

Section 23.0 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 LA will inspect each unit under contract at least annually. Units undergoing an annual inspection that have passed the last two full inspections may be placed on a biennial schedule and inspected every other year.

The LA 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 LA's required standards and to assure consistency in the LA's program. In addition, the LA must engage a third party HQS inspector for LA owned and LA managed units in order to avoid the appearance of a conflict of interest.

This section describes LA procedures for performing HQS and other types of inspections and LA 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.

23.01 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 LA 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 (or at least biennially, if the unit has been placed on a biennial inspection schedule as provided above) , and at other times as needed, to determine if units meet HQS.

The LA 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 LA to enter the unit and complete the inspection.

If the owner or family misses the scheduled inspection and fails to reschedule the inspection, the LA will only schedule one more inspection. If the family misses two inspections, the LA 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 LA 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 local LA's jurisdiction, LAs 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 LA 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 LA 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 LA may conduct a reinspection if deemed necessary by the LA.

Following are the types of inspections the LA will perform:

1. **Initial:** An inspection that must take place to ensure that the unit passes HQS before assistance can begin; this inspection is 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 from any source 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 LA fiscal year.

23.02 Initial HQS Inspections

If the LA has up to 1250 units:

The LA 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.

If the LA has more than 1250 units:

The LA will inspect the unit, determine whether the unit satisfies HQS and notify the family and owner of the determination within 30 days after the family and the owner have submitted a request for approval of tenancy. .

The LA 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 LA 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 LA.

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 LA once repairs are completed.

23.03 Annual HQS Inspections

The LA 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 LA to inspect the unit at reasonable times with reasonable notice.

Inspections will be conducted on business days only during normal business hours of the LA. Weekend inspections may be conducted under extenuating circumstances at the LA's discretion. The LA will provide the family with as much notice 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 LA to reschedule the inspection, or if the family misses two scheduled inspection appointments, the LA 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.

23.04 Verification of HQS Deficiencies

The LA 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 LA can obtain verification by other means.

Other than in the case of life threatening deficiencies an LA 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 LA should base the verification process on the severity of corrections to be made and/or the LA's experience with the owner and property.

23.05 Reinspections

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

The LA 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).

23.06 Notification of HQS Failures

When a unit fails HQS inspection, the LA 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 LA based on the time standards described in Section 23.07.

If the time period allowed to correct the repairs has elapsed and the LA has not granted an extension of time, the family must select another unit for assistance.

23.07 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 23.13.)

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

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

23.08 Rent Increases

Rent increases to an owner must not be approved if the unit fails inspection and deficiencies have not been corrected.

23.09 Move Out/Vacate Inspections

The LA may, at his/her discretion, conduct a move-out inspection at the request of the tenant and/or landlord. If possible, both the tenant and the landlord should be present for this inspection.

23.10 Special/Complaint Inspections

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

The LA 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.

23.11 Quality Control Inspections

Quality control inspections will be performed by the LA 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.

23.12 Accessibility Modifications to HQS

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

23.13 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 LA's local building codes and temperature inside is below the Fahrenheit degree level consistent with LA'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 LA.

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

23.14 Lead Based Paint

LAs are responsible for complying with HUD's Lead Based Paint requirements as outlined in 24 CFR Section 35.

23.14.01 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.

23.14.02 Annual/Periodic Inspection

If a unit fails its annual reinspection due to lead based paint hazards, the LA must advise the owner of his/her responsibility to ensure that the following conditions are adhered to:

- ***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 these 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 LA may grant the owner an extension of time to complete paint stabilization and clearance for reasonable cause, but such an extension shall not extend beyond 90 days after the date of notification to the owner of the results of the visual assessment

23.15 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 Statewide Section 8 Voucher Program requires 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 LA as emergency (24-hour) fail items. If the smoke **and/or carbon monoxide** detectors **are** not operating properly, the LA 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 LA will reinspect the unit the following day.

If the LA 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 LA will reinspect the unit the following day.

The LA will issue a written warning to any family determined to have purposely disconnected **one or both detectors**. 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.

23.16 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 LA may terminate the family's assistance on that basis. The owner or participant may appeal the determination to the LA 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.

23.17 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 LA, 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 LA will determine the deadline for completing deficiencies, depending on the nature of the repair(s) needed.

The LA will 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 LA 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 LA's portion of rent that is abated.

23.18 Reduction of Payments

The LA 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 LA. At the end of that time, if the work is not completed or substantially completed, the LA may terminate assistance.

23.19 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 his/her 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, he/she should be advised by the LA to seek legal guidance.

If the unit is uninhabitable, the tenant should be notified. The LA should 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 LA if the tenant chooses to remain in the unit.

23.20 Consequences When Family Is Responsible

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the LA 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 LA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the LA. 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.

23.21 Local Administrator – Owned Units

For purposes of program integrity and to avoid the appearance of conflict of interest, LAs are required to outsource inspections of LA-owned and managed units. The LA must provide a list of these units to the Statewide Section 8 Voucher Program.