e) If during the course of the HCV/HOAP the household ceases to qualify as a Disabled or Elderly Household, the following conditions apply:
  - (1) The maximum term becomes applicable from the date the initial HOAP assistance payments commenced; and
  - (2) The Participating Household shall be provided at least six (6) months of program assistance after the maximum term becomes applicable (provided the household is other wise eligible to continue participation in the HCV/HOAP).
- (f) The maximum term applies to any member of the household who:
  - (1) Is a co-borrower for mortgage financing of the home, during any time that HCV/HOAP payments are made; or
  - (2) Is the spouse of any co-borrower in the household, during any time that HCV/HOAP payments are made.

9212.2 Amount of HOAP Subsidy Assistance.

- (a) DCHA does not establish a separate Payment Standard for assistance under the HCV/HOAP.
- (b) The HOAP Subsidy Assistance payment shall equal the lower of:
  - (1) The Payment Standard minus the Total Tenant Payment; or
  - (2) The monthly home ownership expenses as determined under Section 9208.2 above, minus the Total Tenant Payment.
- (c) The Payment Standard to be used in calculating the Total Tenant Payment may be established at one of the following points at the discretion of DCHA and may only be adjusted thereafter for factors that would increase the Payment Standard from the selected point through the end of the term of the Subsidy.
  - (1) Issuance of the Final Certificate of Assistance;
  - (2) Closing of the mortgage loan and commencement of HCV/HOAP Assistance;
  - (3) The most recent regular reexamination of the household income;

9212.3 Determination of Homeownership Expenses. The amount of HOAP assistance shall be determined by HCV/HOAP after taking into consideration the following costs to the household.

- (a) For a homeownership loan, the following costs shall be considered:
  - (1) Principal and interest on the initial mortgage debt or any refinanced debt;
  - (2) Any mortgage insurance premium;
  - (3) Real estate taxes on the home;
  - (4) Home owners insurance;
  - (5) An allowance for maintenance expenses, including major repairs and replacement;
  - (6) Utility allowance schedule, and
  - (7) If the home is a condominium unit, the operating charges and/or maintenance fees assessed by the condominium association.
- (b) For purchase of shares in a Cooperative the following costs shall be included:
  - (1) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
  - (2) Principal and interest on the initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt or other mortgage debts;
  - (3) Homeowners personal insurance;
  - (4) Allowance for maintenance expenses, including major repairs and replacement;
  - (5) Utility allowance schedule; and
  - (6) Any cooperative association fees.

9212.4 Distribution of Monthly HCV/HOAP Payments.

- (a) Direct Payment to Lender. The monthly HCV/HOAP payment shall be made

directly to the participating lender on behalf of the household.

- (b) Discontinuance of Payments. HOAP assistance payment shall be discontinued following a determination that a household's income has increased to a level where the household is no longer eligible to receive HCV/HOAP payments.
- (c) Eligibility Termination. At the end of a continuous period of 180 days following a valid discontinuance of HCV/HOAP assistance payments, eligibility for HCV/HOAP shall automatically terminate.
- (d) Discontinuance of Subsidy Payments - Household Moved.
  - (1) The HCV/HOAP assistance shall be paid only while the household is residing in the home. If the household moves out of the home, payment shall only be made through the end of the month the household moved out.
  - (2) The household is required to refund to the HCV/HOAP all or any portion of a payment received that is in excess of the balance required for the month the household moved out.
- (e) Continuance of Subsidy upon Death of Title Holder. Provided the home continues to be occupied by the remaining household members, upon the death of a household member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, HCV/HOAP may, subject to other provisions of this Chapter, continue HOAP Subsidy payments pending settlement of the decedent's estate, notwithstanding transfer of the title by operation of the law to the decedent's estate, executor or legal representative.

## **9213 MAINTENANCE RESERVE**

- 9213.1 The purchaser shall establish and maintain a maintenance reserve at all times.
- 9213.2 This fund is for home maintenance and repairs, and should be established and increased at regular intervals to ensure the availability of funds when needed.
- 9213.3 The HCV/HOAP or the counseling designee shall make recommendations on an amount that would build a sufficient reserve over a two to three year period.
- 9213.4 The reserve amount shall be kept in a bank or financial institution that provides periodic statements.
- 9213.5 Purchasers who fail to establish a maintenance reserve account, which shall be verified periodically, by the HCV/HOAP or the counseling designee, shall be

required to attend individual counseling sessions and instructed to establish one.

**9214 RECAPTURE OF ASSISTANCE**

**9214.1 Recapture Provision.**

- (a) The HCV/HOAP shall recapture a percentage of the homeownership proceeds provided to the household upon the sale of the home, unless the proceeds are invested in the purchase of another home under the HCV/HOAP program.
- (b) The HCV/HOAP shall recapture a percentage of any proceeds realized upon refinancing that are retained by the household (example during a "cash-out" of the refinanced debt).

**9214.2 Recapture Amount.**

- (a) In the case of the sale of the home, the recapture amount shall be, subject to paragraph (c) below, in the amount equaling the lesser of the following:
  - (1) The amount the HCV/HOAP provided to the household, adjusted to reflect the automatic reduction provided in paragraph (c) below; and
  - (2) The difference between the sales price and the purchase price of the home minus:
    - (i) The cost of any documented capital expenditures; and
    - (ii) The cost incurred by the household in the sale of the home, such as brokerage fees or repair and fix-up costs; and
    - (iii) The amount of the difference between the sales price and purchase price that is being used upon sale, toward the purchase of a new home under HCV/HOAP; and
    - (iv) Any amounts previously recaptured.
- (b) In the case of a refinancing of the home, the recapture shall be, subject to paragraph (c) below, in an amount equaling the lesser of the following:
  - (1) The amount the HCV/HOAP provided to the household, adjusted to reflect the automatic reduction provided in paragraph (c) below; or
  - (2) The difference between the current mortgage debt and the new mortgage debt; minus:
    - (i) The cost of any documented capital expenditures; and

- (ii) The cost incurred by the household in the refinancing of the home, such as reasonable and customary closing costs; and
  - (iii) Any amounts previously recaptured.
- (c) Reduction of Recapture Amount. The amount of the recapture shall be reduced in increments of ten percent (10%) for each full year of receipt of HCV/HOAP subsidies with no recapture required after the 11<sup>th</sup> year of participation.

9214.3 Recapture Agreement and Mortgage Lien.

- (a) At the time of purchase, the household shall execute a Recapture Agreement and Mortgage document which obligates the household to repay a portion of the Subsidy under certain circumstances, and secures the HCV/HOAP right to recapture the HOAP Subsidy.
- (b) Subordinate Lien. The lien securing the recapture may be subordinated to the mortgage lien of the primary loan and other subordinate liens securing repayment of down-payment assistance.

**9215. HOME OWNER OBLIGATIONS AND CONTINUED ASSISTANCE REQUIREMENTS**

9215.1 HQS inspections shall be conducted annually as long as the Participant remains in the program and continues to receive assistance. The Participating Household is required to make any repairs necessary to meet the HQS.

9215.2 The Participating Household shall execute a Statement of Home Ownership Obligation whereby they contractually agree to comply on a continuing basis with the obligations, rules and requirements of the HCV/HOAP which cover the following areas:

- (a) Ongoing counseling.
- (b) Compliance with mortgage terms and conditions;
- (c) Prohibition against conveyance or transfer of home.
- (d) Supplying Required Information.
- (e) Notice of move-out.
- (f) Notice of mortgage default.

- (g) Prohibition of an ownership interest on second residence.
- (h) Notice of additional grounds for termination of assistance.

9215.3 Post Closing Housing Counseling.

- (a) The household shall commit to and follow through with participation in Post Settlement home ownership and housing counseling program sessions for three (3) years following settlement.
- (b) This requirement continues even in the event the household moves with continued assistance under HCV/HOAP.

9215.4 Compliance with Loan Terms. The household shall comply with the terms of the mortgage securing debt incurred to purchase the home and any refinancing of such debt.

9215.5 Pre-approval for any change in financing. The household shall obtain written approval from HCV/HOAP or its designee before securing any refinancing of the primary loan, subordinate equity loan or line of credit.

9215.6 No other Residential Ownership. During the time the household receives home ownership assistance, no household member may have any ownership interest in any other residential property.

9215.7 Sale or other Conveyance.

- (a) **Prior Approval Required.** So long as the household is receiving HOAP Subsidy payment from the HCV/HOAP they may not sell, convey or transfer any interest in the home to any entity or person without prior approval of HCV/HOAP, except in conformance with the provisions of (b) and (c) of this Subsection.
- (b) Conveyance to another household member. If the household chooses to convey the home, or their interest in the home to another household member, even if by operation of law upon divorce, they shall:
  - (1) Inform HCV/HOAP of their intent prior to the conveyance or sale,
  - (2) Receive written consent from the HCV/HOAP before commencing with any such sale or transfer of interest,
  - (3) The household member shall have a voucher and continued eligibility for participation in the HCV/HOAP, if HOAP Subsidy is to continue.
  - (4) Provide the HCV/HOAP with copies of applicable documentation

related to any sale, refinancing or transfer.

- (5) Provide information and documentation on request of any mortgage or other debt incurred to purchase the home and any refinancing of such debt (including information needed to determine whether the household has defaulted on the debt, and the nature of any such default).
  - (6) Provide supportive information on how the existing debt, mortgage or financial obligation shall be paid (in installments or in total).
- (c) Upon the death of a household member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home,
- (1) The household is required to inform the HCV/HOAP of the decedent's death within thirty (30) days of its occurrence.
  - (2) HCV/HOAP may continue HOAP Subsidy payments, pending settlement of the decedent's estate, notwithstanding transfer of the title by operation of the law to the decedent's executor or legal representative,
  - (3) Provided the home is solely occupied by the remaining household members.

9215.8

Required Notices to HCV/HOAP. Participating Families are required to inform HCV/HOAP of certain types of information on a regular or interim basis as follows:

- (a) **Change in Expenses:** Inform HCV/HOAP within 72 hours, of any change in the household ownership expenses or ability to pay household expenses that shall affect the household's ability to financially handle the change in expense and the monthly mortgage obligations.
- (b) **Annual Recertification.** The household shall participate fully in the annual recertification process by providing all required documentation, including verification that the mortgage, insurance, utility payments and other home ownership expenses are current.
- (c) **Notice of move - with or without resale of home.**
  - (1) The household shall notify the HCV/HOAP of their intent to move out of the home by supplying a written ninety (90)-day notice.
  - (2) The household shall notify the HCV/HOAP in advance if any household member who owns, in whole or in part, any ownership interest in the home moves out.

- (d) Notice of Mortgage Default. The household shall notify the HCV/HOAP if the household defaults on the mortgage securing any debt incurred to purchase the home within seventy-two (72) hours of receiving the letter of delinquency.
- (e) Change in Income or Household Composition. The household shall inform the HCV/HOAP and their housing program specialist of any change in the source and/or amount of household income and any change in the household composition within thirty (30) days of the change. A change in household composition shall not be cause of a reduction in the Payment Standard, but may be used to increase the Payment Standard.

9215.9 Relocation

- (a) Limitation on relocation. The household is prohibited from purchasing a new home more than once in a twelve (12) month period
- (b) Counseling Requirement after relocation. The household shall be required to participate in pre and/or post counseling sessions prior to moving to another home purchased under this program, if more than three years have passed since the household initially entered the HCV/HOAP and/or if significant changes to the regulations have occurred that might affect the household's continued eligibility.

9215.10 No rental. The household shall not rent any portion of the property.

9215.11 No Criminal Activity.

- (a) No household member may commit fraud, bribery or any other corrupt or criminal act in connection with the HCV/HOAP.
- (b) No household member may participate in, be charged with or be convicted of illegal drug or violent criminal activity while connected with the HCV/HOAP.

9215.12 Additional Counseling. HCV/HOAP reserves the right to require additional counseling for a household during their participation in the program.

**9216 COOPERATIVE MEMBERS**

9216.1 The HCV/HOAP subsidy may be provided to a household who is a member of a Cooperative and who owns or is acquiring membership shares in the Cooperative.

9216.2 HCV/HOAP shall provide an HQS inspection prior to commencement of HOAP Subsidy assistance. If the unit fails inspection, the HCV/HOAP shall employ its standard inspection follow up procedures. A cooperative member is exempt from the requirement to obtain professional home inspection.

- 9216.3 The HCV/HOAP shall make Subsidy payments directly to the cooperative on behalf of the cooperative member.
- 9216.4 The cooperative household or the cooperative member(s) is not required to maintain continued affordability after transfer of the member interest.
- 9216.5 All other requirements, policies and procedures of the HCV/HOAP shall apply to cooperative members. Members are required to meet basic minimum eligibility requirements and adhere to all other HCV/HOAP requirements.
- 9216.6 In the HCV/HOAP Subsidy assistance is paid on behalf of a cooperative member, but there is no requirement that the cooperative enter into any agreement or any direct relationship with the HCV/HOAP. The cooperative shall not be required to modify any ordinary requirement for cooperative membership or occupancy nor any requirement concerning assessment or collection of the cooperative carrying charge, maintenance fees for the unit or sanctions for the violation of cooperative requirements.
- 9217 LEASE-PURCHASE AGREEMENTS**
- 9217.1 The HCV/HOAP may be provided to a household that rents a home with an option to buy the home under a lease-purchase agreement. In most cases, the monthly rent includes an amount referred to as a homeownership premium, which is an increment of value attributed the lease-purchase right or agreement such as an extra monthly payment to accumulate a down-payment or reduce the purchase price.
- 9217.2 If a household who holds a housing choice voucher, or is currently receiving rental assistance under the housing choice voucher assistance program would like to enter into a lease-purchase agreement with the property owner, the household may do so. However, the household shall not be subject to the HCV/HOAP regulatory requirements until the household is ready to exercise the home purchase option. At that time, the HCV/HOAP shall determine if the household is eligible for participation.
- 9217.3 Lease-purchase agreements are considered rental agreements and all the normal tenant-based HCVP rules are applicable. Therefore, the HCV/HOAP shall not make a housing assistance payment for a lease-purchase unit that may exceed the amount that would be paid on behalf of the household, if the rental unit were not subject to a lease-purchase agreement.
- 9217.4 The household shall absorb any homeownership premium or extra monthly payment towards a down payment related to the lease-purchase agreement. Families are permitted to pay any extra amount out of pocket to the owner for purchase-related expenses. Therefore, when HCV/HOAP determines whether or not the rent on a lease-purchase agreement is reasonable, any homeowner premium is excluded.

- 9217.5 The household shall meet all of the initial HCV/HOAP eligibility requirement before being approved to enter the HCV/HOAP program. Therefore, if the household purchases or takes title to a home before being approved by the HCV/HOAP program, the household shall be determined ineligible for HOAP Subsidy.
- 9217.6 When a household has leased a unit under a lease-purchase agreement that is approved for participation in the HCV/HOAP, at the time the Applicant Household chooses to exercise the purchase option, the household shall complete the following:
- (a) Meet all initial and continued annual eligibility requirements for participation in the HCV/HOAP;
  - (b) Complete the homeownership and housing counseling sessions;
  - (c) Secure mortgage financing and obtain approval of the finance terms by HCV/HOAP or its designee; and
  - (d) Arrange for an independent professional home inspection and provide the HCV/HOAP with a copy of the inspection report;
  - (e) Ensure that all required purchase process steps are satisfied within the allotted time;
- 9217.7 Upon approval to enter into the HCV/HOAP, the lease-purchase household shall be processed pursuant to the established HCV/HOAP procedures outlined in this Chapter.
- 9218 MOVING WITH CONTINUED HCV/HOAP ASSISTANCE**
- 9218.1 Minimum Requirements.
- (a) If a household chooses to move to another home and wishes to have continued assistance from the HCV/HOAP, they shall again meet the statutory employment and minimum income requirements.
  - (b) If a household cannot meet the statutory employment and minimum income requirements, the household shall be denied permission to move with continued HCV/HOAP assistance.
- 9218.2 Denial of Continued Assistance. The HCV/HOAP may exercise the right to deny a household continued homeownership assistance when it relocates for one or more of the following reasons:
- (a) Lack of funding. The HCV/HOAP may deny permission to move with continued voucher assistance if the program does not have sufficient funding

to provide continued assistance;

- (b) Non-compliance. If a household has not met the requirement of the program or their home owner obligations as outlined in the HCV/HOAP, Statement of Home Owner Obligations;
- (c) Fraud. If the household has committed fraud in connection with the DCHA, HCV/HOAP or any other PHA, federal or state assisted program.
- (d) Mortgage default. If the household has defaulted on their mortgage, they shall not be able to continue to receive HCV homeownership assistance.

## **9219 TRANSFERS FROM HOMEOWNERSHIP TO RENTAL ASSISTANCE**

9219.1 Criteria for a Transfer. At DCHA's discretion, a household may be allowed to switch back from the HCV/HOAP to rental assistance under the Housing Choice Voucher Program, if the household meets the following criteria:

- (a) The Participant Household has not defaulted on a mortgage loan while participating in the DCHA HCV/HOAP;
- (b) The Participant Household has met all of its obligations while participating in the HCV/HOAP; and
- (c) The Participant Household sells the home and thereafter vacates the home; or
- (d) The household conveys the title to the home to HUD, an approved designee or representative of the lender, or to DCHA. The household shall sign a Conveyance Acknowledgment Notice, indicating the requirement to completely transfer and convey the property, and such notice shall be acceptable to the mortgage lender.

9219.2 Approval of Rental Voucher. If the household is approved for transfer from the HCV/HOAP, the Housing Choice Voucher Program shall issue the household a rental voucher and the household shall complete the normal voucher rental unit search process. During the period the household is searching for a rental unit, if no mortgage default has occurred and all other program requirements have been satisfied, the HCV/HOAP shall continue to provide the household with home ownership subsidy.

9219.3 Termination of all Assistance. If the household fails to transfer or convey the property as provided hereinabove, resulting in foreclosure of the property, the HCV/HOAP payment shall be terminated and the HCVP shall not provide the household with rental assistance. If a rental assistance lease has commenced, the Housing Choice Voucher Program shall terminate both the household's Housing Choice Voucher and the rental assistance payment.

9219.4 No concurrent assistance. A household member who owns an interest in the home cannot receive both HCV/HOAP and rental assistance concurrently, except as provided in 9219.2 above.

**9220 DCHA DENIAL OF PARTICIPATION IN THE HCV/HOAP**

9220.1 DCHA reserves the right to deny home ownership assistance for the household for the following reasons:

- (a) The household does not meet the minimum employment and income requirements;
- (b) The household has defaulted on a mortgage loan in connection with the DCHA, HCV/HOAP;
- (c) The household has not complied with the requirements of the HCVP, and/or has failed to maintain the household obligations as required;
- (d) The household has committed fraud in connection with the HCVP; or
- (e) The household has any outstanding debt with DCHA or another Public Housing Authority.

**9221 TERMINATION OF PARTICIPATION IN THE HCV/HOAP**

9221.1 Home ownership subsidy for a household terminates automatically after the last housing assistance payment on behalf of the household.

9221.2 The HCV/HOAP may terminate a Participating Household's HOAP Subsidy for one or more of the following reasons:

- (a) The household has defaulted on a mortgage loan while participating in the DCHA HCV/HOAP;
- (b) The household has not complied with the requirements of the HCV/HOAP, and has failed to maintain the Home Owner Obligations as required under Section 9215, above;
- (c) The household has committed fraud in connection with the HCV/HOAP and/or the FSS program or HCV/HOAP;
- (d) The household moves from the home without prior consent of the \_\_\_\_\_  
\_\_\_\_\_ HCV/HOAP;
- (e) The household has requested to be withdrawn from the HCV/HOAP;

- (f) The household moves outside of the jurisdiction of the HCV/HOAP;
- (g) A household member engages in violent or criminal activity or uses the home for illegal purposes;
- (h) The household fails to adhere to the post-closing housing counseling requirement, without approval from the HCV/HOAP; or
- (i) The household income is less than the amount required under the provisions of 9203.2(c) above for more than 12 months.

9221.3 If the HCV/HOAP proposes to terminate assistance payments to the household, the household has the right to request an Informal Hearing under Chapter 89 to appeal the decision to terminate.

## 9222 STATEMENT OF NON DISCRIMINATION

9222.1 DCHA shall administer and operate the HCV/HOAP without regard to race, religion, color, creed, sex, sexual orientation, household status, national origin, age, marital status, personal appearance, household responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Reasonable accommodations shall be afforded to any person with disabilities that would otherwise qualify for the program; provided that such assistance does not cause undo financial and/or administrative burdens to the HCV/HOAP.

9222.2 DCHA shall administer the HCV/HOAP in accordance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973.

9222.3 To ensure that families with disabilities are afforded reasonable accommodations, the HCV/HOAP shall utilize partnerships with community based organizations serving these populations for home buyer counseling and/or other related services when applicable.

## 9223 WAIVER

The Executive Director of DCHA may waive any provision of the governing regulations under this Chapter 92 that is not otherwise restricted in law, provided such waiver is in writing and sets forth the reasons why the waiver is in the best interests of the program.

Comments on these proposed regulations should be submitted, in writing, to Margaret McFarland, General Counsel, 1133 North Capitol Street, NE, Washington, DC 20002, Suite 210, within fifteen (15) of the date of publication of this notice in the DC Register. Additional copies of these proposed rules are available from the above address.