



Housing Authority of New Orleans

**Housing Choice Voucher Program
Administrative Plan**

Approved: May 28, 2019 by HANO Board of Directors

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CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

1.1 INTRODUCTION

In 1974, Congress passed the Housing and Community Development Act, which amended the United States Housing Act of 1937 to create the “Section 8 Program,” known today as the Housing Choice Voucher (HCV) program. The HCV program subsidizes leased housing for low-income families and individuals. The program is federally funded through the United States Department of Housing and Urban Development and is carried out by local housing authorities. The HCV program is administered for Orleans Parish through the Housing Authority of New Orleans (HANO). The legal boundaries of the City of New Orleans designate the jurisdiction within which HANO operates.

1.2 MISSION STATEMENT

The mission of the Housing Authority of New Orleans is to provide affordable housing opportunities for low-income residents of the city of New Orleans, while laying the foundation for economic sustainability.

1.3 OVERVIEW AND PURPOSE OF THE PLAN

The Housing Authority of New Orleans (HANO) administers the HCV program in conformance with all applicable federal, state and local regulatory requirements.

The Administrative Plan is required by the U.S. Department of Housing and Urban Development (HUD), to establish policies for implementing programs in a manner consistent with HUD requirements, and HANO’s agency goals and objectives.

In addition, the Administrative Plan addresses policies for the following special programs:

- Single Room Occupancy (SRO)
- Homeownership
- Family Self-Sufficiency
- VASH (Veterans Affairs Supportive Housing)
- Project-Based Vouchers
- Mainstream
- Disaster Housing Assistance (DHAP)

This plan may be updated and changed in accordance with changes in regulations, agency goals and objectives, or efforts to assure operational and staff consistency.

Where it is not specifically designated, timeframes indicated by number of days will be considered calendar days.

HANO will review and update the Administrative Plan as needed to reflect changes in regulations, HANO operations, or as needed to ensure staff consistency in operation. The original plan and any changes are approved by HANO’s Board of Commissioners.

HANO, from time to time, may make non-substantive changes and edits to the Administrative Plan to clarify policy language.

All HUD regulations are immediately effective in HANO policies and will be included in this plan as it is updated.

1.4 APPLICABLE REGULATIONS

HANO’s HCV program and Administrative Plan are governed by the following regulations, including, but not limited to:

- 24 CFR Part 5: General HUD Program Requirements

- 24 CFR Part 8: Nondiscrimination Based on Handicap
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: Discriminatory Conduct Under the Fair Housing Act
- 24 CFR Part 792: Section 8 Fraud Recoveries
- 24 CFR Part 882: Moderate Rehabilitation Program
- 24 CFR Part 888: Section 8 Fair Market Rents
- 24 CFR Part 982: Section 8 Tenant Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Voucher Program
- 24 CFR Part 984: Family Self-Sufficiency

1.5 STANDARDS OF ETHICS AND SERVICE

HANO's standards of ethics and service include:

- Achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families.
- Maintain quality service and integrity while supporting property owners' efforts to rent to very low-income families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing HANO's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of HANO's operations, human resources, and customer support.

HANO will, to the extent possible, keep program participants informed of HCV program rules and regulations and advise participants of how the program rules affect them.

CHAPTER 2: GENERAL POLICIES

2.1 PROGRAM ACCOUNTS AND RECORDS

24 CFR 982.158

HANO will maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits quick and effective auditing. Records will be in the form required by HUD, including requirements governing computerized or electronic forms of record keeping.

To the extent permitted by federal or state requirements, during the term of each Housing Choice Voucher program tenancy, and for at least 3 years thereafter, HANO will keep all documents related to a family's eligibility, tenancy, and lease termination.

In addition, HANO will keep the following for at least three years post-tenancy:

- A copy of the executed lease
- The HAP contract
- The application from the family
- HANO will keep the following records for at least three years:
 - Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants
 - An application from each ineligible family and notice that the applicant is not eligible
 - HUD-required reports
 - Unit inspection reports
 - Lead-based paint records
 - Accounts and other records supporting HANO budget and financial statements for the program
 - Records to document the basis for HANO determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract)
 - Other records specified by HUD.

2.2 RECORDS MANAGEMENT

HANO's practices and procedures are designed to safeguard the privacy of applicants and tenants.

2.2.1 Privacy Act Requirements

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, income information of applicants and tenants, and other personally identifiable information of applicants and tenants shall be conducted, to the extent applicable, in compliance with the Privacy Act of 1974 and all other provisions of Federal, State, and local law.

Applicants and tenants, including all adults in the household, are required to sign a consent form, HUD- 9886, Authorization for Release of Information, or other form approved by HUD. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used and under which conditions HUD or HANO may release the information collected.

2.3 UPFRONT INCOME VERIFICATION (UIV) RECORDS

HANO shall adhere to the security procedures for accessing and protecting EIV data through HUD's Enterprise Income Verification (EIV) system as required by HUD.

HANO shall adhere to the United States Citizenship and Immigration Services (USCIS) security procedures for accessing and protecting citizenship data obtained through the SAVE electronic database.

2.4 CRIMINAL RECORDS

Consistent with the limitations on disclosure of records, HANO will ensure that any criminal record received by HANO from a law enforcement agency and any records received with respect to sex offender registration from a State or local agency is:

- Maintained confidentially.
- Not misused or improperly disseminated.
- Destroyed once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to a HANO action without institution of a challenge or final disposition of any such litigation.
- HANO will retain a record of the screening, including the type of screening and the date performed.

In all cases where criminal record or sex offender registration information would result in a denial, HANO will notify the household in writing of the proposed adverse action and provide an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken. HANO will provide access to the record, upon request, to the applicant/tenant and the subject of the record.

Disputes must be submitted in writing. The family will be given 10 business days from the date of HANO notice to dispute the accuracy and relevance of the information. If the family does not contact HANO to dispute the information within that 10 business day period, HANO will proceed with the eviction or lease enforcement action.

Should the tenant not exercise the right to dispute prior to any adverse action, the tenant still has the right to dispute through a court trial.

2.5 MEDICAL/DISABILITY RECORDS

If an applicant requests a reasonable accommodation or other assistance related to a disability, HANO may request documentation necessary to verify the need for the accommodation. HANO shall not inquire about the nature or severity of a person's disability, person's diagnosis, or details of treatment for a disability or medical condition. HANO will destroy, redact, or return any medical documentation that states the nature or extent of a person's disability or medical condition.

2.6 ADMINISTRATIVE FEE RESERVE

24 CFR 982.155

HANO will maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a HANO fiscal year. If funds in the administrative fee reserve are not needed to cover HANO administrative expenses, HANO may use these funds for other housing purposes permitted by federal, state, and local law.

Expenditures from the administrative fee reserve will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$10,000 per occurrence without the prior approval of HANO's Board of Commissioners.

2.7 DETERMINATION OF INSUFFICIENT FUNDING

HANO will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing HANO's annual budget authority to the annual total HAP needs.

CHAPTER 3: FAIR HOUSING AND EQUAL OPPORTUNITY

3.1 INTRODUCTION

This chapter explains the laws and HUD regulations requiring HANO to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policies and processes. The responsibility to further nondiscrimination pertains to all areas of HANO's HCVP operations.

3.2 NON-DISCRIMINATION

HANO treats all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. HANO will comply fully with all federal, state, and local nondiscrimination laws and with rules and regulations governing fair housing and equal opportunity in housing and employment including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- Discrimination Act (ADA) of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012
- Violence Against Women Reauthorization Act of 2013 (VAWA 2013)

HANO will not discriminate because of race, color, sex, religion, familial status, gender identity, age, disability, or national origin (called "protected classes"). Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

HANO will not use any of the family characteristics and background described above to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the Housing Choice Voucher Program;
- Provide housing that is different from that provided to others;
- Subject anyone to segregation or disparate treatment;
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;
- Treat a person differently in determining eligibility or other requirements for admission;
- Steer an applicant or participant toward or away from a particular area based any of these factors;
- Deny anyone access to the same level of services;

- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program;
- Discriminate in the provision of residential real estate transactions;
- Discriminate against someone because they are related to or associated with a member of a protected class; or
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes people who are members of a protected class.

3.3 PROVIDING INFORMATION TO FAMILIES AND OWNERS

HANO takes steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, HANO will provide information to HCVP applicant families and owners about civil rights requirements and the opportunity to rent in a broad range of neighborhoods.

The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

3.4 DISCRIMINATION COMPLAINTS

Applicants or participants who believe that they have been subject to unlawful discrimination may notify HANO’s legal department in writing. HANO will attempt to remedy discrimination complaints made against HANO.

HANO will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD’s office of Fair Housing and Equal Opportunity (FHEO).

3.5 POLICIES RELATED TO PEOPLE WITH DISABILITIES

HANO strives to ensure that people with disabilities have full access to HANO’s programs and services.

HANO may need to verify that a person requesting an accommodation is a qualified individual with a disability. HANO must also determine whether an accommodation is necessary to provide the individual with an equal opportunity to participate in the HCV program. A person who does not meet the definition of disability is not entitled to a reasonable accommodation. (See Eligibility Appendix: Detailed Definitions Related to Disabilities.)

3.6 REQUEST FOR AN ACCOMMODATION

Requests to HANO for an accommodation should be made in writing; however, if an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HANO will treat the information as a request for a reasonable accommodation, even if no formal request is made.

HANO requires individuals to certify that they are a person with a disability, under the following Americans with Disabilities Act Amendments Act of 2008 definition of disability:

- “A physical or mental impairment that substantially limits one or more major life activities of an individual; a record of such impairment; or being regarded as having such an impairment” (Section 902.1).

If a person’s disability is obvious, or otherwise known to HANO, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required (see Joint Statement of the Department of HUD and the Department of Justice: Reasonable Accommodations under the Fair Housing Act, www.fairhousingfirst.org).

The family must explain what type of accommodation is needed to provide the person with the disability full access to HANO’s programs and services.

If the need for the accommodation is not readily apparent or known to HANO, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. HANO may request verification necessary to determine the need for or type of accommodation.

All requests for access and related review of accommodation requests will be received and determined by the authorized HANO HCVP 504 Coordinator. The 504 Coordinator may consult with the legal department to assure appropriate actions are taken, if applicable. Please see Fair Housing Appendix: Reasonable Accommodation Policy for more details.

3.7 VERIFICATION OF DISABILITY

When a disability is not obvious or known to HANO, HANO will follow the following policies on verification:

Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability (see Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act).

HANO will request only information that is necessary to evaluate the disability-related need for the accommodation. HANO will not inquire about the nature or extent of any disability. Confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, will not be retained in the participant file.

3.8 APPROVAL OR DENIAL OF A REQUESTED ACCOMMODATION

HANO will approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability;
- There is a disability-related need for that accommodation; and
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on HANO.

Requested accommodations will not be approved if one of the following would occur as a result:

- A violation of state and/or federal law;
- A fundamental alteration in the nature of HANO housing program;
- An undue financial and administrative burden on HANO;
- A structurally infeasible alteration; or
- An alteration requiring the removal or alteration of a load-bearing structural member.

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs to the extent applicable to HCVP. (Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act).

After a request for an accommodation is presented, HANO will respond, in writing, in a timely fashion.

If HANO denies a request for an accommodation because it is not reasonable, the notice will inform the family of the right to appeal HANO's decision through an informal hearing.

3.8.1 Alternative Accommodations

If HANO denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of HANO's operations), HANO may review with the family alternative accommodations which could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If HANO believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, HANO will notify the family, in writing, of its determination in a timely fashion. The notice will inform the family of the right to appeal HANO's decision through an informal hearing.

3.9 PROGRAM ACCESSIBILITY FOR PEOPLE WITH HEARING OR VISION IMPAIRMENTS

24 CFR 8.6

HUD regulations require HANO to ensure that people with disabilities related to hearing and vision have reasonable access to HANO's programs and services. At the initial point of contact with each applicant, HANO shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

3.10 PHYSICAL ACCESSIBILITY

HANO complies with the applicable requirements pertaining to physical accessibility, including:

- Section 504 of the Rehabilitation Act of 1973;
- The Americans with Disabilities Act of 1990;
- The Architectural Barriers Act of 1968;
- The Fair Housing Act of 1988.

This policy, the Administrative Plan, describes the key policies that govern HANO's responsibilities with regard to physical accessibility and will be made readily available to applicants and participants.

When issuing a voucher to a family that includes an individual with disabilities, HANO may include a current list of available accessible units known to HANO and may assist the family in locating an available accessible unit, if necessary. In general, owners must permit the family to make reasonable modifications to the unit; however, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

Reasonable modifications are subject to the following:

- The design, construction, or alteration of HANO facilities must conform to the Uniform Federal Accessibility Standards (UFAS);
- Newly-constructed facilities must be designed to be readily accessible to and usable by people with disabilities; and
- Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

3.11 DENIAL OR TERMINATION OF ASSISTANCE – FAMILIES WITH DISABLED HOUSEHOLD MEMBERS

HANO's decision to deny or terminate the assistance to a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

When applicants with disabilities are denied assistance, the notice of denial will inform them of HANO's informal review process and their right to request an informal review. In addition, the notice will inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination will inform them of HANO's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, HANO will consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to HANO's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, HANO may make the accommodation.

3.12 IMPROVING ACCESS TO SERVICES FOR PEOPLE WITH LIMITED ENGLISH PROFICIENCY

Language for Limited English Proficiency (LEP) people can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP people can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin.

This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

HANO will take affirmative steps to communicate with people who need services or information in a language other than English by utilizing bilingual staff, or Language Bank Volunteers.

A LEP person is defined as a person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English. For the purposes of this Administrative Plan, LEP people are HCVP applicants and participants and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP people, HANO will balance the following four factors:

- The number or proportion of LEP people eligible to be served or likely to be encountered by the Housing Choice Voucher program;
- The frequency with which LEP people come into contact with the program;
- The nature and importance of the program, activity, or service provided by the program to people's lives; and
- The resources available to HANO and costs.

Balancing these four factors will ensure meaningful access by LEP people to critical services while not imposing undue burdens on HANO.

3.12.1 Oral Interpretation

Each HANO department office or location that provides direct services must provide oral interpretation upon request and at no charge to LEP people at points of contact and service to ensure meaningful access to HANO's direct services. HANO shall notify all applicants, residents, and participants of their ability to request an interpreter in notices from HANO for hearings, interviews, scheduled appointments, and adverse action. If necessary, appointments/interviews/hearings/conferences may need to be rescheduled to a later date in order to provide language assistance services.

HANO staff that are fluent in English and additional languages will be utilized as available to provide interpretive services to LEP individuals.

Types of activities for which interpretative services must be offered to LEP people include, but are not limited to the following:

- Eligibility Interview

- Voucher Briefing
- Housing Offer and Lease Signing
- Resident/Applicant/Participant Private Conferences and Hearings
- Interviews regarding Annual and Interim Rent Recertifications
- Transfer and Residual Tenancy Application
- Reasonable Accommodation Request
- Notice of Public Hearings

HANO staff is prohibited from requiring or asking LEP people to bring their own interpreter. If a LEP person requests that an adult family member or friend (18 years of age or older) provide interpretation, this practice is acceptable only if it is their choice. The employee must advise the LEP person about the availability of free language services and document in writing if the LEP person still chooses to have their own interpreter.

There are some situations where the use of family members or friends is not appropriate, e.g., in situations involving domestic abuse, sexual assault, or in hearings related to adverse actions. In these instances qualified HANO interpreters or others must provide language assistance. In situations where the HANO proposes to take adverse action against a LEP person, a qualified interpreter must provide language services.

NOTE: For sign language interpreters, applicants, residents, or participants shall submit the HANO Request for Reasonable Accommodation form. For further information related to persons who need sign language interpreters please refer to HANO's policies on Reasonable Accommodation in the appendices.

3.12.2 Written Translation

Documents which contain vital information or information that is critical for ensuring meaningful access to HANO's direct services are considered Vital Documents. Each Department Director shall conduct an initial review of its written documents for the purpose of assessing whether any document contains vital information and requires translation. A similar review at time of creation will be conducted to determine if new documents contain vital information and require translation. HANO will translate documents containing vital information if Department Directors have indicated the need. This commitment is subject to the availability of appropriated funds. It may not occur in full if the translations would create an undue administrative and financial burden on HANO.

3.12.3 Implementation Plan

After deciding what language assistance services are appropriate, HANO shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If it is determined that HANO serves very few LEP persons, and HANO has very limited resources, HANO may not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access.

3.13 VIOLENCE AGAINST WOMEN ACT PROTECTIONS

(See Eligibility Appendix)

Applicants who otherwise qualify for assistance or admission will not be denied admission on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. VAWA does not limit HANO's authority to deny assistance to an individual or family that is not otherwise qualified or eligible for assistance.

3.13.1 Prohibition Against Termination of Assistance Related to Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

Criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household or any affiliated individual will not be the basis for termination of assistance, tenancy, or

occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, sexual assault, or stalking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

Notwithstanding the foregoing, HANO may exercise its authority to remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Further, HANO retains its authority to terminate the tenancy of any tenant if HANO concludes that there is an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance. VAWA does not limit HANO's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

CHAPTER 4: ELIGIBILITY

4.1 OVERVIEW

Every individual and family admitted to the HCV program must meet all program eligibility requirements. This includes any individual approved to join a family after the family has been admitted to the program. Families must provide any information needed by HANO to confirm eligibility and determine the level of the family's assistance.

4.2 GENERAL ELIGIBILITY FACTORS

24 CFR 982.201(a)

To be eligible for the HCV program, the applicant family must:

- Qualify as a family as defined by HUD and HANO.
- Have income at or below HUD-specified income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for family members as required.
- Consent to HANO's collection and use of family information as provided for in HANO provided consent forms

HANO must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or HANO.

4.3 FAMILY AND HOUSEHOLD

24 CFR 982.201(a), HUD-50058 IB, p. 13, 24 CFR 5.403

4.3.1 Family

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. Two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who can demonstrate an interdependent relationship are also considered a family. To demonstrate an interdependent relationship, the following documents are acceptable:

- A Domestic Partnership agreement
- Joint mortgage or lease
- Designation of one of the partners as a beneficiary in the other partner's will or life insurance policy
- Durable property and health care power of attorney
- Joint title to an automobile
- A joint bank account or credit card account
- A detailed affidavit indicating (1) past behavior and proof that the individuals consider themselves and wish others to consider them as a family and/or (2) future intent to be responsible to each other and live together as a family unit

Gender Identity means actual or perceived gender characteristics. *Sexual orientation* means homosexuality, heterosexuality, or bisexuality. Family may include any one of the following:

- A single person (Sole Member)
- A group of persons, which may include:
 - A single person, or a group of persons with a child or children;
 - Two or more elderly or disabled adults living together; or
 - One or more elderly or disabled persons living with one or more live-in aides.

Each family must identify the individuals to be included in the family at the time of application. The family must report any changes in the family composition within 10 business days of the change.

4.3.2 Household

HANO defines a household as the family plus any additional people who reside in the unit with HANO's permission, such as live-in aides, foster children, and foster adults.

4.4 FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY 24 CFR 982.315

4.4.1 Family Break-up While on Waiting List

If a court determines the disposition of property between members of the assisted family or waiting list family in a divorce decree, HANO is bound by the court's determination of which family members continue to receive assistance or remain on the waiting list.

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

In the absence of a judicial decision, or a written agreement among the original family members about who retains the voucher, HANO will ensure that the head of household listed on the original application will remain on the waiting list. HANO may make exceptions and may take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

4.5 REMAINING MEMBER OF A TENANT FAMILY 24 CFR 5.403

Remaining member of a tenant family includes:

- A member of an assisted family (per HUD's definition of family) who remains in the unit when other members of the family have left the unit, either through death, abandonment or incarceration, including a dependent.

Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

4.6 HEAD OF HOUSEHOLD 24 CFR 5.504(b)

Under Louisiana State law, the Head of Household must:

- Have the legal capacity to enter into a lease under Louisiana law;

- Be a member of the family who is considered the head for purposes of determining income eligibility and rent;
- Be responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse;
- The family may designate any qualified family member as the head of household;
- A minor who is emancipated under Louisiana law may be designated as head of household.

4.6.1 Spouse, Co-Head, and Other Adult.

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13]. The following are the definitions for spouse, co-head and other adult:

A spouse is defined as the marriage partner of the head of household.

The spouse may be a person who has demonstrated an interdependent relationship, as defined in Section 6.2.8 *Family Composition* of the HANO Administrative Plan, with the head of household of an assisted family.

Does not apply to friends, roommates, or significant others who are not marriage partners as described above.

A minor who is emancipated under Louisiana law may be designated as a spouse, as described above.

A co-head is defined as a member of an assisted family who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program.

A co-head must not be the spouse, as defined in this Administrative Plan, of the head of an assisted family. A family can have only one co-head, but only if the family does not have a spouse.

A minor who is emancipated under Louisiana law may be designated as a co-head.

Another Adult is defined as a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

A minor who is emancipated under Louisiana law may only be considered as a head, spouse, or co-head under this section.

4.7 DEPENDENTS

24 CFR 5.603

A dependent is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents:

- The head of household
- Spouse
- Co-head
- Foster children/adults
- Live-in aides

Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 8: Income and Subsidy Determinations.

4.7.1 Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family more than 50 percent of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with legal custody at the time of the initial examination or reexamination (annual or interim) will be able to claim the dependents. If there is a dispute about which family will claim the dependents, HANO's HCVP Program Director will make a case-by-case determination based on the following factors:

- Documentation of court-ordered custody;
- Evidence of filing for court ordered custody;
- Custody by mandate;
- Name listed on the dependent's birth certificate for either father or mother;
- Medical Records;
- School Records; and
- Other evidence of physical custody.

When both parents are incarcerated, deceased, under long-term hospitalization and/or cannot be located, HANO will accept a sworn affidavit from the head of household, and supporting documentation. In situations where the parents cannot be located, the family must also provide documentation of the length of time that the parent has been absent, or the efforts made to locate the parent. Supporting documentation may include any of the follow:

- A death certificate;
- A death announcement from a newspaper;
- Written permission from an incarcerated parent;
- Proof of incarceration;
- Office of Community Services child placement agreement;
- The dependent's school records;
- The dependent's medical records;
- Letters of support from teachers or church representatives;
- Tax returns;
- Food Stamps; or
- Evidence of being the representative payee on Social Security disability payments.

4.8 FULL-TIME STUDENT

24 CFR 5.603; HCVP Guidebook (GB) 5-29

A full-time student is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution. Identifying each full-time student is important because: (1) each family member that is a full-time student, other than the head, spouse, or co-head, qualifies the family for a dependent deduction, and (2) the income of such an full-time student is treated differently from the income of other family members.

4.9 ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

24 CFR 5.100, 5.403, and FR Notice 02/03/12

The following definitions apply when considering eligibility:

- Elderly Person: A person who is at least 62 years of age.
- Near-Elderly Persons: A person who is 50-61 years of age
- Elderly Family: is a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.

Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 8: Income and Subsidy Determinations.

4.10 PERSONS WITH DISABILITIES AND DISABLED FAMILY

24 CFR 5.403, HCVP GB p. 5-2

4.10.1 Persons with Disabilities

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with a handicap and persons with disabilities are provided in the Eligibility Appendix: Detailed Definitions Related to Disabilities. These definitions are used for a number of purposes, including ensuring that persons with disabilities are not discriminated against based upon disability.

4.10.2 Disabled Family

A disabled family, which means a family whose head, co-head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities; or one or more persons with disabilities with one or more live-in aides. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 8: Income and Subsidy Determinations.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent HANO from denying or terminating assistance for reasons related to alcohol and drug abuse following policies found in the Denial of Assistance section of this chapter and Chapter: Termination of Assistance and Tenancy.

4.10.3 Displaced Family

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

4.11 GUESTS

24 CFR 5.100

A guest is defined as a person temporarily staying in the assisted unit with the consent of a member of the household who has express or implied authority to consent. All assisted families must follow the terms of their lease as to the permissibility of guests.

If the lease is silent as to guest, guests will be allowed to stay no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period without violating the Housing Choice Voucher rules.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges and that are not included as a family member because they live outside of the assisted household more than 50 percent of the time are not subject to the time limitations of guests as described above. The family must provide HANO with proof of a joint custody arrangement or visitation privileges.

A family may request an exception to this policy for valid reasons (e.g., the length of care of a relative recovering from a medical procedure is expected to last 40 consecutive days). The family must provide documentation showing need of guest to remain longer than above noted time limitation. An exception will not be made unless the family can identify and

provide documentation of the residence to which the guest will return.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants and their presence represents a violation of program requirements.

4.12 FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Foster children and foster adults are generally treated with the following status 24 CFR 5.603; HUD-50058 IB, p. 13:

- Considered household members but not family members
- Income is not counted in family annual income
- Do not qualify for a dependent deduction

HANO will allow a foster child/foster adult to live with a family with HANO approval.

4.13 ABSENT FAMILY MEMBERS

The following definitions apply for absent family members:

- Temporarily Absent: A family member that is absent or expected to be absent for 90 consecutive days or less and continues to be considered in the assisted family composition.
- Permanently Absent: A family member that is absent or expected to be absent from the assisted unit for more than 90 consecutive days. This family member is no longer considered toward the assisted family composition. A family member that is permanently absent must be removed from the family composition within 30 calendar days of the determination of permanent absence.

4.13.1 Absent Students

An absent student is defined as a person that is already a member of the assisted family composition who attends school on a full-time basis away from home.

The person is no longer considered an absent student when HANO determines the student has established a separate household. In determining whether the student established a separate household, HANO may consider factors such as: if the student returns home for the holidays or if the student is financially independent. If a student has established a separate household, the student must be removed from the assisted family.

4.13.2 Absences Due to Placement in Foster Care

24 CFR 5.403

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

If a child has been placed in foster care, HANO will verify with the appropriate agency whether and when the child is expected to return to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

4.13.3 Absent Head, Spouse, or Co-head

An employed head, spouse, or co-head absent from the unit more than 90 consecutive days due to employment will

continue to be considered a family member and must not be removed from the household.

4.13.4 Family Members Permanently Confined for Medical Reasons HCVP GB, p. 5-22

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member, the income of that person is not counted, and that person should be removed from the household.

HANO will request verification from a responsible medical professional and will use this to make a determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

4.13.5 Return of Permanently Absent Family Members

The family must request HANO approval for the return of any adult family members that HANO has determined to be permanently absent. The Director will make a determination on a case-by-case basis. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

4.14 LIVE-IN AIDE

A live-in aide is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the person(s); and
- Would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

HANO must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(c)].

Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. A relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing.

Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

For continued approval, the family must submit a new, written request that is subject to HANO verification at each annual reexamination.

The family and live-in aide will be required to submit a certification stating that the live-in aide is not providing financial support to the person(s) needing the care.

Examples of individuals who would not qualify as a live-in aide include a non-custodial parent attempting to be a live-in aide for their disabled child receiving assistance under HANO HCV program or a non-custodial parent attempting to be a live-in aide for a household that contains their minor child.

A live-in aide must be a person who would not be living in the unit except to provide the necessary supportive services.

HANO will not approve a particular person as a live-in aide, and may withdraw such approval if any of the following occurs:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity;

- The person currently owes rent or other amounts to HANO or to another public housing authority in connection with Section 8 or public housing assistance under the 1937 Act; or
- The person is listed in another assisted household and will not voluntarily remove him or herself.

HANO will notify the family of its decision in writing within a reasonable time, upon receiving a request for a live-in aide, including all required documentation related to the request

4.15 INCOME ELIGIBILITY AND TARGETING

24 CFR 5.603(b)

4.15.1 Low-Income Family

A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

4.15.2 Very Low-Income Family

A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

4.15.3 Extremely Low-Income Family

A family whose annual income does not exceed the higher of the following:

- 1) 30 percent of the median income as determined by HUD for Orleans Parish adjusted by the family composition size;
 - a) EXCEPTION: HUD may modify this requirement if determined that Orleans Parish has unusually high or low family incomes; and
- 2) Federal poverty level, as established by the Department of Health and Human Services.

4.15.4 Using Income Limits for Eligibility

24 CFR 982.201

To be income-eligible, a family must be:

- An Extremely Low Income Family, as defined above, or
- A Very Low-Income Family, as defined above, or
- A Low-Income Family: a low-income family may be considered income-eligible based on the following criteria:
 - The low-income family has been "continuously assisted" under the 1937 Housing Act, per the following:
 - A low-income family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4].
 - HANO will consider a low-income family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program within 120 calendar days of being issued a voucher by HANO.
- The low-income family was displaced by rental rehabilitation activity under 24 CFR 511.
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR

248.173.

- A low-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.

HANO will allow two or more individuals, who (1) collectively would be considered a low-income family but separately would qualify as two separate very-low income families and (2) who are related by blood or can demonstrate an interdependent relationship, as provided in Section 6.2.8 Family Composition of the HANO Administrative Plan and (3) meet all other eligibility requirements, to become one family with the appropriate sized voucher. This policy is aimed at reducing HANO's total subsidy costs.

The families must request permission from HANO in writing and designate the family head and co-head or spouse.

EXAMPLE: Two sisters want to live together. Individually they meet the very low-income limit. Together they exceed the very low-income limit, but not the low-income limit. It will be cheaper to house them in a two- bedroom unit rather than in two one-bedroom units.

4.16 USING INCOME LIMITS FOR TARGETING

24 CFR 982.201

At least 75 percent of the families admitted to HANO's program during a HANO fiscal year must be extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

4.17 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

24 CFR 5, Subpart E

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to declare citizenship/immigration status, and as applicable, submit required documents, when they apply.

4.17.1 Declaration

24 CFR 5.508

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to reveal their immigration status. Those who elect not to reveal their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to reveal their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

4.17.2 U.S. Citizens and Nationals

Family members who declare citizenship or national status will not be required to provide additional documentation unless HANO receives information indicating that an individual's declaration may not be accurate.

4.17.3 Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with HANO's efforts to verify their immigration status as described in Chapter: Verification. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance. HANO will use the USCIS SAVE Verification

System to verify eligible immigration status.

4.17.4 Ineligible Noncitizens

Those noncitizens who do not wish to reveal their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. HANO is not required to verify a family member's ineligible status and will not report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

4.17.5 Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. HANO will notify mixed families that their assistance will be prorated and that they may request an informal hearing if they contest this determination.

4.17.6 Ineligible Families

24 CFR 5.514(d)(e)(f)

HANO will not provide assistance to a family before the verification of at least one family member. When HANO determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within a reasonable time of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or an informal hearing with HANO. The informal hearing with HANO may be requested in lieu of the USCIS appeal or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

4.17.7 Timeframe for Determination of Citizenship Status

24 CFR 5.508(g)

For new occupants joining the assisted family, HANO must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, HANO must grant such an extension for no more than 30 calendar days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

HANO may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

4.18 DATE OF BIRTH

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, HANO will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded). Age will be verified only once during continuously-assisted occupancy.

4.19 PHOTO ID

To ensure HANO has the ability to identify all persons 18 years of age or older (not just the head of household), all adult household members will be required to provide a current, government issued photo identification at admission, upon addition to a HCVP household or upon turning 18. As an accommodation for individuals with disabilities and elderly individuals, as well as for individuals with religious considerations, with prior HANO approval, HANO may accept other forms of identification to establish identity.

4.20 SOCIAL SECURITY NUMBERS

24 CFR 5.216 and 24 CFR 5.218, Notice PIH 2018-24

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, including foster children, foster adults, and live-in aides. The applicant and all members of the applicant's household must provide the documentation necessary to verify each SSN. These requirements do not apply to noncitizens that do not contend eligible immigration status.

All family members 6 years of age and older must have SSN documentation before HANO can assist.

HANO may assist households without SSN documentation for children under 6 years of age. The applicant family may become program participants for a 90-day period without the SSN documentation for the child under 6 years of age. If family does not provide the SSN documentation within the 90 day period HANO may terminate the family's assistance. If HANO determines that, in its discretion, the family's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the family, HANO may grant a 90-day extension. If the family does not produce the required documentation within the 90-day extended time period, HANO must terminate the family's assistance.

4.21 FAMILY CONSENT TO RELEASE OF INFORMATION

24 CFR 5.230, HCVP GB, p. 5-13

HUD requires each adult family member and the head of household, spouse, or co-head, regardless of age to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

HANO must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

4.22 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

24 CFR 5.612, 71 FR 18145, 81 FR 64932

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a (part- or full-time) student enrolled at an institution of higher education:

- Is under the age of 24;
- Is not a veteran;
- Is not married;
- Does not have a dependent child;
- Is not a person with disabilities receiving HCVP assistance as of November 30, 2005;
- Is not living with their parents who are receiving Section 8 assistance; or
- Is not individually eligible to receive Section 8 assistance, or has parents who are not income eligible to receive Section 8 assistance.

The student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCVP assistance. If, however, a student in these circumstances is determined to be independent from their parents in accordance with HANO policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCVP assistance. It is limited to students who are seeking assistance on their own, separate from their parents.

4.22.1 **Definitions**

In determining whether and how the new eligibility restrictions apply to a student, HANO will rely on the following definitions [FR Vol. 71, No. 68, p. 18148].

4.22.2 **Institution of Higher Education**

HANO will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education (see Eligibility Appendix: Definition of Institution of Higher Education).

4.22.3 **Dependent Child**

In the context of the student eligibility restrictions, dependent child means a dependent child of a student enrolled in an institution of higher education.

The dependent child must also meet the definition of dependent in 24 CFR 5.603.

The dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, is a person with a disability, or is a full-time student.

Foster children and foster adults are not considered dependents.

4.22.4 **Independent Student**

24 CFR 5.612

HANO will consider a student "independent" from his or her parents, and the parents' income will not be considered when determining the student's eligibility, if the following four criteria are all met:

1. The individual is 18 years or older.
2. The individual has established a household separate from their parents for at least one year prior to application for occupancy
3. The individual meets the U.S. Department of Education's definition of an "independent student."
 - To be considered an independent student according to the Department of Education, a student must meet one or more of the following criteria:
 - Is at least 24 years old by December 31 of the award year for which aid is sought;
 - Is an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
 - Is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
 - Is a veteran of the U.S. Armed Forces or is currently service on active duty in the Armed Forces for other than training purposes;
 - Has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent);

- Is a graduate or professional student;
 - Is married; or
 - Is verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth or as unaccompanied, at the risk of homelessness, and self-supporting by:
 - A local educational agency homeless liaison;
 - The director or designee of the director of a program funded under the Runaway and Homeless Youth Act;
 - The director of a program funded under Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act;
 - A financial aid administrator; or
 - The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
4. The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
 5. The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

HANO will verify that a student meets the above criteria in accordance with its verification policies.

4.22.5 Determining Student Eligibility

If a student is applying for assistance on their own the student must provide proof of the following:

- The student is individually eligible for the program.
- Either the student is independent from their parents or the student's parents are income eligible for the program.
- The "family" with which the student is applying is collectively eligible for the program.

4.22.6 Parents

For purposes of student eligibility restrictions, the definition of parents includes biological or adoptive parents and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

4.22.7 Determining Parental Income Eligibility

Any student who is subject to the Section 5.612 restrictions and who does not satisfy the definition of independent student in this section, HANO will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together,
 - HANO will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single,
 - HANO will obtain an income declaration and certification of income from that parent.

- If the student's parents are divorced or separated,
 - HANO will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of their parents and has not had contact with, or does not know where to contact their other parent,
 - HANO will require the following:
 - The student to submit a certification, under penalty of perjury, describing the circumstances and stating that the student does not receive financial assistance from the other parent.
 - An income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, HANO will use the income limits for the jurisdiction in which the parents live.

4.22.8 Person with Disabilities

HANO will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a person with disabilities (see Eligibility Appendix: Detailed Definition of a Person with Disabilities).

4.22.9 Veteran

A veteran is a person who served in the active military, naval, or air service and who was discharged or released from such service under any condition except dishonorable.

4.23 SCREENING FOR ELIGIBILITY 24 CFR 5.903

4.23.1 Applicant Screening

HANO conducts tenant screening to evaluate the eligibility and suitability of families who apply to the HCV program. HANO may deny program assistance for an applicant based on the screening of applicants for family behavior or suitability for tenancy.

No applicant to the HCV program who has been a victim of domestic violence, dating violence, sexual assault, or stalking shall be denied admission into the program if they are otherwise qualified.

4.23.2 Household Member Turning 18 between Eligibility and Lease Up

When a household member will turn 18 between the date of eligibility and on or before the effective date of initial lease-up, HANO will include the household member's income in the calculation of annual income. For example, HANO completes an eligibility determination on November 1st. One of the household members was 17 at the time of screening and eligibility determination; however, the family finds a unit with a lease effective date of December 15th and this individual turned 18 on November 17th. HANO will calculate the income of that household member as if they were an adult, since the household member will be 18 by the effective date of the lease. Deductions will also be applied as if the household member was an adult. For example, the household with a member who is 17 at the time of eligibility determination, but 18 on the lease effective date will NOT be given a dependent deduction unless that household member is a full time student or disabled.

When a household member will turn 18 between the date of eligibility determination and on or before the effective date of lease-up, HANO will have a parent/legal guardian sign any consent/release forms on behalf of that household member in order to authorize HANO to obtain their income verification and count applicable income.

When a household member will turn 18 between the date of eligibility determination, but on or before the effective date of lease-up, HANO will have a parent/legal guardian sign the consent for criminal background check on behalf of that household member in order to authorize HANO's criminal background check.

4.23.3 Screening for Criminal Record

HANO will conduct a criminal record check for all applicants who are 18 years of age or older in the household to

determine: (1) whether any member of the household is subject to a mandatory federal requirement for denial of admission, and (2) whether any member of the household has one or more criminal conviction(s) that represent a risk to the safety and well-being of the community. This record check will be conducted prior to determination of final eligibility.

For any denial based on a household member's criminal record, HANO may permit eligibility to the program conditioned on the exclusion of the denied family member from the household.

4.23.4 Federally Barred Admission

HANO is required by federal law to deny assistance to an applicant if any of the household members:

- Is subject to a lifetime registration requirement under a state sex offender registration program;
- Has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing;
- Has been evicted from federally assisted housing for drug-related criminal activity during the previous three years, except if one of the following occurred:
 - The circumstances leading to the eviction no longer exist.
 - The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program.

4.23.5 Other Criminal Records

Except as mandated by federal law, no applicant for the HCV program will be automatically barred from receiving housing assistance because of his or her criminal background.

For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community using valid written criteria, applicable laws including fair housing laws, and applicable regulations. Applicants whose conviction(s) do not suggest a significant level of risk will be deemed admissible to the program, if otherwise eligible.

Applicants whose conviction(s) suggest a significant level of risk will be reviewed by a panel of HANO officials to assess, based on the totality of the circumstances including any information the applicant wishes to provide, whether the applicant should be admitted to the program or denied. HANO may, at its sole discretion, include external experts in the panel. If the panel recommends denial of an applicant, the applicant may request a hearing as outlined in Chapter 18 of HANO's Administrative Plan. The risk assessment criteria HANO uses and the review process are detailed in criminal background screening procedures.

4.23.6 Drug and Alcohol Abuse

In an effort to prevent drug-related criminal activity, as well as other patterns of behavior that pose a threat to the health, safety, or the right to peaceful enjoyment of the premises by other residents, HANO will endeavor to screen applicants as fairly as possible. HANO will screen applicants to determine whether any household member is currently engaging in the illegal use of a drug.

Currently engaged in the illegal use of a drug means a person has engaged in the behavior recently enough (within 12 months) to justify a reasonable belief that there is continuing illegal drug use by a household member.

HANO will not deny admission if the household member who is currently engaging in the illegal use of a drug is enrolled in a supervised drug rehabilitation program.

HANO will screen applicants to determine if there is reasonable cause to believe that any household member's alcohol abuse or pattern of alcohol abuse may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. HANO will not deny admission if the household member who is currently engaging in the abuse of alcohol is enrolled in a supervised rehabilitation program.

In determining reasonable cause or reasonable belief, HANO will consider all credible evidence including, but not limited

to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. HANO will also consider evidence from treatment providers or community-based organizations providing services to household members, self-admission, admission during testimony, or admissions on a police report. A record of arrest alone will not be used to determine reasonable cause or reasonable belief, unless HANO has sufficient evidence other than the fact of arrest that the individual engaged in the conduct within the past twelve months.

4.23.7 Previous Behavior in Assisted Housing

24 CFR 982.552(c)

HANO may deny assistance to an applicant family if:

- The family does not provide information that HANO or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to HANO.
- Any family member has been evicted from federally-assisted housing in the last 5 years.
- A family member has engaged in or threatened violent or abusive behavior toward HANO personnel within the past 5 years. Abusive or violent behavior towards HANO personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- The family owes rent or other amounts to any public housing agency in connection with the HCV program or other Public Housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list or adheres to a repayment agreement as a condition for receiving a place on the waiting list or being admitted to the HCV program.
- The family has not reimbursed any public housing agency for any amounts that agency paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior as a condition for admission to the HCV program.
- The family has breached the terms of a repayment agreement entered into with HANO, unless the family repays the full amount of the debt as a condition for admission to the HCV program.

HANO may, on a case-by-case basis, decide not to deny assistance. HANO will not deny assistance to an applicant if the behavior is due to disability, within HANO policies.

4.23.8 Debt Screening

HANO will conduct debt screening to determine:

- If the applicant owes rent or other amounts to HANO, other housing authorities, or other assisted housing programs in connection with the HCV program or public housing;
- If the family has not reimbursed HANO, other housing authorities or other assisted housing programs for amounts paid to an owner under a HAP contract for rent, damages to the unit or other amounts owed by the family under the lease;
- If the family has breached an agreement with HANO, other housing authorities, or other assisted housing programs to pay amounts owed to HANO, other housing authorities, or other assisted housing programs;
or
- If the family has breached an agreement with HANO, other housing authorities, or other assisted housing programs to repay amounts paid to an owner by HANO, other housing authorities, or other assisted housing programs.

When an applicant currently owes HANO, other housing authorities, or other assisted housing programs money from previous public or assisted housing residency or HCV program participation, HANO will require that the entire amount be paid in full prior to allowing the applicant admission or re-admission to the HCV Program or require evidence of a current repayment agreement. HANO will allow an applicant 30 calendar days to pay any prior debt or provide evidence of a current repayment agreement before withdrawing the applicant. HANO will verify repayment agreements with other PHAs.

For purposes of this chapter, “current” means amounts owed to HANO during the last 6 years or such other period for which the statute of limitations has not tolled in Louisiana or other applicable jurisdiction. For example, if an applicant’s participation in an assisted program was ended in 2007 due to debts owed, and the applicant never repaid such amounts and applies for the HCV program in 2011, then a “current” debt is owed. If the applicant’s participation in an assisted program ended in 1985 for the same reason, that debt could not be considered “current” unless applicable law permitted.

HANO will consider debt that is not “current” (as defined above) as part of a history of non-payment and may deny admission to a household if there is other evidence of a history of non-payment and/or other eligibility factors, when taken as whole, that render a household ineligible for admission.

4.23.9 Screening For Suitability as a Tenant 24 CFR 982.307

HANO will not conduct additional screening to determine an applicant family’s suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner’s unit. Factors an owner may consider when determining a family’s suitability to rent include the follow:

- Credit history;
- Rental payment history; or
- Previous references from landlords.

HANO must provide prospective owners with the family's current and prior address (as shown in HANO records) and the name and address (if known) of the owner at the family's current and prior addresses, no later than at the time of the initial HQS inspection.

HANO will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

4.24 DENIAL OF ASSISTANCE 24 CFR 982.552(a)(2); HCVP GB, p. 5-35

A family that does not meet the income, citizenship, or criminal records eligibility criteria discussed above in this chapter will be denied assistance. HANO may deny assistance based on certain types of current or past behaviors of family members as described below.

4.24.1 Forms of Denial

Denial of assistance may include the following:

- Not placing the family's name on the waiting list.
- Denying or withdrawing a voucher.
- Not approving a request for tenancy or refusing to enter into a HAP contract.
- Refusing to process a request for or to provide assistance under portability procedures.

4.24.2 Prohibited Reasons for Denial of Program Assistance 24 CFR 982.202(b), Pub. L. 109-162

HANO may not deny program assistance based on any of the following criteria:

- Age, disability, race, color, religion, sex, national origin, sexual orientation, gender identity, and marital status.
- Where a family lives prior to admission to the program.
- Where the family will live with assistance under the program.
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Whether the family includes children.
- Whether a family decides to participate in a family self-sufficiency program.
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside of HANO's jurisdiction.

4.25 CRITERIA FOR DENYING ASSISTANCE

4.25.1 Consideration of Circumstances

24 CFR 982.552(c)(2)

HANO will consider the following factors prior to making its decision:

- If an applicant is enrolled in any reintegration services for formerly incarcerated individuals;
- The seriousness of the case, especially with respect to how it would affect other residents;
- The effect that denial of assistance may have on other members of the family who were not involved in the action or failure, especially children, elderly, or disabled family members;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking;
- Evidence of the family's participation in or willingness to participate in social service or other appropriate counseling service programs;
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;
- Whether the person has a disability and needs a reasonable accommodation;
- Other efforts at rehabilitation; and
- Removal of the culpable family member from the application.

4.25.2 Making the Decision to Deny Assistance

HCVF GB 5-38

In each instance before making a decision to deny HCVF assistance, HANO will consider the specific circumstances of the family under review and determine if denial is the best response, in harmony with HUD regulations and HANO's HCVF Administrative Plan.

In some instances, HANO may determine that the seriousness of the situation does not warrant denial. For example, a family whose assistance was terminated for failure to recertify may be evaluated differently than an applicant family who was terminated from public housing for blatant destruction of public housing property.

HANO will also consider the length of time that has elapsed since the negative applicant history.

In all cases, the HANO HCVP Department may consult with the HANO Legal Department before making its denial decision. If the HANO HCVP Department makes a decision to deny a reasonable accommodation request, it is required to consult with the HANO Legal Department before making its decision and notifying the applicant.

4.25.3 Removal of a Family Member's Name from the Household and Application

24 CFR 982.552(c)(2)(ii)

As a condition of receiving assistance, an otherwise eligible family may agree to remove the ineligible or culpable family member from the application.

In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

4.25.4 Reasonable Accommodation

24 CFR 982.552(c)(2)(iv)

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, HANO will determine whether the behavior is related to the disability.

If so, upon the family's request, HANO will determine whether alternative measures are appropriate as a reasonable accommodation.

HANO will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

4.26 NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, HANO will notify the family when it extends the invitation to attend the voucher briefing appointment. In the case of the Project Based Voucher (PBV), HANO will notify the family of their eligibility according to HANO's eligibility criteria when the applicant has reached the top of one of the PBV site-based waiting lists prior to referring that family to the applicable PBV property.

If HANO determines that a family is not eligible for the program for any reason, the family will be notified of a decision to deny assistance in writing within a reasonable period of time of the determination. The notice will describe:

- The reasons for which assistance has been denied.
- The family's right to an informal review.
- The process for obtaining the informal review [24 CFR 982.554 (a)].

The notice will contain:

- A copy of the criminal record or sex registration report, if applicable.
- Notification that HANO will give the applicant family 10 business days to dispute the accuracy and relevance of the information by requesting an informal review.
- Information that if the family fails to dispute the accuracy and relevance of the information, this failure will be considered acknowledgement as to the accuracy and relevance of the information in the criminal record and/or sex offender report.
- Notice that failure to dispute the accuracy and relevance of the information will cause HANO to deny admission.

Should the applicant family successfully dispute the accuracy and relevance of the information contained in either the police report or sex offender registration report, HANO will make a final determination of eligibility based on all other factors discussed in this chapter.

If the criminal record or sex offender registration report withstands the applicant family's dispute through the informal review process, the Hearing Officer will issue a letter upholding the decision to deny assistance.

HANO must issue a family that receives a denial of assistance notice under this section, a copy of the criminal record or sex offender registration report [24 CFR 5.903(f) and 5.905(d)].

HANO must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

4.27 PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

(See Eligibility Appendix), 24 CFR Part 5, Subpart L

The Violence against Women Reauthorization Act of 2013 (VAWA 2013) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. Specifically, Section 606(4)(A) of VAWA 2013 adds the following provision to Section 8 of the U.S. Housing Act of 1937:

That an applicant or participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission [24 CFR 5.2005].

If HANO makes a determination to deny admission to an applicant family, HANO will include in its notice of denial:

- A statement of the protection against denial provided by VAWA 2013.
- A description of HANO confidentiality requirements.

Along with her or his request for an informal review, HANO will include a request that an applicant wishing to claim VAWA protection submit to HANO documentation meeting the specifications described in the following section.

4.27.1 Victim Documentation

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking may submit one of the following types of third-party documentation:

1. HUD form 5382 which acts as certification of domestic violence, dating violence, sexual assault, or stalking against the victim;
2. A document signed by the victim and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003;
3. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
4. At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

4.27.2 Perpetrator Documentation

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- A signed statement 1) requesting that the perpetrator be removed from the application and 2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit; or
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider, or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

4.27.3 Time Frame for Submitting Documentation

The applicant must submit the required documentation within 10 business days from the date that the applicant receives the written request from HANO asking that the victim provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. HANO may, but is not required to, extend the time period to submit the documentation, if the applicant requests an extension of the time period. If the applicant decides to request an extension, the applicant must do so before the 10 business days has elapsed. HANO will not grant an applicant VAWA protections if the applicant fails to request an extension, the 10 business days have elapsed, and HANO has not received the requested documentation. Distribution or issuance of HUD form 5382 does not serve as a written request for certification.

4.27.4 HANO Confidentiality Requirements

24 CFR 5.2007(a)(1)(v)

All information provided to HANO regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HANO will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

4.27.5 VAWA Self-Petitioner Verification of Immigration Status

A VAWA self-petitioner is a person who claims to be a victim of “battery or extreme cruelty.” VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking. A self-petitioner can indicate to HANO that they are in “Satisfactory Immigration Status” when applying for assistance or continued assistance.

Satisfactory Immigration Status is an immigration status which does not make the individual ineligible for financial assistance. After HANO verifies such immigration status through the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, HANO will make the final determination as to the self-petitioner’s eligibility for assistance.

4.27.6 VAWA Protections for Noncitizen Victims

Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under VAWA. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or Lawful Permanent Resident (LPR). HANO can receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking.) Once HANO receives a self-petition, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required to complete the verification.

CHAPTER 5: APPLICATION, WAITING LIST AND TENANT SELECTION

5.1 OVERVIEW

HANO's policies provide that all families interested in housing assistance be given equal opportunity to apply and be treated in a fair and consistent manner. This chapter describes the policies and procedures for completing an initial application for assistance, placement on the waiting list, denial of placement on the waiting list, and limitations on who may apply.

The primary purpose of the intake function is to gather sufficient information about the applicant family so that an accurate and timely eligibility determination can be made. Applicants will be pulled from the waiting list in accordance with this plan.

5.2 APPLYING FOR ASSISTANCE

HCVP GB, pp. 4-11 – 4-16, Notice PIH 2012-9

Any family that wishes to receive HCVP assistance must apply for admission to the program. HUD permits HANO to determine the format and content of HCVP applications, how such applications will be made available to interested families, and how applications will be accepted by HANO. HANO will include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the HCVP application.

5.3 PLACEMENT ON THE WAITING LIST

24 CFR 982.54(d)

HANO will review the pre-application and place applicants on the Waiting List who have submitted complete pre-applications. No applicant has a right or entitlement to be listed on the Waiting List, or to any particular position on the Waiting List.

Placement on the Waiting List does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the Waiting List, submits a full application and passes all required screening elements.

5.3.1 Organization of the Waiting list

HANO manages a waiting list of applicants to the HCV program. This HCVP waiting list is organized in such a manner to allow HANO to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list will contain the following information:

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference (when preferences are adopted);
- Racial or ethnic designation of the head of household;
- Gross Household Income;
- Social Security Number (where applicable);
- Contact information for the household; and
- Date of birth for the head of household.

HANO will maintain a single waiting list for the tenant-based HCV program. A family's decision to apply for, receive, or refuse other housing assistance will not affect the family's placement on the HCVP waiting list.

5.3.2 Opening the Waiting list

24 CFR 982.206, HCVP GB, pp. 4-11,

Waiting list opening dates and rules will be made public through various media sources across the City of New Orleans prior to commencement of acceptance of applications. In compliance with US Department of Housing and Urban Development Fair Housing requirements, notices will specify who may apply and how and when applications will be received and the specific method used to determine placement order on the waiting list. HANO will also provide notice to community stakeholders, the Resident Advisory Board (RAB), will post notice in all of its offices, and will post any information about the opening of the waiting list on its website.

5.3.3 Closing the Waiting list

HANO may close the waiting list if it has an adequate pool of families to use its available HCVP assistance.

5.4 FAMILY OUTREACH

HCVP GB, pp. 4-2 to 4-4

HANO will conduct outreach as necessary to ensure that HANO has a sufficient number of applicants on the waiting list to use the HCVP resources it has been allotted.

HANO outreach efforts will comply with fair housing requirements [HCVP GB, p. 4-20 to 4-21].

HANO outreach efforts are designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and fliers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities, the homeless, and/or other special populations.

5.5 REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform HANO of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

5.5.1 Change in the Head of Household while on the Waiting list

If the original head of household changes while the family is on the waiting list, (i.e. the head of household leaves the family or there is a switch in head of household) the family must complete and update their application to identify the new head of household. HANO may allow the family to keep their initial date and time of application if the new head of household is the spouse or co-head identified in the initial pre-application.

If the new head of household is anyone other than the spouse or co-head listed on the initial application for lottery entry, HANO will determine whether the household will lose placement on the waiting list and must reapply.

5.5.2 Family Break-Up or Split Households

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

In the absence of a judicial decision, or an agreement among the original family members, the original head of household will retain the application date. Exceptions to the policy will be made on a case-by-case basis and may include consideration of the following factors:

- The interest of any minor children, including custody arrangements;
- The interest of any ill, elderly, or disabled family members;
- Any possible risks to family members as a result of domestic violence or criminal activity; and
- The recommendations of social service professionals.

5.6 UPDATING THE WAITING LIST

In order to have an adequate number of families available for screening, it is necessary to have a current and updated waiting list. HANO will review the waiting list to determine if an update and purge are necessary.

If an update is needed, HANO will mail update questionnaires to families on the waiting list via first class mail to determine whether the family continues to be interested in the program. This update request will be sent to the last address that HANO has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list. The family's response must be in writing.

Eligible applicants who respond to the questionnaires will be maintained on the waiting list.

5.6.1 Removal from the Waiting list

Families that do not respond to a request for updated information within 14 calendar days from the date of the notice will be withdrawn from the waiting list without further notice. If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. If the family fails to respond within 14 calendar days, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal review will be offered. Such failures to act on the part of the applicant prevent HANO from making an eligibility determination; therefore, no informal review is required.

HANO will remove applicants from the waiting list upon documented request from the applicant. In such cases, no informal hearing is required.

If a family is removed from the waiting list because HANO has determined the family is not eligible for admission, a notice will be sent to the family. The notice will state the reasons the family is proposed to be removed from the waiting list and will inform the family how to request an informal review regarding HANO's decision. Applicants removed from the waiting list may reapply in one year if the waiting list is open. Reasonable accommodations may be provided if the reason for removing an applicant is related to a disability.

HANO may also consider mitigating circumstances as required pursuant to 24 CFR 982.206 and may advise applicants of their right to request both a reasonable accommodation and mitigating circumstances in any notice of proposed removal from the waiting list.

5.6.2 Reinstatement to the Waiting list

If a family is removed from the waiting list for failure to respond, HANO may reinstate the family at its former position if it is determined that the lack of response was due to HANO error or to circumstances beyond the family's control. To be considered for reinstatement at their former position, the applicant must contact HANO within one year of being removed from the waiting list. The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to HANO's request for information or updates because of the family member's disability, HANO must reinstate the applicant family to their

former position on the waiting list [24 CFR 982.204(c)(2)].

5.7 ORDER OF SELECTION FROM THE WAITING LIST

It is HANO's policy to ensure that all families who express an interest in housing assistance are given equal opportunity to apply and are treated in a fair and consistent manner. Families will be selected from the waiting list based on targeted funding, special preferences for which they qualify, income targeting requirements, special HANO and/or HUD priorities, and date and time of application.

Within each category, HANO may use date and time of application or a drawing or other random choice technique to determine placement on the tenant-based waiting list. HANO will ensure that there is a clear audit trail to verify that each applicant has been selected in accordance with regulatory guidelines and agency policies and priorities.

HANO will not issue vouchers or admit families from their waiting list while there is a limitation on moves to a higher cost unit or to a higher cost area in place.

Generally, order of selection from the waiting list will be made in the order outlined below.

- Families with special purpose vouchers (NEDs, FUP, VASH) who were previously terminated or who had vouchers recalled due to insufficient funding. Selection will be made according to date and time of termination, i.e. families that were terminated or had vouchers recalled first, will be selected first.
- If HANO is resuming voucher issuance following a funding shortfall and is not assisting the required number of special purpose vouchers (NEDs, FUP, VASH), HANO will issue special purpose vouchers to eligible families until HANO is assisting the required number of each special purpose voucher category.
- Families without special purpose vouchers who were previously terminated due to insufficient funding will be selected in the order below. Within each category, selection will be made according to date and time of termination. Families who were terminated due to insufficient funding will be selected before families whose vouchers were recalled.
 - Elderly and disabled families;
 - Non-elderly, non-disabled families with children under the age of 18;
 - Non-elderly, non-disabled families with no children under the age of 18; and
 - Non-elderly, non-disabled single family member families;
- Families who had vouchers recalled due to insufficient funding will be selected based on their former position on the waiting list.
- Applicants on the waiting list with a local preference subject to any applicable caps on the preference
- Applicants on the waiting list with no local preference.

When a family is selected from the waiting list, HANO will request an application with information to establish family eligibility and level of assistance. No applicant has a right or entitlement to be listed on the waiting list or to any particular position on the waiting list [24 CFR 982.202(c)].

Generally, when an applicant's name is at the top of the waiting list, in accordance with HANO policies, they will be selected from the waiting list. Once selected, the applicant will be screened and an eligibility determination will be made. Eligible applicants drawn from the waiting list will be included in a pool of ready applicants. The applicant in the ready pool with the earliest date and time of eligibility will be offered the next available voucher.

5.8 SPECIAL ADMISSIONS & TARGETED FUNDING

24 CFR 982.203

If HUD awards HANO program funding that is targeted for families living in specified units, HANO must use the assistance for the families living in these units. Families who qualify are placed on the waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria. HANO must maintain records showing that the family was admitted with HUD- targeted assistance or via special admission. Special admissions may include:

- A family displaced because of demolition or disposition of a public housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq.);
- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173);
- A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term;
- Previously assisted PBV families;
- Project-based Section 8 HAP contract vouchers at or near end of HAP contract term that convert to tenant-based vouchers; or
- Any family in good standing that has had its voucher rescinded or has been terminated from the HCV program due to insufficient program funding subject to the policies in the section on Order of Selection from the Waiting List.

5.9 LOCAL PREFERENCES

HANO has established local preferences for the HCV program as described below.

5.9.1 Homeless, Disabled and Victims of Domestic Violence 24 CFR 982.202(a); 24 CFR 982.207(a); PIH Notice 2013-15

In an effort to reduce the homeless population and the population at-risk of homelessness in New Orleans, and to affirmatively further the goals of fair housing, based on funding availability, HANO may provide vouchers, to eligible families who are homeless, disabled and/or victims of domestic violence. Upon approval of vouchers, for this local preference, HANO will enter into a Memorandum of Understanding (MOU) by and between HANO and each partner agency. The MOU will define the criteria for eligibility for this local preference; however, to ensure compliance with HUD regulation 24 CFR 982.202(a) and 207(a), the parameters of each MOU will be added to the plan. HANO has two current MOUs with UNITY of Greater New Orleans and the New Orleans Family Justice Center.

HANO's current MOU with UNITY of Greater New Orleans is also in association with the New Orleans Equity and Inclusion Initiative and is valid through November 10, 2019 with the possibility of an extension of one year. To operate this MOU, HANO has established a local preference for one-hundred (100) chronically homeless individuals and twenty (20) vulnerable homeless families with children who are referred by UNITY of Greater New Orleans. This preference for chronically homeless and homeless families with children is limited to families who are referred to HANO by UNITY of Greater New Orleans.

HANO's MOU with the New Orleans Family Justice Center is targeted at serving survivors of domestic violence and is valid through July 21, 2020, with the possibility of an extension of one year. To operate this MOU, HANO has established a local preference for fifty (50) eligible families who are survivors of domestic violence, dating violence, stalking, or sexual assault and are homeless or at risk of becoming homeless. This local preference is limited to survivor households who are referred to HANO by the New Orleans Family Justice Center.

Once an MOU has expired, HANO will remove the applicable local preference from its Administrative Plan.

5.9.2 Preference for Non-Elderly Persons with Disabilities

HANO will provide a local preference for up to 99 non-elderly persons with disabilities who are:

- Transitioning out of institutional and segregated settings;
- At serious risk of institutionalization;
- Homeless; or
- At risk of becoming homeless.

To meet this preference the applicant household must have at least one family member who is a non-elderly person with a disability and fall into one of the categories above, which are further defined in the glossary.

A household where the sole member is an emancipated minor would not be eligible under this preference.

5.9.3 Public Housing Residents Who Have Completed First Time Homebuyer Training and Are Lender Ready

Subject to funding availability, HANO will provide a local preference to the Housing Choice Voucher program for up to 25 HANO public housing residents per fiscal year who have completed first time homebuyer training and financial fitness courses and are lender ready. Prior to admission, applicants claiming this preference will be subject to the following requirements:

- Verification of the completion of first time homebuyer training courses and financial fitness courses is required.
- Application for the Housing Choice Voucher Program must be made within 30 days of the completion of lender readiness.
- The family must meet all eligibility criteria for admission to the Housing Choice Voucher Program. Households who qualify for this Preference are placed on the Waiting List.

If there is more than one household on the waiting list for this preference, household will be selected from the Waiting List based on date and time of application. The HCVP waiting list will remain open at all times for clients claiming this preference unless HANO specifically states otherwise through a public notice.

5.10 INCOME TARGETING

24 CFR 982.201(b)(2)

For HCV program vouchers, HANO will ensure that at least 75 percent of the families assisted are extremely low-income families, as defined in section 3(b)(2) of the 1937 Housing Act [24 CFR 982.4(b)].

Extremely low-income families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, HANO may skip non-extremely low-income families on the waiting list in order to select an extremely low-income family.

Certain low-income families admitted to the program are not counted for income targeting [24 CFR 982.201(b)(2)(iv)]:

- Families that are “continuously assisted” under the 1937 Housing Act; and
- Low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.

5.11 NOTIFICATION OF SELECTION

HANO will notify the family when it is selected from the waiting list. The notice will inform the family of:

- The date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;

- Who is required to attend the interview;
- Documents that must be provided at the interview.

If a notification letter is returned to HANO with no forwarding address, the family will be removed from the waiting list. A notice of denial will be sent to the family's address on record.

5.12 APPLICATION INTERVIEW

HCVP GB, pg. 4-16

Families selected from the waiting list are required to participate in an eligibility interview, which includes completion of a full application.

All household members aged 18 years and older are required to attend the eligibility interview. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to HANO.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, HANO will provide the family with a written list of items that must be submitted. Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if HANO determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for 30 calendar days [Notice PIH 2018-24].

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days from the date of the request. Applicants who fail to provide the required information within HANO established time frames will be withdrawn from the waiting list based on the family's failure to supply information needed to determine eligibility.

Such failure to act on the part of the applicant prevents HANO from making an eligibility determination; therefore, HANO will not offer an informal hearing.

If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.

If the family is unable to attend a scheduled interview, the family should contact HANO in advance of the interview to schedule a new appointment. In all circumstances, except emergency and subject to reasonable accommodations, if a family does not attend the scheduled interview, they will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in this Plan.

5.13 FINAL ELIGIBILITY DETERMINATION

HANO must verify all information provided by the family. Based on verified information, HANO will make a final determination of eligibility and will confirm that the family qualified for any special admission, targeted admission, or selection preference, where applicable, that affected the order in which the family was selected from the waiting list.

If HANO determines that the family is ineligible, HANO will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility and will inform the family of their right to request an informal review.

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (i.e., targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. HANO will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

If HANO determines that the family is eligible to receive assistance, HANO will place the family's name in the pool of ready applicants according to date and time of application. HANO will invite the family to attend a briefing once a voucher is available.

CHAPTER 6: OCCUPANCY STANDARDS

6.1 OVERVIEW

Occupancy standards ensure that units are occupied by families of the appropriate size. Occupancy standards describe the methodology and factors HANO uses to determine the unit size for which a family qualifies and includes the identification of the minimum and maximum number of household members for each unit size. Units must meet the applicable HQS space requirements.

When a family is determined to be eligible for the Housing Choice Voucher Program (HCVP), HANO ensures that the family fully understands the way the program operates and the family's obligations under the program through both an oral briefing and a briefing packet. Once the family is fully informed of the program's requirements, HANO issues the family a voucher according to occupancy standards for the size of the family.

6.2 OCCUPANCY STANDARDS

6.2.1 Determining Family Unit (Voucher) Size

24 CFR 982.402

For each family, HANO determines the appropriate number of bedrooms under HANO subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

This table is a can be used as a guideline to assist staff with applying occupancy standards. This table must be used in conjunction with the narrative policies included in the Occupancy Guidelines portion of this Plan and HUD's Maximum HQS Space Standards. For example a 4 person family consisting of a head of household, her 6 year old daughter and her 7 year old and 9 year old sons would not necessarily be provided with a 4 BR vouchers or a 2 BR Voucher as referenced in the table below. When the Occupancy Standards are factored in, this household would be eligible for a 3 BR voucher – one for the head of household, one for the daughter and one for the two sons.

<u>Number of Bedrooms</u>	<u>Min. Persons/Unit</u>	<u>Max. Persons/Unit</u>
0 BR	1	1
1 BR	1	2
2 BR	2	4
3 BR	3	6
4 BR	4	8
5 BR	5	10
6 BR	6	12

The following requirements apply when HANO determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- Generally, HANO will assign one bedroom for each two persons within the household, except for approved cases of reasonable accommodation or as approved through the guidelines listed below:
 - Persons of the opposite gender (other than spouses, and children under age 5) will be allocated separate bedrooms.

- Same gender adults of different generations may be allocated separate bedrooms. A generation is defined as 15 years.
- Adults and children of the same gender (except for in the case of a parental or legal guardianship relationship) with an age gap of at least 25 years will be allocated separate bedrooms.
- Parents and/or legal guardians will be required to share a bedroom with a child until the child is 5 years of age. Once a child reaches age five, the parent and/or legal guardian will be allocated a separate bedroom.
- Children shall be assigned a separate bedroom at the age of five if they are of a different gender. Once a child reaches age five, they cannot share a room with a child of an opposite gender for occupancy standard purposes, regardless of the age of the other child.
- Two children of the same gender share a bedroom.
- Single-person families will be allocated one bedroom.
- Live-in aides will be allocated a separate bedroom.
- No additional bedrooms shall be allocated for the family of a live-in aide.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant person (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by HANO to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under HANO subsidy standards.

6.2.2 Exceptions to Occupancy Standards

24 CFR 982.402(b)(8)

HANO may grant an exception to its established occupancy standards if HANO determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment.
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

In the case of a request for exception as a reasonable accommodation, HANO will ask the resident to make the request a reasonable accommodation request form. However, HANO will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger voucher size must explain the need or justification for the larger sized unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source.

HANO will notify the family of its determination and the family of their right to request an informal hearing.

6.2.3 Temporarily and Permanently Absent Family Members

Generally, an individual who is or is expected to be absent from the assisted apartment for less than 90 consecutive days is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted apartment for more than 90 consecutive days is considered permanently absent and is no longer a family member. Exceptions to this general policy are reviewed on a case by case basis.

6.2.4 Absent Students

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to HANO indicating that the student has established a separate household or the family declares that the student has established a separate household (See Chapter: Eligibility).

6.2.5 Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family. If a child has been placed in foster care, HANO will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member (see Chapter on Eligibility).

6.2.6 Individuals Confined for Medical Reasons

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, HANO will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

6.2.7 Absent Family

24 CFR 982.312

If all family members are absent from a unit for more than 90 consecutive days per calendar year Housing Assistance payments will cease and the HAP contract and lease will terminate.

6.2.8 Family Composition

The composition of the assisted family residing in the unit must be approved by HANO. The family must promptly notify HANO in writing of the birth, adoption, or court-awarded custody of a child. The family must request HANO approval to add any other family member as an occupant of the unit.

- The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. HANO will determine eligibility of the new member in accordance with eligibility policies.
- The family must promptly notify HANO in writing if any family member no longer lives in the unit.

If HANO has given approval, a foster child, foster adult, or a live-in aide may reside in the unit.

- Unmarried persons who can prove an interdependent relationship based on at least one of the following form(s) of documentation:
 - Domestic partnership agreement;
 - Joint mortgage or lease;
 - Designation of one partners a beneficiary in the other's life insurance policy;

- Durable healthcare and property powers of attorney;
- Joint title to an automobile or joint bank account; or
- Other proof to establish economic interdependency under the current circumstances of the particular case.
- A detailed affidavit indicating (1) past behavior and proof that the individuals consider themselves and wish others to consider them as a family and/or (2) future intent to be responsible to each other and live together as a family unit.

6.2.9 Prohibition of Subleasing

The family must not sublease the unit, assign the lease, or transfer the unit.

- Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by HANO to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify HANO when the family is absent from the unit.
- For absences of the entire family for any period greater than 90 consecutive days, written notice must be provided to HANO within 10 business days of the start of the extended absence. The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

6.2.10 Prohibition of Illegal Participation

24 CFR 982.306(d)

An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program. A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless HANO has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

CHAPTER 7: BRIEFING & VOUCHER ISSUANCE

7.1 FAMILY BRIEFING

24 CFR 982.301

Briefings will be conducted in group meetings. As a reasonable accommodation, HANO will conduct individual briefings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, HANO may approve another adult family member to attend the briefing. Families that attend group briefings and still need individual assistance will be referred to an appropriate HANO staff person.

For limited English proficient (LEP) applicants, HANO will provide translation services in accordance with HANO's LEP plan.

7.1.1 Notification and Attendance

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. HANO will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without HANO approval, will be denied assistance.

7.1.2 Oral Briefing

24 CFR 982.301(a)

Tenants will receive information on the following in HANO's oral briefings:

- How the Housing Choice Voucher program works
- Family and owner responsibilities
- Where the family can lease a unit
- For families eligible under portability, an explanation of portability. HANO cannot discourage eligible families from moving under portability.
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations.

7.1.3 Information Packet

24 CFR 982.301(b)

Tenants will receive information on the following in HANO's information packet:

- The term of the voucher and HANO's policies on any extensions or suspensions of the term. If HANO allows extensions, the packet must explain how the family can request an extension;
- A description of the method used to calculate the housing assistance payment for a family, including how HANO determines the payment standard for a family, how HANO determines total tenant payment for a family, and information on the payment standard and utility allowance schedule;
- An explanation of how HANO determines the maximum allowable rent for an assisted unit;

- Where the family may lease a unit;
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy;
- A statement of HANO policy on providing information about families to prospective owners;
- HANO subsidy standards including when and how exceptions are made;
- All appropriate HUD materials;
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form;
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration;
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to HANO;
- The family obligations under the program;
- The grounds on which HANO may terminate assistance for a participant family because of family action or failure to act;
- HANO informal hearing procedures including when HANO is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing;
- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction;
- An explanation of how portability works, including a list of portability contact persons for neighboring HANO with names, addresses, and telephone numbers; and
- A notice of rights under the Violence Against Women Act (VAWA) protections.

7.2 VOUCHER ISSUANCE

24 CFR 982.302

Vouchers will be issued to eligible applicants following the mandatory briefing.

HANO will determine whether it has sufficient funding in accordance with the policies outlined in this Administrative Plan and under HUD regulation. If HANO determines that there is insufficient funding after a voucher has been issued, HANO may rescind the voucher and place the affected family back on the waiting list.

7.3 VOUCHER TERM, EXTENSIONS AND SUSPENSIONS

24 CFR 982.303

7.3.1 Voucher Term

The initial voucher term will be 120 calendar days. Additional extensions may be granted due to extenuating circumstances on at HANO's approval.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless HANO grants an extension.

7.3.2 Extensions of Voucher Term

24 CFR 982.303(b)

HANO may approve additional search time, if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose requested.

Any request for an additional extension must include the reason(s) an additional extension is necessary and completed housing search log.

All requests for extensions to the voucher term must be made in writing and submitted to HANO prior to the expiration date of the voucher (or extended term of the voucher).

HANO will decide whether to approve or deny an extension request a within timely basis. The family will be notified in writing of HANO's decision to approve or deny an extension [24 CFR 982.554(c)(4)].

HANO may approve additional extensions only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by HANO. Following is a list of extenuating circumstances that HANO may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
 - Serious illness or death in the family
 - Other family emergency including domestic violence or family crisis
 - Obstacles due to employment
 - Whether the family has already submitted requests for tenancy approval that were not approved by HANO
 - Whether family size or other special requirements make finding a unit difficult

7.3.3 Suspensions of Voucher Term

24 CFR 982.303(c)

When a Request for Tenancy Approval and proposed lease is received by HANO, the term of the voucher will be suspended while HANO processes the request.

7.3.4 Expiration of Voucher Term

HCVF GB p. 8-13

If a family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RFTA), HANO will require the family to reapply for assistance if or when waiting list is open. If an RFTA that was submitted prior to the expiration date of the voucher, is disapproved by HANO, is reissued with any remaining search time, and the family fails to submit the new RFTA prior to the new expiration date, the family will be required to reapply for assistance. If the family submits a RFTA on the expiration date and the RFTA is subsequently disapproved by HANO, there will be no remaining search time, the voucher will have expired, and the family will be required to reapply for assistance. Within 10 business days after the expiration of the voucher term or any extension, HANO will notify the family in writing that the voucher term has expired. In the event the voucher was issued to a participating family to move from a unit that was receiving HCV assistance at the time of the voucher issuance and the family has vacated the unit, the family has the right to request an informal hearing due to the termination of their participation in the HCV Program. If the family fails to request an informal hearing or the termination of assistance is upheld, the family must reapply in order to be placed on the waiting list.

CHAPTER 8: INCOME AND SUBSIDY DETERMINATIONS

8.1 HOUSEHOLD COMPOSITION AND INCOME

24 CFR 5.609

Income received by all family members may be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded.
Foster child or foster adult	Income from all sources is excluded.
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above \$480/year is excluded. All other sources of income, except those specifically excluded by the regulations, are included.

8.1.1 Temporarily Absent Family Members

24 CFR 5.609(a)(1); HCVP GB, p. 5-18

An individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member.

Exceptions to this general policy are discussed below:

8.1.2 Absent Students

When someone who has been considered a family member attends high school or college away from home, the person may continue to be considered a family member unless information becomes available to HANO indicating that the student has established a separate household or the family declares that the student has established a separate household.

8.1.3 Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

If a child has been placed in foster care, HANO may verify with the appropriate agency whether and when the child is expected to return to the home. Unless the agency confirms that the child has been permanently removed from the home, the child may be counted as a family member.

8.1.4 Absent Head, Spouse, or Co-head

An employed head, spouse, or co-head absent from the unit more than 90 consecutive days due to employment may continue to be considered a family member.

8.1.5 Absent Family Members Permanently Confined for Medical Reasons

HCVP GB, p. 5-22

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

HANO may request verification from a responsible medical professional and may use this determination. If the

responsible medical professional cannot provide a determination, the person generally may be considered temporarily absent.

The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities.

8.1.6 Absent Family Members Due to Incarceration

If a family member is in jail for longer than 90 calendar days, the family member will be considered permanently absent and must be removed from the household.

8.1.7 Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement may be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with legal custody at the time of the initial examination or reexamination (annual or interim) will be able to claim the dependents. If there is a dispute about which family will claim the dependents, HANO's HCVP Program Director will make a case-by-case determination based on the following factors:

- Documentation of court-ordered custody;
- Evidence of filing for court ordered custody;
- Custody by mandate;
- Name listed on the dependent's birth certificate for either father or mother;
- Medical Records;
- School Records; and
- IRS tax returns.

8.1.8 Caretakers for a Child

If neither a parent nor a designated guardian remains in a household receiving HCVP assistance, HANO may take the following actions.

- If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker may not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker may be treated as a visitor for 90 consecutive days. After the 90 consecutive days has elapsed, the caretaker may be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases HANO may extend the caretaker's status as an eligible visitor.
- At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher may be transferred to the caretaker.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

8.2 ANNUAL INCOME

24 CFR 5.609(a)(2)

HANO may use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes HANO to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCVP GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclical income) [24 CFR 5.609(d)]
- HANO believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

When Enterprise Income Verification (EIV) is obtained and the family does not dispute the EIV employer data, HANO may use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, HANO may make every effort to obtain current and consecutive pay stubs dated within the last 60 calendar days.

HANO may obtain written and/or oral third-party verification in accordance with verification requirements in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If HANO determines additional information is needed.

In such cases, HANO may review and analyze current data to anticipate annual income.

When HANO cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), HANO may review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision must be documented in the file. In all such cases the family may present information and documentation to HANO to show why the historic pattern does not represent the family's anticipated income.

8.3 KNOWN CHANGES IN INCOME

If HANO verifies an upcoming increase or decrease in income, annual income may be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving \$8/hour may begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case HANO would calculate annual income as follows: $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$.

When tenant-provided third-party documents are used to anticipate annual income, they must be dated within the last 60 calendar days of the reexamination interview date.

EIV quarterly wages may not be used to project annual income at an annual or interim reexamination.

8.4 EARNED INCOME COUNTED IN ANNUAL INCOME

24 CFR 5.609

8.4.1 Wages and Related Compensation

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

- For persons who regularly receive bonuses or commissions, HANO may verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, HANO may use the prior year amounts. In either case the family may provide, and HANO may consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, HANO may count only the amount estimated by the employer. The file may be documented appropriately.

8.4.2 Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

8.5 TYPES OF EARNED INCOME NOT COUNTED IN ANNUAL INCOME 24 CFR 5.609

8.5.1 Temporary, Nonrecurring, or Sporadic Income

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2017- 05].

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

8.5.2 Children’s Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income.

8.5.3 Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program (see Section 4.8, 4.21.4 and ELIGIBILITY APPENDIX: DEFINITION OF INSTITUTION OF HIGHER EDUCATION).

8.5.4 Income of a Live-in Aide

Income earned by a live-in aide is not included in annual income. (See Section 4.14: for a full discussion of live-in aides.)

8.5.5 Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b));
- Awards under the federal work-study program (20 U.S.C. 1087 uu);
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)); and

- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

8.5.6 Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for HANO or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of HANO's governing board. No resident may receive more than one such stipend during the same period of time.

8.5.7 State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.

HANO defines training program as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

HANO defines incremental earnings and benefits as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

In calculating the incremental difference, HANO may use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with HANO's interim reporting requirements.

8.5.8 HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income.

Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

To qualify as a training program, the program must meet the definition of training program provided above for state and local employment training programs.

8.5.9 Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

8.5.10 Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed below.

8.6 EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the

full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

- This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:
 - Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. Previously unemployed includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage;
 - Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job- training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)]; and
 - New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one- time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

8.6.1 Calculation of the Earned Income Disallowance for Persons with Disabilities

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

HANO defines prior income, or prequalifying income, as the family member's last certified income prior to qualifying for the EID. The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

8.6.2 Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

The initial EID exclusion period may begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

8.6.3 Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

8.6.4 Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later.

Once a family member is determined to be eligible for the EID, the 24-calendar month period starts and remains continuous until the end of the 24-calendar month period. A change in employment status that made the family member initially qualified for EID does not affect the 24-calendar month period.

During the 24-month eligibility period, HANO may schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below their prequalifying income, when one of the exclusion periods ends, and at the end of

the lifetime maximum eligibility period).

8.7 BUSINESS INCOME

24 CFR 5.609(b)(2)

Annual income includes the net income from the operation of a business or profession. Net income is “gross income less business expense” [HCVP GB, p. 5-19].

8.7.1 Business Expenses

To determine business expenses that may be deducted from gross income, HANO may use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

8.7.2 Business Expansion

HUD regulations do not permit HANO to deduct from gross income expenses for business expansion.

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

8.8 CAPITAL INDEBTEDNESS

HUD regulations do not permit HANO to deduct from gross income the amortization of capital indebtedness. Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means HANO may allow as a business expense interest, but not principal, paid on capital indebtedness.

8.8.1 Negative Business Income

If the net income from a business is negative, no business income may be included in annual income. A negative amount may not be used to offset other family income.

8.8.2 Withdrawal of Cash or Assets from a Business

HUD regulations require HANO to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, HANO may not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

8.8.3 Co-owned Businesses

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family’s share of the income is lower than its share of ownership, the family must document the reasons for the difference.

8.9 ASSETS

24 CFR 5.609(b)(3) and 24 CFR 5.603(b)

There is no asset limitation for participation in the HCV program; however, annual income must include the “interest, dividends, and other net income of any kind from real or personal property.”

HUD provides the regulatory requirements for calculating income from assets.

8.9.1 Income from Assets

HANO generally may use current circumstances to determine both the value of an asset and the anticipated income from the asset. HANO may use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected;
- It is not feasible to anticipate a level of income over 12 months; or
- HANO believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, HANO can take into consideration past rental income along with the prospects of obtaining a new tenant.

8.9.2 Valuing Assets

HANO may make a distinction between an asset's market value and its cash value.

The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).

The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCVP GB, p. 5-28].

8.9.3 Lump-Sum Receipt Assets

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income; however, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account).

8.9.4 Imputing Income from Assets

24 CFR 5.609(b)(3)

When net family assets are \$5,000 or less, HANO may include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, HANO may include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

8.9.5 Determining Actual Anticipated Income from Assets

It may or may not be necessary for HANO to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. If the asset is a savings account, however, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

8.9.6 Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment may be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

8.9.7 Jointly Owned Assets

If an asset is owned by more than one person and any family member has unrestricted access to the asset, HANO may count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, HANO may prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, HANO may prorate the asset evenly among all owners.

8.9.8 Assets Disposed of for Less than Fair Market Value

24 CFR 5.603(B)

HUD regulations require HANO to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

8.9.9 Minimum Threshold

HCVP GB, P. 5-27

HANO may not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim reexamination to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

8.9.10 Separation or Divorce

All assets disposed of as part of a separation or divorce settlement may be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

8.9.11 Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

8.9.12 Family Declaration

Families must sign a declaration form at initial certification and each annual reexamination identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. HANO may verify the value of the assets disposed of if other information available to HANO does not appear to agree with the information reported by the family.

8.10 TYPES OF ASSETS

8.10.1 Checking and Savings Accounts

For regular checking accounts and savings accounts, cash value has the same meaning as market value. If a checking account does not bear interest, the anticipated income from the account is zero.

Families shall be required to present the most current checking and/or savings account statements from the lending institution. The current balance of the statement will be used for certification purposes.

In determining the anticipated income from an interest-bearing checking or savings account, HANO may multiply the value of the account by the current rate of interest paid on the account.

For investment accounts such as stocks, bonds, saving certificates, and money market funds that earn interest or dividends, the amount earned in these investment accounts are counted as actual income from assets even when the earnings are

reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, HANO may use the value of the account on the most recent investment report.

How anticipated income from an investment account may be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income may be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), HANO may calculate asset income based on the earnings for the most recent reporting period.

8.10.2 Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCVP GB, p. 5-25 and PH, p. 121].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)];
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b) and Notice PIH 2012-3];
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCVP GB, p. 5-25];
- Equity in real property when a family member's main occupation is real estate [HCVP GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F;
- Interests in Indian Trust lands [24 CFR 5.603(b)]; and
- Real property and capital assets that are part of an active business or farming operation [HCVP GB, p. 5-25].

HANO must also deduct from the equity the reasonable costs for converting the asset to cash. The net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally may be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset may be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value may be counted as an asset unless HANO determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

8.10.3 Trusts

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

8.10.4 Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCVP GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

8.10.5 Non-Revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)].

8.10.6 Company Retirement/Pension Accounts

HCVP GB, p. 5-26

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, HANO may know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.

8.10.7 IRA, Keogh, and Similar Retirement Savings Accounts

HCVP GB, p. 5-25

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

8.10.8 Personal Property

24 CFR 5.603(b), HCVP GB, p. 5-25

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset. In determining the value of personal property held as an investment, HANO may use the family's estimate of the value. HANO may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets.

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

8.10.9 Life Insurance

HCVP GB 5-25

HANO includes the cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, in the calculation of the value of the family's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

8.11 PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. Periodic payments included in annual income include:

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions; and
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCVP GB, p. 5-14].

HANO counts periodic payments from retirement accounts, annuities, and similar forms of investments only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

8.11.1 Lump-Sum Payments for the Delayed Start of a Periodic Payment

24 CFR 5.609(c)(14)

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income; however, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

When a delayed-start payment is received and reported during the period in which HANO is processing an annual reexamination, HANO may adjust the family share and HANO subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with HANO.

8.11.2 Treatment of Overpayment Deductions from Social Security Benefits

Notice PIH 2018-24

HANO may make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding may vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, HANO may use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

8.11.3 Periodic Payments Excluded from Annual Income

HANO excludes the following periodic payments from annual income:

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30]. HANO may exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCVP GB, p. 5-18].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump sums received as a result of delays in processing Social Security and SSI payments [24 CFR 5.609(b)(4)].
- Lump sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

8.12 PAYMENTS IN LIEU OF EARNINGS

24 CFR 5.609(b)(5)

HANO counts as income payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, if they are received either in the form of periodic payments or in the form of a lump sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump sum receipts.

8.13 WELFARE ASSISTANCE

HANO counts welfare assistance in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF), otherwise known as Family Independence Temporary Assistance Program (FITAP) in Louisiana, and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

8.13.1 Sanctions Resulting in the Reduction of Welfare Benefits

24 CFR 5.615

HANO may make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The requirements are summarized below. This rule applies only if a family was receiving HCVP assistance at the time the sanction was imposed.

8.13.2 Covered Families

The families covered are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)].

8.13.3 Imputed Income

HANO may include in annual income "imputed" welfare income when a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement.

HANO may request that the welfare agency inform HANO when the benefits of an HCVP participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

8.13.4 Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

8.14 PERIODIC AND DETERMINABLE ALLOWANCES

24 CFR 5.609(b)(7)

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

8.14.1 Alimony and Child Support

HANO will count alimony or child support amounts actually received by the family as verified by third party documentation. If documentation shows that child support was recently awarded through court order and payments have not yet begun, the court awarded amount can be used.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

8.14.2 Regular Contributions or Gifts

24 CFR 5.609

HANO may count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions may be valued at the cost of purchasing the items, as determined by HANO. For contributions that may vary from month to month (e.g., utility payments), HANO may include an average amount based upon past history.

8.15 STUDENT FINANCIAL ASSISTANCE

24 CFR 5.609(b)(9), FR 4/10/06

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income.

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age OR they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges, as defined by the Department of Education, received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, HANO may use the definitions of dependent child, institution of higher education, and parents included in this Administrative Plan (see Chapter: Eligibility), along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- Assistance under the Higher Education Act of 1965 includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs;
- Assistance from private sources means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCVP assisted unit.

- Tuition may have the meaning given this term by the institution of higher education in which the student is enrolled.

8.15.1 Student Financial Assistance Excluded from Annual Income

24 CFR 5.609(c)(6), 24 CFR 5.609(B)(9)

Any student financial assistance not subject to inclusion under HUD requirements is fully excluded from annual income under, whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance;
- Students who are enrolled in an educational institution that does not meet the 1965 HEA definition of institution of higher education;
- Students who are over 23 and have at least one dependent child; and
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

8.16 ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

24 CFR 5.609(c)

HANO may exclude other sources of income from annual income:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)].
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)].
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
 - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
 - Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 5058);
 - Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

- Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407- 8);
- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in [Section] 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and any other required fees and charges shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-247);
- Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange liability litigation, M.D.L. No. 381 (E.D.N.Y.) (Pub. L. 101-201 and 101-39);
- Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96- 420, 25 U.S.C. 1721) pursuant to 25 U.S.C. 1728(c);
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(l));
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602);
- Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- Any amount received under the School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- Payments from any deferred Department of Veterans Affairs disability benefits that are received

in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437) by Section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110- 289, 42 U.S.C. 4501);

- Compensation received by or on behalf of a veteran for service- connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs; and
- A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, United States District Court, District of Columbia, as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291).

8.17 ADJUSTED INCOME

24 CFR 5.611

In determining adjusted income, HANO will deduct the following amounts from annual income:

- \$480 for each dependent;
- \$400 for any elderly family or disabled family;
- The sum of the following, to the extent the sum exceeds three percent of annual income:
 - Unreimbursed medical expenses of any elderly family or disabled family;
 - Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

8.17.1 Dependent Deduction

24 CFR 5.611(a)(1), 24 CFR 5.603(b)

A deduction of \$480 is taken for each dependent. Dependent is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents.

8.17.2 Elderly or Disabled Family Deduction

24 CFR 5.611(a)(2), 24 CFR 5.403

A single deduction of \$400 is taken for any elderly or disabled family. An elderly family is a family whose head, spouse, co-head, or sole member is 62 years of age or older and a disabled family is a family whose head, spouse, co-head, or sole member is a person with disabilities.

8.17.3 Medical Expenses Deduction

24 CFR 5.611(a)(3)(i), 24 CFR 5.603(b)

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

8.17.4 Definition of Medical Expenses

HANO defines medical expenses to mean: “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

The most current IRS Publication 502, Medical and Dental Expenses, may be used to determine the costs that qualify as medical expenses. The following is a summary of Allowable Medical Expenses from IRS Publication 502:

- Services of medical professionals;
- Surgery and medical procedures that are necessary, legal, non-cosmetic;
- Services of medical facilities;
- Hospitalization, long-term care, and in-home nursing services;
- Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor;
- Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)
- Substance abuse treatment programs;
- Psychiatric treatment;
- Ambulance services and some costs of transportation related to medical expenses;
- The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth);
- Cost and continuing care of necessary service animals;
- Medical insurance premiums or the cost of a health maintenance organization (HMO);

8.17.5 Anticipating Expenses

HANO may use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), HANO may estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, HANO may include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made; however, amounts previously deducted may not be allowed even if the amounts were not paid as expected in a preceding period. HANO may require the family to provide documentation of payments made in the preceding year.

8.17.6 Disability Assistance Expenses Deduction

24 CFR 5.603(b), 24 CFR 5.611(a)(3)(ii)

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member (including the family member who is a person with disabilities) to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

8.17.7 Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, HANO may consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When HANO determines that the disability assistance expenses enable more than one family member to work, the expenses may be capped by the sum of the family members’ incomes.

8.17.8 Eligible Disability Expenses

- **Eligible Auxiliary Apparatus:** Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, may be included.
- **Eligible Attendant Care:** Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses may be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. If, however, the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, HANO may prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation may be based upon the number of hours spent in each activity and/or the number of persons under care.

- **Payments to Family Members:** No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]; however, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.
- **Necessary and Reasonable Expenses:** The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.
- **HANO determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality.** To establish typical costs, HANO may collect information from organizations that provide services and support to persons with disabilities. A family may present, and HANO may consider, the family’s justification for costs that exceed typical costs in the area.

8.17.9 Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, HANO may consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

8.18 CHILD CARE EXPENSE DEDUCTION 24 CFR 5.603(b)

HANO defines child care expenses as amounts anticipated to be paid by the family for the care of children under 13-years old during the period for which annual income is computed. Care must be necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed.

Any amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

8.18.1 Clarifying the Meaning of Child for the Child Care Expense Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. Child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCVP GB, p. 5-29].

8.18.2 Qualifying for the Child Care Expense Deduction

The family must identify the family member(s) enabled to pursue an eligible activity. The term eligible activity in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

HANO may consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

8.18.3 Seeking Work

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by HANO.

8.18.4 Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

8.18.5 Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

8.18.6 Earned Income Limit on Child Care Expense Deduction

24 CFR 5.603(b), HCVP GB, p. 5-30

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care; however, when child care enables a family member to work, the deduction is capped by the amount of employment income that is included in annual income.

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

HANO may not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

When the child care expense being claimed is to enable a family member to work, only one family member's income may be considered for a given period of time. When more than one family member works during a given period, HANO generally may limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

8.18.7 Eligible Child Care Expenses

HANO may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

8.18.8 Allowable Child Care Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care. The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, HANO may prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care may be prorated. Unless otherwise specified by the child care provider, the calculation may be based upon the number of hours spent in each activity and/or the number of persons under care.

8.18.9 Necessary and Reasonable Child Care Costs

Child care expenses may be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses may be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, HANO may use the schedule of child care costs from the local welfare agency. Families may present, and HANO may consider, justification for costs that exceed typical costs in the area.

8.19 RENT AND SUBSIDY CALCULATIONS

8.19.1 Total Tenant Payment (TTP) Formula

24 CFR 5.628

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II);
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12);
- The welfare rent (in as-paid states only); and
- A minimum rent between \$0 and \$50 that is established by HANO.

HANO has authority to suspend and exempt families from minimum rent when a financial hardship exists. The amount that a family pays for rent and utilities (the family share) may never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

8.19.2 Minimum Rent

24 CFR 5.630

The minimum rent for this locality is \$50.

8.19.3 Family Share

24 CFR 982.305(a)(5)

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds HANO's applicable payment standard: (1) the family may pay more than the TTP, and (2) at initial occupancy HANO may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 calendar days before the family's voucher was issued.

8.19.4 HANO Subsidy

24 CFR 982.505(b)

HANO may pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

8.19.5 Utility Reimbursement

24 CFR 982.514(b)

When HANO subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits HANO to pay the reimbursement to the family or directly to the utility provider.

HANO may make utility reimbursements to the family.

8.20 FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

24 CFR 5.630

HANO's established minimum rent for all vouchers is \$50.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If HANO determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

8.20.1 HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- A hardship may be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent;
- For a family waiting for a determination of eligibility, the hardship period may end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances;
- The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities;
- Family income has decreased because of changed family circumstances, including the loss of employment;

- A death has occurred in the family;
- In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member’s income);
- The family has experienced other circumstances determined by HANO; or
- Any additional hardship criteria established by HANO.

8.20.2 Determination of Hardship

When a family requests a financial hardship exemption, HANO may suspend the minimum rent requirement beginning the first of the month following the family’s request. HANO then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

HANO defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption			
Family Share – No Hardship		Family Share – With Hardship	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$15	10% of monthly gross income	\$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
\$50	Minimum rent	\$50	Minimum rent
Minimum rent applies. TTP = \$50		Hardship exemption granted. TTP = \$15	

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

HANO will make the determination of hardship within 30 calendar days.

If HANO determines there is no financial hardship, HANO will reinstate the minimum rent and require the family to repay the amounts suspended. HANO requires the family to repay the suspended amount within 30 calendar days of HANO’s notice that a hardship exemption has not been granted.

8.20.3 Temporary Hardship

If HANO determines that a qualifying financial hardship is temporary, HANO may suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family’s request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay HANO the amounts suspended. HUD requires HANO to offer a reasonable repayment agreement, on terms and conditions established by HANO. HANO also may determine that circumstances have changed and the hardship is now a long-term hardship.

HANO may enter into a repayment agreement with the family.

8.20.4 Long-Term Hardship

If HANO determines that the financial hardship is long-term, HANO may exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption may apply from the first of the month following the family’s request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

- At an interim or annual reexamination, the family’s calculated TTP is greater than the minimum rent.

- For hardship conditions based on loss of income, the hardship condition may continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship may continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption may continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

8.21 APPLYING UTILITY ALLOWANCES

24 CFR 982.517

A HANO-established utility allowance schedule is used in determining family share and HANO subsidy. HANO may use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by a family or the voucher size issued which the family qualifies using HANO subsidy standards.

8.21.1 Reasonable Accommodation

HCVP program regulations require HANO to approve a utility allowance amount higher than shown on HANO's schedule, if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, HANO may approve an allowance for air-conditioning, even if HANO has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide HANO with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCVP GB, p. 18-8].

In cases where the unit size leased exceeds the family unit size as determined under the PHA subsidy standards as a result of a reasonable accommodation, HANO will use the appropriate utility allowance for the lower of the size of the dwelling unit actually leased by the family or the voucher size as determined by the approved reasonable accommodation.

8.21.2 Utility Allowance Revisions

At reexamination, HANO shall use its current utility allowance schedule.

Revised utility allowances may be applied to a family's rent and subsidy calculations at the first interim or annual reexamination that is effective after the allowance is adopted.

8.22 PRORATED ASSISTANCE FOR MIXED FAMILIES

24 CFR 5.520

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members.

HANO may prorate the assistance provided to a mixed family.

HANO may first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible.

Example: If HANO's subsidy for a family is calculated at \$500 and two of four family members are ineligible, HANO subsidy would be reduced to \$250.

CHAPTER 9: VERIFICATION

9.1 OVERVIEW

HANO must verify all information used to establish a family's eligibility and level of assistance. HANO must obtain the family's consent to collect the information, and applicants and program participants must cooperate with the verification process as a condition of receiving assistance. No cost of verification will be passed on to a family.

HANO will follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD.

9.2 FAMILY CONSENT TO RELEASE OF INFORMATION

24 CFR 982.516, 982.551, 24 CFR 5.230

The family must supply any information that HANO or HUD determines is necessary to the administration of the program and must consent to HANO verification of that information.

9.2.1 Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form.

HUD and HANO may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

9.2.2 Penalties for Failing to Consent

24 CFR 5.232

If any family member who is required to sign a consent form fails to do so, HANO will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with HANO procedures. See Section 19.2.5.

9.3 VERIFICATION REQUIREMENTS

Notice PIH 2018-18

HUD authorizes HANO to use six methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires HANO to use the most reliable form of verification that is available and to document the reasons when HANO uses a lesser form of verification.

In order of priority, the forms of verification that HANO will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system;
- Up-front Income Verification (UIV) using a non-HUD system, including, but not limited to, the Work Number;
- Written Third-Party Verification (may be provided by applicant or participant);
- Written Third-party Verification Form;
- Oral Third-party Verification; and
- Self-Certification.

Each of the verification methods is discussed in subsequent sections below.

9.3.1 Requirements for Acceptable Documents

Any documents used for verification must be originals (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to HANO. The documents must not be damaged, altered or in any way illegible. HANO will accept documents older than 60 days if the document represents the most recent scheduled report from a source.

Example: If the holder of a pension annuity provides semi-annual reports, HANO will accept the most recent report.

Print-outs from Web pages are considered original documents.

Before issuing a voucher, HANO will re-verify income and deductions if the family's income is more than 60 days old.

Verification documents are usable for calculation purposes for 120 days from the time they are received in the office until the effective date of the certification.

Prior to signing a HAP contract for a client, income and allowances must be re-verified if documents are more than 120 days old.

Any family self-certifications must be made in a format acceptable to HANO and must be signed in the presence of a HANO representative or HANO notary public.

9.3.2 File Documentation

HANO will document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that HANO has followed all of the verification policies set forth in this plan.

HANO will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When HANO is unable to obtain 3rd party verification, HANO will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2018-18].

9.4 UPFRONT INCOME VERIFICATION USING HUD'S ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security benefits, and SSI benefits for participant families. HUD requires HANO to use the EIV system in its entirety.

The following policies apply to the use of HUD's EIV system:

9.4.1 EIV Income Reports

HANO will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process:

- Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income. Income reports may also be used to meet the regulatory requirement for third party verification. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in this chapter;

- Income reports will be used in interim reexaminations to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources; and
- Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When HANO determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in the chapter on Program Integrity.

9.4.2 EIV Discrepancies

EIV Income Reports will be compared to family-provided information in order to identify discrepancies.

HANO will review EIV discrepancies during reexaminations. When it appears that a family may have concealed or under-reported income, HANO will request written third-party verification of the income in question. In some circumstances, discrepancies between family-provided information and the EIV Income Report are not the result of families concealing or under-reporting income.

9.4.3 EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

HANO will use EIV's *Identity Verification Report* to improve the availability of income information in EIV [Notice PIH 2018-24].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

HANO will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report*.

HANO will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When HANO determines that discrepancies exist due to HANO errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

9.5 UPFRONT INCOME VERIFICATION USING NON-HUD SYSTEMS

In addition to mandatory use of the EIV system, HANO may utilize other upfront verification sources.

9.6 WRITTEN THIRD-PARTY VERIFICATION

Notice PIH 2018-18

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to:

- Pay stubs;
- Payroll summary reports;
- Employer notice or letters of hire and termination;
- SSA benefit verification letters;
- Bank statements;

- Child support payment stubs;
- Welfare benefit letters and/or printouts; and
- Unemployment monetary benefit notices.

HANO may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

If HANO determines that third-party documents provided by the family are not acceptable, HANO will explain the reason to the family and request additional documentation. As verification of earned income, HANO will request pay stubs covering the following pay-periods prior to HANO's request:

- Weekly paychecks: 6 paystubs
- Biweekly and Semi-Monthly paychecks: 3 paystubs
- Monthly paychecks: 2 paystubs

9.7 WRITTEN THIRD-PARTY VERIFICATION FORM

When upfront verification is not available and the family is unable to provide written third-party documents, HANO may request a written third-party verification form.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income (\$2,400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by HANO.

9.8 ORAL THIRD-PARTY VERIFICATION

Notice PIH 2018-18

For third-party oral verification, HANO will contact sources identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available or received within a reasonable time.

9.8.1 When Third-Party Verification is Not Required

Notice PIH 2018-18

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

9.8.2 Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

9.9 SELF-CERTIFICATION

When information cannot be verified by a third party or by review of documents, or when a family member has an existing accommodation, family members may be required to submit self-certifications attesting to the accuracy of the information they have provided to HANO.

Additionally, a family member may submit either self-certification of an existing need for accommodation or

documentation from a knowledgeable professional.

HANO may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to HANO and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HANO representative or HANO notary public.

When HANO relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

HANO may accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCVP GB, p. 5-28].

9.10 VERIFICATION OF LEGAL IDENTITY

HANO will require families to furnish verification of legal identity for each household member.

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided, a third party who knows the person may attest to the person's identity, subject to HANO's discretion. The certification must be provided in a format acceptable to HANO and be signed in the presence of a HANO representative or HANO notary public.

Legal identity will be verified on an as needed basis.

9.11 VERIFICATION OF ZERO INCOME

9.11.1 Zero Income Household

A zero Income household is one where no household member receives any income, contributions, and/or benefits on their own behalf or on behalf of another individual in the household.

Households that report zero income may be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc. If the family's expenses exceed their known income, HANO may make inquiry as to the nature of the family's accessible resources.

HANO will require the following when the household claims zero income and at each successive regular recertification:

- Completion of a financial hardship worksheet
- Completion of a zero income self-certification by each adult household member;
- EIV check to confirm that no household member has any income;
- 3rd party welfare verification to confirm that no benefits are received; and
- 3rd party verification to the Family Court to confirm that no child support/alimony is paid or received (only if there are minors in the household and both parent/legal guardians do not reside in the household).

Every 180 days, HANO will run an EIV check on zero income households and take action as required for unreported income.

9.11.2 Zero Income Individual

A zero income individual is one who does not receive any income, contributions and/or benefits on their own behalf or on behalf of another individual in the household. HANO will conduct the following verifications on zero income

individuals when he or she claims zero income and at each successive regular recertification:

- Completion of a zero income self-certification;
- EIV check to confirm that the household member has no income;
- 3rd party welfare verification to confirm that no benefits are received; and
- 3rd party verification to the Family Court to confirm that no child support/alimony is paid or received (only if the zero income household member has minor children in the household and both parent/legal guardians do not reside in the household).

HANO will not conduct EIV checks every 180 days for zero income individuals; however, HANO reserves the right to run an EIV check to ensure program integrity.

9.12 SOCIAL SECURITY NUMBERS

24 CFR 5.216 AND 24 CFR 5.218, NOTICE PIH 2018-24

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status or who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

HANO may accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

HANO may only reject documentation of a SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. HANO may grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

HANO will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, HANO will terminate the individual's assistance.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has a SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. HANO may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension may be granted if HANO determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period HANO is awaiting documentation of the SSN, the child will be counted as part of the assisted household [See Section

19.2.7 for required actions should family fail to provide SSN documents].

9.13 DOCUMENTATION OF AGE

Refer to Section 4.18.

9.14 FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

9.14.1 Marriage

Certification by the head of household is sufficient verification. If HANO has reasonable doubts about a marital relationship, HANO will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

9.14.2 Separation or Divorce

Certification by the head of household is sufficient verification. If HANO has reasonable doubts about a separation or divorce, HANO will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

As the state of Louisiana does not recognize legal separation, the family may submit a sworn statement signed before HANO staff or a notary public to attest to separation.

9.14.3 Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill). If it is not possible to obtain such documentation, the family may self-certify the adult family member's absence, but must detail why it was not possible to obtain proof of the new address of the family member to be removed.

9.14.4 Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

9.15 VERIFICATION OF STUDENT STATUS

HANO requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co- head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education*.

9.15.1 Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

24 CFR 5.612

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not

apply to students residing with parents who are seeking or receiving HCVP assistance.

In accordance with the verification hierarchy, HANO will determine whether the student is exempt by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965;
- The student is at least 24 years old;
- The student is a veteran;
- The student is married;
- The student has at least one dependent child; or
- The student is a person with disabilities, and was receiving assistance prior to November 30, 2005.

If HANO cannot verify at least one of these exemption criteria, HANO will conclude that the student is subject to the restrictions on assistance. In addition to verifying the student's income eligibility, HANO will then proceed to verify either the student's parents' income eligibility or the student's independence from their parents.

9.15.2 Independent Student

HANO will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student*; and

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent; and
Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0.

9.16 DOCUMENTATION OF DISABILITY

24 CFR 100.202(c)

HANO may verify the existence of a disability in order to allow certain income disallowances and deductions from income. HANO is not permitted to inquire about the nature or extent of a person's disability. HANO may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If HANO receives a verification document that provides such information, HANO will not place this information in the tenant file or will remove or blackout such information. Under no circumstances will HANO request a participant's medical record(s).

9.17 FAMILY MEMBERS RECEIVING SSA DISABILITY BENEFITS

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

For family members claiming disability who receive disability benefits from the SSA, HANO will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, HANO will request a current (dated within the last 60 calendar days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), HANO will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter, they will be required to provide it to HANO.

9.17.1 Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

9.18 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

24 CFR 5.508

Families must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen, or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual, it need not be collected or verified again during continuously assisted occupancy.

9.18.1 U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless HANO receives information indicating that an individual's declaration may not be accurate.

9.18.2 Eligible Immigrants Documents Required

HCVP GB, pp. 5-3 and 5-7

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals. HANO will follow all USCIS protocols for verification of eligible immigration status.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, HANO may verify immigration status with the United States Citizenship and Immigration Services (USCIS).

9.19 VERIFICATION OF PREFERENCE STATUS

HANO may verify any preferences claimed by an applicant. See chapter of Application, Waiting List and Tenant Selection.

CHAPTER 10: HOUSING QUALITY STANDARDS

10.1 OVERVIEW

HANO will inspect each unit in accordance with established policies to determine if the unit meets the Housing Quality Standards (HQS). A history of each inspection is maintained in the family's file. Housing Quality Standards for Single Room Occupancy and Project-Based Vouchers are found in chapters Special Housing Types and Project-Based Vouchers.

10.2 HQS STANDARDS

24 CFR. 982.401

HANO conforms to the performance and acceptability requirements when conducting HQS inspections. HANO inspectors rely on their professional judgment in discriminating between a pass or fail condition.

HUD's performance and acceptability requirements for HCVP-assisted housing cover the following areas:

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

10.3 PHYSICAL STANDARDS

10.3.1 Owner Responsibilities

24 CFR 982.404

The owner must maintain the unit in accordance with HQS. If the owner fails to maintain the dwelling unit in accordance with HQS, HANO will take action to enforce the owner obligations, which may include abatement or reduction of HAP payments and termination of the HAP contract. The owner is not responsible for breaches in HQS not caused by the owner and for which the family is responsible, as listed below.

10.3.2 Family Responsibilities

24 CFR 982.404

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

- 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.

HANO may terminate assistance to a family because of an HQS breach caused by the family. If HANO determines that the tenant caused the damage that led to the HQS deficiency, then HANO may release those payments to the landlord.

10.3.3 Violation of HQS Space Standards

24 CFR 982.403

HQS space standards require that the unit have at least one bedroom or living/sleeping room for each two people. The space standards also require that children of the opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

If HANO determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, HANO will issue the family a new voucher. If an acceptable unit is available for rental by the family, HANO will terminate the existing HAP contract in accordance with its terms and execute a new HAP contract for the new unit.

10.3.4 Modifications to Provide Accessibility

24 CFR 100.203

An owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit, at the family's expense. All such modifications must meet all applicable HQS requirements. Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) for HANO review. The HANO Legal Department will review such restoration agreements for compliance under the Fair Housing Act and state and local law.

10.3.5 Thermal Environment

The heating system must be capable of maintaining a thermal environment healthy for the human body. There must be a safe heating and cooling system.

10.3.6 Special Requirements for Children with Elevated Blood Lead Level

24 CFR 35.1225(a)

Within 15 calendar days after HANO is notified by a public health department or other medical health care provider that a child of less than 6-years of age living in a HCV-assisted unit has been identified as having an elevated blood lead level (EBLL), an environmental investigation of the assisted unit must be completed by HANO. This must be completed in accordance with program requirements and the results must be provided to the owner of the assisted unit and the participant. In instances where the public health department has already completed an investigation, the information must also be provided to the owner. The environmental investigation must be performed at the assisted unit in which the child lived at the time that the blood was last sampled and of the common areas that service the assisted unit.

For instances where another HCVP recipient decides to reside in an assisted unit where a child identified with EBLL previously resided and an environmental investigation has not been conducted, HANO will follow the requirements just as if the affected child still lives in the assisted unit.

If the public health department, HANO, or the owner has completed a risk assessment of the assisted unit in regard to the child's EBLL case between the date the child's blood was last sampled and the date when HANO received the notification of the EBLL, then another risk assessment of the assisted unit and common areas servicing the unit will not be required. If HANO or the owner conducted a risk assessment of the assisted unit and common areas servicing the unit during that period, HANO will only conduct the elements of an environmental investigation that were not already conducted during the risk assessment.

10.3.7 Verification from Non-Medical Health Care Provider

24 CFR 35.1225(b)

When HANO receives information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit may have an elevated blood lead level, HANO shall immediately verify the information with the public health department or other medical health care provider. If the public health department or provider denies the request, such as because it does not have the capacity to verify that information, HANO shall send documentation of the denial to the HUD Rental Assistance program manager, who shall make an effort to verify the information. If that department or provider verifies that the child has an elevated blood lead level, such verification will constitute notification and HANO must take the required actions.

10.3.8 Lead-Based Paint Hazard Reduction 24 CFR 35.1225(c)

Within 30 calendar days after receiving the environmental investigation report from HANO, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and HANO will take action in accordance with HQS violations standards of 24 CFR 982.401, as applicable to each case.

10.3.9 HANO HCV & PBV Responsibilities

HANO is responsible for the following actions for units under the HCV and PBV programs:

- Ensuring compliance with HUD’s Lead Safe Housing Rule (LSHR) in collaboration with the owner, including:
 - Immediately notifying HUD of confirmed cases; this includes the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes;
 - Notifying the public health department when any other medical health care professional notified the owner or HANO of the case;
 - Verifying cases when the owner or HANO receives information from a person who is not a medical health care provider, which will be done in collaboration with the public health department;
 - Ensuring that all required lead hazard control (including passing clearance) is completed;
 - Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and
 - Ensuring that ongoing maintenance of paint is conducted in accordance with 24 CFR 35.1220 and 35.1355(a).
- Ensuring that the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the common areas servicing that unit; and
- Ensuring that the owner controls lead-based paint hazards that are found in the index unit in a multiunit property, in other covered units with a child under age of 6, and in the common areas servicing those units identified as lead-based paint hazards.

HANO may collaborate with the owner on the responses, including providing the names of qualified and certified lead hazard control contractors, providing for the clearance examination, and ensuring notification to other residents in a multi-unit property.

Units with identified lead-based paint hazards must have annual reexaminations for deteriorated paint and/or failed hazard control. This can be done in conjunction with periodic HQS inspections, but not at a frequency that is less than annually if there was deteriorated paint or known lead-based paint hazards identified in the child’s unit or common areas servicing that unit.

On a quarterly basis, HANO will seek to provide an updated list of its target housing addresses to the state health department so that the health department may evaluate whether there are incidences of EBLL cases in HANO-assisted housing. If the health department does not want, or is unable to receive this data, HANO must document this for HUD compliance reviews. HANO will also attempt quarterly to obtain the names and addresses of children under age 6 with an EBLL that live in its owned or managed housing from the health department. If a match occurs, HANO will comply with all requirements as listed above. HANO will treat EBLL information as confidential and will use such information solely for the purpose of protecting the public health of children and their families from lead exposure.

10.3.10 HANO HCV Responsibilities

In addition to the responsibilities found in section 10.3.9 HANO HCV & PBV Responsibilities, HANO is responsible for the following actions for units under the HCV program:

- Conducting an environmental investigation of the child's unit and the common areas servicing that unit in accordance with program requirements

10.3.11 HANO PBV Responsibilities

In addition to the responsibilities found in section 10.3.9 HANO HCV & PBV Responsibilities HANO is responsible for the following actions for units under the PBV program:

- Monitoring the owner's compliance with LSHR in accordance with the HAP contract between HANO and the owner

10.4 HQS INSPECTIONS PROCESS

24 CFR 982.405

10.4.1 Types of Inspections

HANO conducts the following types of inspections as needed:

10.4.2 Initial Inspections

HANO conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract and the lease effective date.

10.4.3 Annual Inspections

Annual inspections are conducted at least once per calendar year. HANO will send notification to property owners and tenants prior to scheduled annual inspections reminding them of requirements for compliance with HQS. HANO will conduct biennial inspections in certain cases, as documented in Section 10.4.10.

10.4.4 Special (Complaint) Inspections

The owner, the family, or a third party may request a special inspection as a result of problems identified between annual inspections.

10.4.5 Quality Control Inspections

Quality Control (QC) inspections are re-inspections completed by HANO HCVP Inspections' Department Manager or another qualified person designated by the Manager. The Manager may not designate a HANO HCVP Inspector who performs initial or annual inspections to perform QC inspections. HANO will perform QC inspections on a sample of HCVP units and a section of owners to ensure that HQS are being enforced correctly and uniformly by all inspectors.

10.4.6 Inspection Costs

HANO will not charge the family or owner for unit inspections.

10.4.7 Notice and Scheduling

The family must allow HANO to inspect the unit at reasonable times and with reasonable notice.

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be no less than 48 hours. In the case of a life-threatening emergency, HANO will give as much notice as possible, given the nature of the emergency.

10.4.8 Owner and Family Inspection Attendance

When a family occupies the unit at the time of inspection, an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged, but is not required.

At initial inspection of a vacant unit, HANO will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

10.4.9 Initial HQS Inspection

24 CFR 982.405(a)

HANO will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within a reasonable time from submission of the Request for Tenancy Approval (RFTA).

If any HQS violations are identified, the owner will be notified of the deficiencies and be given 15 calendar days in which to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by HANO for good cause. HANO will re-inspect the unit within a reasonable time after the owner notifies HANO that the required corrections have been made.

If the time period for correcting the deficiencies (or any HANO-approved extension) has elapsed, and the unit fails HQS at the time of the re-inspection, HANO will notify the owner and the family that the unit has been rejected and that the family must search for another unit. HANO may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a unit disapproval, the family may submit a new Request for Tenancy Approval for the unit, if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

10.4.10 Biennial Inspections

24 CFR 982.405(a)

Biennial inspections are conducted at least once per two calendar years, and after the unit has been initially inspected. To qualify for Biennial inspections, a unit must have met the following conditions:

- Received at least two consecutive years of passing scores on the first inspection attempt for annual HQS inspections.
- Unit has not been found in HQS violation within the past year of any health and/or safety deficiencies by HANO or Louisiana Housing Corporation (LHC) for the following programs:
 - a. Low-Income Housing Tax Credit (LIHTC) Program; and
 - b. HOME Rental Housing Program

10.4.11 Annual Inspections

24 CFR 982.405(a)

Annual inspections are conducted at least once per calendar year and after the unit has been initially inspected. A unit will be inspected annually when the unit does not meet the qualifications for Biennial Inspections, and matches at least one of the following conditions:

- A determination by HANO that the unit's inspection history or HQS violation deficiency would classify

the unit as a more marginal or higher-risk unit.

- A discretionary administrative determination made by the Executive Director or his designee.
- Failed Inspection conducted by the City of New Orleans or LHC in the past year.

10.4.12 Notification of Inspections

HANO will send notification to property owners and tenants prior to scheduled annual or biennial inspections reminding them of requirements for compliance with HQS.

10.4.13 Special Complaint Inspections

HCVP GB pp. 10-30

HANO will conduct a special inspection if the owner, family, or a third party reports possible HQS violations in the unit.

During a special inspection, HANO generally will inspect only those deficiencies that were reported; however, the inspector may record any additional HQS deficiencies that are observed and may require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled, HANO may elect to conduct a full annual inspection.

10.4.14 Quality Control Inspections

24 CFR 982.405(b)

A HANO supervisor or other qualified person will conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of HQS.

The unit sample will generally include units that have been inspected within the preceding 3 months. The selected sample will include:

- Each type of inspection (initial, annual, and special);
- Inspections completed by each inspector; and
- Units from a cross-section of neighborhoods.

10.4.15 Life Threatening/Emergency Conditions

24 CFR 982.404(a)

Emergency HQS violations will cover only those situations that are determined to be exigent health and safety issues, i.e. those situations that pose an immediate threat to the life, health, or safety of tenants or that are related to fire safety hazards. When emergency HQS violations are identified, HANO will immediately notify both the owner and tenant. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within the required time period per HANO's notice.

Emergency violations include, but are not limited to:

- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling;
- Natural or LP gas or fuel oil leaks;
- Any electrical problem or condition that could result in shock or fire;
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit;
- Utilities not in service, including no running hot water;
- Obstacles that prevent safe entrance or exit from the unit;

- Absence of a functioning toilet in the unit;
- Inoperable smoke detectors;
- Serious fire damage; or
- Major mold.

If an owner fails to correct emergency conditions within 24 hours as required, the housing assistance payment will be abated and the HAP contract will be terminated.

If a family fails to correct a family-caused emergency condition as required, HANO may terminate the family's assistance.

The owner will be required to repair an inoperable smoke detector unless HANO determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

10.4.16 Other HQS Violations

When failures that are not life-threatening are identified, HANO will send the owner and the family a written notification of the inspection results following the inspection.

The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. The notice of inspection results will inform the owner that if non-life-threatening conditions are not corrected within the specified time frame, the owner's HAP will be abated. Likewise, in the case of family-caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame, the family's assistance may be terminated.

10.5 TIME STANDARDS FOR REPAIRS

- If an owner fails to correct HQS deficiencies by the time specified, HANO will abate housing assistance payments;
- Emergency Repairs: Items that endanger family health and well-being, such as the emergency conditions listed above, must be corrected within 24 hours after notification. HANO will not grant an extension to this time frame;
- Non-Emergency Repairs - Initial Inspection: HANO generally requires non-emergency repairs for initial inspection to be made within 15 calendar days, unless HANO has approved an extension to this time frame;
- Non-Emergency Repairs at Annual/Interim Inspection: HANO generally requires non-emergency repairs for annual/interim inspections to be completed within 30 calendar days after notification, unless HANO has approved an extension to this time frame; and
- Non-Emergency Repairs during a Special Inspection: HANO generally requires non-emergency repairs for special inspections to be completed within 30 calendar days after notification, unless HANO has approved an extension to this time frame.

10.5.1 Extensions

For conditions that are not life-threatening, HANO may grant an exception to the required time frames for correcting the violation, if HANO determines that an extension is appropriate.

Extensions may be granted in cases where HANO has determined that the owner has made a good faith effort to correct the deficiencies but has been unable to for reasons beyond the owner's control. Reasons may include but are not limited to:

- A repair cannot be completed because required parts or services are not available and

- A repair cannot be completed because of weather conditions.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 calendar days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided. HANO will place the owner's HAP on hold if an extension longer than 60 calendar days is granted due to weather.

An extension may also be granted where a reasonable accommodation is needed because the family includes a person with disabilities.

10.5.2 Re-inspections

HANO will conduct a re-inspection following the end of the corrective period, or any HANO-approved extension.

10.6 ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, HANO will take prompt and vigorous action to enforce the owner obligations. If an owner is determined to be repeatedly in noncompliance of HQS, the agency may consider disapproving the owner from any further participation or limiting future participation in the voucher program.

10.6.1 HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified, HANO will abate housing assistance payments. Abatement will take effect no later than the first of the month following the specified correction period.

HANO will inspect abated units within a reasonable time period after the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection. No retroactive payments will be made to the owner for the period of time the assistance payments were abated.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction. The tenant and the owner will be notified that the tenant is not responsible for payment of the agency's share of rent during the abatement period, but that the tenant must continue to pay their share of rent.

10.6.2 HAP Contract Termination

If the HAP has been abated for 60 calendar days and the unit continues to fail to meet HQS requirements, HANO will issue a 30-day notice of termination of the HAP contract.

If the owner completes corrections and notifies HANO before the termination date of the HAP contract, HANO may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection. If the unit fails again at re-inspection, a new voucher will be issued upon the second fail.

Generally, HANO will not terminate the contract until the family finds another unit, provided the family does so in a reasonable time (generally 60 calendar days). HANO will issue a Voucher to permit the family to move to another unit. On a case-by-case basis, HANO may allow abatement past sixty days when the family has made reasonable efforts to find a new unit but has not been successful.

10.7 ENFORCING FAMILY COMPLIANCE

24 CFR 982.404(b)

HANO will pursue prompt and vigorous action against the family for family-caused HQS violations.

Families are responsible for correcting any family caused HQS violations. If the family fails to correct a violation within the period allowed by HANO (and any extensions), HANO may terminate the family's assistance.

When the family moves out of the dwelling unit, the owner, subject to State and local law and in accordance with the lease, may use the security deposit, including interest on the deposit as reimbursement for any unpaid rent payable by the

family, damages to the unit, or other amounts the family owes under the lease. The owner must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must refund the full amount of the unused balance to the family.

HANO will not reimburse owners for the cost of damages or other unpaid amounts owed by the family under the lease. The owner must collect damage payments from the tenant.

If an owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair if:

- a. The repair does not fall under the owner's obligation to maintain the unit in compliance with Housing Quality Standards, as articulated in 24 CFR 982.401, and the Tenancy Addendum; or
- b. The family is responsible for the repair under the lease.

10.7.1 Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation

10.7.2 Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If any person with a hearing impairment occupies the dwelling unit, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

10.7.3 Hazards and Health/Safety

The unit's interior and exterior common areas accessible to the family must be free of hazards to the family's health and safety.

CHAPTER 11: REASONABLE RENT DETERMINATION

11.1 OVERVIEW

No HAP contract can be approved until HANO has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program. A reasonable rent is one that does not exceed the rent charged for comparable, unassisted units in the same market area. Owners are also prohibited from charging more for assisted units than for comparable unassisted units on the premises.

11.2 REASONABLE RENT DETERMINATIONS

24 CFR 982.507

HANO will not approve a lease until a determination is made that the initial rent to the owner is a reasonable rent.

To ensure reasonable rents, HANO uses data from periodically conducted surveys, using factors of comparability such as geographic location, locations by submarket areas, and rents.

At all times during assisted tenancy HANO will ensure that the rent to the owner does not exceed the reasonable rent as most recently determined or re-determined by HANO. HANO will make a determination whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. In making this determination HANO will consider:

- The amount of rent being charged for comparable, standard, unassisted units in the neighborhood;
- The quality, location, size, unit type, and age of the contract unit;
- The amenities, housing services, maintenance, and utilities to be provided by the owner in accordance with the lease;
- On-site facilities;
- Management and maintenance of the building and unit; and
- The amount of rent charged by the owner for similar units in the same structure.

11.3 HOW RENTS ARE DETERMINED

HANO will notify the owner of the rent that HANO will approve based upon its analysis of rents for comparable units.

11.4 REQUIRED REASONABLE RENT DETERMINATION

HANO will complete reasonable rent determinations:

- When a unit is placed under HAP contract for the first time;
- When an owner requests an increase in rent;
- If there is a ten (10) percent decrease in the Fair Market Rent that goes into effect at least 60 calendar days before the contract anniversary date; and
- At any other time HANO or HUD deems it necessary including but not limited to when a family's tenant portion of rent is greater than 40% of their income after initial occupancy.

HANO will terminate the existing contract for any unit where the landlord does not agree to a Reasonable Rent. A transfer packet will be issued to the participating family for any owner that elects not to enter into a new agreement in accordance with the regulations concerning Termination of Tenancy.

11.5 UNITS THAT MUST NOT BE USED AS COMPARABLE UNITS

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of Federal, State, or local assistance that impose rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance; Section 236; Section 221(d)(3) Below Market Interest Rate (BMIR) projects; HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits units subsidized by the Department of Agriculture rural housing programs; and units that are rent-controlled by local ordinance. Road Home-assisted properties may not be subsidized.

11.6 RENTS CHARGED FOR OTHER UNITS ON THE PREMISES

By accepting HANO payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give HANO information regarding rents charged for other units on the premises.

11.7 REASONABLE ACCOMMODATION – REASONABLE RENT

HANO may make a reasonable accommodation in the rules and policies related to reasonable rent when such accommodation is necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit.

A family that requires a reasonable accommodation may request the accommodation, in writing, at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception and provide HANO with any documents requested to verify the need for an accommodation.

11.8 RENT LIMITATIONS

At initial lease up and upon transfer to a new unit, HANO may permit a client to rent a unit where the gross rent exceeds the payment standard if the gross rent does not result in the family share exceeding 40% of the family's monthly adjusted income.

HANO will allow a subsequent rent increase during a family's occupancy of the unit that causes the family share to exceed 40% of monthly adjusted income as long as the new rent to owner is determined to be reasonable. Such an increase will only be approved if notice and an opportunity to move to a new unit has been provided to the tenant. The maximum initial rent burden applies only at the commencement of an assisted occupancy in a particular unit.

11.8.1 Disapproval of Proposed Rent

HANO will NOT to approve an initial rent in the following circumstances:

- If the rent for a dwelling unit does not meet the test of Rent Reasonableness; and
- If the gross rent is in excess of HANO's payment standard and the rent would result in a family share that exceeds 40% of the family's monthly adjusted income.

If the owner accepts a revised rent, HANO will continue processing the Request for Tenancy Approval.

During subsequent lease terms, if a dwelling unit does not meet the test of rent reasonableness, the landlord must renegotiate a reasonable rent or the HAP contract will be terminated.

After initial lease-up, if a dwelling unit meets the test of reasonable rent but exceeds the payment standard, HANO will allow the client to pay a family share that exceeds 40% of the family's monthly adjusted income, if the family chooses to pay it.

11.9 RENT ADJUSTMENTS

Requests for rent increase may be submitted once per year. Owners must submit rent change requests, in writing, to HANO within the specified timeframe prior to reexamination, using the Contract Rent Adjustment Request Form. Approved rent changes will go into effect on the effective date of the annual reexamination.

All contract rent increases will be reviewed for rent reasonableness prior to approval. If the requested rent is not approvable after application of the reasonable rent test, the following options apply:

- HANO will attempt to negotiate a lower, approvable rent with the landlord;
- If an approvable rent is not negotiated between the landlord and HANO, HANO will provide the participant with notice that the lease and HAP contract will be terminated. The participant will be issued a family packet to locate a new unit; or
- The participant may continue to lease in place without HCV program rent assistance and HANO will terminate the Housing Assistance Payments Contract with the owner.

11.10 TIMING OF RENT CHANGES

Upon completion of any recertification, HANO will notify the family and owner of the new Housing Assistance Payment, Family Rent to Owner, and Total Contract Rent.

11.10.1 Rent Decrease

If the Family Rent to Owner decreases, the new rent amount will be effective with the next month's rent payment. For example, if the family provides HANO notice of a change in income, then the decreased rent should be effective the next month after the report is made. For example, if a family reports a decrease on March 28, the decrease should be effective April 1 even if HANO does not complete processing until April 15.

11.10.2 Rent Increase

If the Family Rent to Owner increases, HANO will provide at least 30 calendar days advance written notice to the participant of the new rent amount. Any annual increase by the landlord must meet the rent reasonableness test for the unit. At the time of the assisted lease anniversary date, the family must decide if it wants to pay any rent increase imposed by the owner. If the family does not, a voucher must be provided to allow the family to move. If the rental subsidy allowed by the payment standard has not changed, voucher-assisted families have the option of agreeing to the increase in rent, or giving the proper 30 calendar day's written notice to HANO and the owner to vacate the unit.

CHAPTER 12: GENERAL LEASING POLICIES AND HAP CONTRACT

12.1 OVERVIEW

It is an applicant's responsibility to find a unit that is owned by an individual or entity that is willing to participate in the HCV program. Units must meet the following requirements in order to be approved by HANO for leasing:

- The unit itself must qualify as an eligible unit
- The unit must be inspected by HANO and meet the Housing Quality Standards (HQS)
- The lease offered by the owner must meet standard requirements and must include the required Tenancy Addendum
- The rent to be charged by the owner for the unit must be reasonable, as determined by HANO
- The owner must be an eligible owner, with no conflicts of interest
- For families initially leasing a unit: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income

12.2 TENANT SCREENING

24 CFR 982.307(a)(1)

HANO has no liability or responsibility to the owner or other persons for the family's behavior for tenancy. The owner is responsible for screening and selection of the family to occupy the owner's unit. HANO informs owners that screening and selection for tenancy is the responsibility of the owner. HANO also informs owners and/or managers of their responsibility to comply with VAWA.

HANO provides owners with the family's current and prior address (as shown in HANO records), and the name and address (if known to HANO) of the landlord at the family's current and prior address.

HANO does not screen applicants for family behavior or for tenancy and does not provide additional screening information to the owner.

HANO will not disclose to the owner any confidential information provided in response to a HANO request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation.

12.3 REQUESTING TENANCY APPROVAL

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the approval of the assisted tenancy in the selected unit, no later than the expiration date on the voucher [HCVP GB p.8-15].

- A voucher holder must submit a Request for Tenancy Approval (RFTA) (form HUD-52517) prior to the expiration date of the voucher. The RFTA must be signed by the owner and voucher holder;
- Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent;
- Owners must certify that they are not the spouse, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless HANO has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household;
- For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and

exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement;

- The family may not submit, and HANO will not process, more than one RFTA at a time; and
- HANO will review the RFTA for completeness. If the RFTA is incomplete (including lack of signature by family, owner, or both), HANO will notify the family and the owner of the deficiencies.

12.4 ELIGIBLE UNITS

HANO may permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs.

HANO may permit use of any special housing type, if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

12.5 INELIGIBLE UNITS

24 CFR 982.352(a)

The following types of housing may not be assisted by HANO in the tenant-based program:

- A public housing or Indian housing unit;
- A unit receiving project-based assistance under Section 8 of the 1937 Act;
- Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
- College or other school dormitories;
- Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; and
- A unit occupied by its owner or by a person with any interest in the unit.

12.6 DUPLICATIVE ASSISTANCE

24 CFR 982.352(c)

A family may not receive the benefit of HCVP tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);

- Any local or state rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities;
- Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative Federal, State, or local housing subsidy, as determined by HUD. For this purpose, “housing subsidy” does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

12.7 HOUSING QUALITY STANDARDS (HQS)

24 CFR 982.305 and 24 CFR 982.401

In order to be eligible, the dwelling unit must be in decent, safe, and sanitary condition. This determination is made using HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [See Chapter 10 on HQS for a full discussion of the HQS standards, as well as the process for HQS inspection].

12.8 UNIT SIZE

24 CFR 982.402(d)

In order to be eligible, the dwelling unit must be an appropriate size for the number of persons in the household. Exceptions to this policy will be reviewed on a case-by-case basis.

12.9 RENT REASONABLENESS

24 CFR 982.305, 24 CFR 982.507

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See the Chapter on Rent Reasonableness for a full discussion of rent reasonableness policies.

12.10 RENT BURDEN

24 CFR 982.508

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family’s share of rent does not exceed 40 percent of the family’s monthly adjusted income.

12.11 LEASE AND TENANCY ADDENDUM

24 CFR 982.308

The family and the owner must execute and enter into a written lease for the assisted unit. This written lease is a contract between the tenant family and the owner; HANO is not a party to this contract.

The tenant must have legal capacity to enter a lease under state and local law. “Legal capacity” means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

HANO may provide a model or standard dwelling lease for owners to use in the HCV program. The assisted dwelling lease should contain all of the required information as listed below:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- The term of the lease (initial term and any provisions for renewal);
- The amount of the monthly rent to owner; and

- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

12.11.1 Assisted Tenancy Term

The initial term of the lease must be one year for all transfers and new admissions. During the initial term of the lease, the owner may not raise the rent and/or make any changes to the lease. Any provisions for renewal of the lease will be stated in the lease.

12.11.2 Security Deposit

24 CFR 982.313

HANO will allow the owner to collect any security deposit amount the owner determines is appropriate and is not in excess of amounts charged by the owner to unassisted tenants. Further, the security deposit collected must be in accordance with local and State laws.

HANO will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

12.11.3 Prohibition of Side Payments between Owner and Tenant

24 CFR 982.451(b)(4), 24 CFR 982.510(c)

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus HANO's housing assistance payments to the owner.

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

12.11.4 Review of Lease

24 CFR 982.308(c)

HANO may review the lease to determine if the lease complies with state and local law and is permitted to decline to approve the tenancy if HANO determines that the lease does not comply with State or local law.

12.12 TENANCY APPROVAL

24 CFR 982.305

After receiving the family's Request for Tenancy Approval, the unit passing inspection, and the rent being approved by HANO, HANO will notify the family and owner as to whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, HANO will ensure that all required actions and determinations are completed, including ensuring that:

- The unit is eligible;
- The unit has been inspected by HANO and meets the Housing Quality Standards (HQS);
- Any lease addenda offered by the owner is approvable;
- The rent to be charged by the owner for the unit is reasonable;
- Where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income;
- The owner is an eligible owner, not disapproved by HANO, with no conflicts of interest; and
- The family and the owner have executed the lease, including the Tenancy Addendum, and the lead-

based paint disclosure information.

If the terms of the RFTA have changed for any reason, including but not limited to negotiation with HANO, HANO will obtain corrected copies of the RFTA signed by the family and the owner.

12.13 DISAPPROVAL OF ASSISTED TENANCY

If HANO determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. HANO will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), HANO will attempt to negotiate the rent with the owner. If a new, approvable, reasonable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

12.14 LEASE EXECUTION

24 CFR 982.308

The owner and tenant will execute the lease, including the HUD prescribed tenancy addendum and the lead-based paint disclosure information before the beginning of the initial term of the lease for the unit.

The tenant must have legal capacity to enter a lease under the state and local law and both the tenant and owner must enter into and sign a written lease for the unit,

The owner and the assisted family will execute the lease and the owner must provide a copy to HANO and the assisted family.

12.15 HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT EXECUTION

24 CFR 982.305

If HANO has given approval for the family of the assisted tenancy, HANO will execute a HAP contract with the owner. The HAP contract represents a written agreement between HANO and the owner of the dwelling unit occupied by a HCVP-assisted family. The contract details the owner's responsibilities under the program, as well as HANO's obligations.

Under the HAP contract, HANO agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

HANO will not execute the HAP contract until the owner and tenant have submitted all required documents, including IRS form W-9.

HANO will ensure that the owner receives a copy of the executed HAP contract.

HANO will make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract will be executed no later than 60 calendar days from the beginning of the lease term.

12.16 HAP CONTRACT PAYMENTS

HANO will make monthly HAP payments to the owner on behalf of the family. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

HANO will not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, HANO will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract) to cover the

portion of the lease term before execution of the HAP contract (a maximum of 60 calendar days).

Any HAP contract executed after the 60 day period is void and HANO may not make any housing assistance payments to the owner.

The amount of the HAP payment is determined according to the policies described in this Plan and is subject to change during the term of the HAP contract. HANO must notify the owner and the family in writing of any changes in the HAP payment.

- HAP payments can be made only during the lease term and only while the family is residing in the unit;
- The family is not responsible for payment of the HAP payment and HANO is not responsible for payment of the family share of rent;
- The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum;
- If the owner receives any excess HAP from HANO, the excess amount must be returned immediately. If HANO determines that the owner is not entitled to all or a portion of the HAP, HANO may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCVP contract; and
- Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract.

By receiving the monthly HAP from HANO, the owner certifies to compliance with the terms of the HAP contract. This includes certification that:

- The owner is maintaining the unit and premises in accordance with HQS;
- The contract unit is leased to the tenant family;
- To the best of the owner's knowledge, the family resides in the unit as the family's only residence;
- The rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and
- The owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP contract term.

12.17 LATE HAP PAYMENTS

HANO is responsible for making HAP payments promptly when due to the owner in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term the HAP contract provides for penalties if HANO fails to make the HAP payment on time.

HANO is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond HANO's control. In addition, late payment penalties are not required if HANO intentionally delays or denies payment as a remedy to an owner breach of the HAP contract.

12.18 TERMINATION OF HAP CONTRACTS AND PAYMENTS

The HAP contract and the housing assistance payments made under the HAP contract may be terminated for any of the reasons, below. See, also, the Chapter on Termination of Assistance and Tenancy for more details.

- The owner or the family terminates the lease;

- The lease expires;
- HANO terminates the HAP contract;
- HANO terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit;
- 180 days have elapsed since HANO made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by HANO;
- The Annual Contributions Contract (ACC) between HANO and HUD expires; or
- HANO elects to terminate the HAP contract.

HANO may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program;
- The unit does not meet HQS size requirements due to a change in family composition;
- The unit does not meet HQS;
- The family breaks up; or
- The owner breaches the HAP contract.

If HANO terminates the HAP contract, HANO will give the owner and the family written notice. The notice will specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract.

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which HANO gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period and must return any housing assistance payment received after this period to HANO.

12.18.1 Family Notice of Intention to Move

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required.

If the family moves out of the unit, HANO may not make any Housing Assistance Payment to the owner for any month after the month the family moves out.

If the tenant provides a notice to move, HANO will continue to make Housing Assistance Payments through the lease termination date listed on the notice.

If the owner provides a notice for the tenant to vacate or evicts the tenant from the assisted unit, HANO will continue to make Housing Assistance Payments through the effective date of the notice to vacate or the eviction.

HANO will not make Housing Assistance Payments beyond the effective date of the eviction as shown on the judgement for possession. HANO may make additional Housing Assistance Payments in the case of voluntary terminations of the lease if the tenant remains in the unit after the initial termination date; however, the owner must provide proof that the tenant was still living in the assisted unit past the date listed on the notice. Exceptions may be made on a case-by-case basis or as a reasonable accommodation.

12.18.2 Owner Notice of Intention to Evict Family

The owner must inform HANO when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

If the owner has commenced the process to evict the tenant and the family continues to reside in the unit, HANO must continue to make Housing Assistance Payments to the owner in accordance with the Housing Assistance Payment Contract until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. HANO may continue such payments until the earlier of the date when family moves from or is evicted from the unit.

The owner must inform HANO when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide HANO with a copy of such judgment or determination. The owner must inform HANO of the date when the family actually moves from the unit or the family is physically evicted from the unit.

12.18.3 Breach of HAP Contract

Any of the following actions by the owner constitutes a breach of the HAP contract:

- The owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS;
- The owner violates any obligation under any other HAP contract under Section 8 of the U.S. Housing Act of 1937;
- The owner commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner fails to comply with the regulations for the applicable program; or if the owner commits fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- The owner engages in drug-related criminal activity; or
- The owner commits any violent criminal activity.

If HANO determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

HANO rights and remedies against the owner under the HAP contract include:

- Recovery of any HAP overpayment;
- Suspension of housing assistance payments;
- Abatement;
- Reduction of the housing assistance payment;
- Termination of the payment; or
- Termination of the HAP contract.

HANO may also obtain additional relief by judicial order or action.

HANO will notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. HANO will provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

12.19 CHANGES IN THE LEASE

24 CFR 982.308

If the tenant and the owner agree to any changes in the lease, such changes must be in writing and the owner must immediately give HANO a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, HANO approval of tenancy and execution of a new HAP contract are not required for changes in the lease; however, under certain circumstances, voucher assistance in the unit shall not be continued unless HANO has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease; and
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCVP assistance is to continue the family must submit a new Request for Tenancy Approval (RFTA) along with a new lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

12.20 LEASE TERMINATION

The lease may be terminated by any of the following actions:

- The owner and/or tenant terminate the lease;
- HANO terminates the HAP contract; or
- HANO terminates assistance for the family.

CHAPTER 13: OWNERS

13.1 OVERVIEW

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families. The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program. The term “owner” includes a principal or other interested party, such as a designated agent of the owner. Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

13.2 OWNER RECRUITMENT AND RETENTION

HCVP GB, pp. 2-4 to 2-6

HANO will conduct owner outreach to ensure that owners are familiar with the program and its advantages and to ensure that the program includes owners/units in areas outside of areas of poverty and minority concentration.

HANO will provide owners with information that explains the program, including HUD and HANO policies and procedures.

HANO will work to attract owners with property located outside areas of poverty and minority concentration. Outreach strategies may include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Conducting owner briefing sessions
- Developing working relationships with owners

13.3 BASIC OWNER RESPONSIBILITIES

24 CFR 982.452

The basic owner responsibilities according to HUD regulations are as follows:

- Perform all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease;
- Perform all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit and deciding if the family is suitable for tenancy of the unit;
- Maintain the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance;
- Comply with equal opportunity requirements;
- Prepare and furnish to HANO information required under the HAP contract;
- Collect from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the HAP from HANO), and any charges for unit damage by the family;
- Enforce tenant obligations under the lease;
- Make modifications to a dwelling unit occupied or to be occupied by a disabled person; and
- Comply with the Violence Against Women Act of 2005 (VAWA) when screening or terminating tenants.
- Comply with regulations relating to children with elevated blood lead levels, including taking the following actions when a child under 6 is identified with an EBLL:

- Notifying HANO of the case – that is, the child’s address – within 5 business days of the identification of EBLL. HANO will immediately notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes.
- If the owner is notified of the case by any medical health care professional other than the public health department, then the owner must disclose this fact when notifying HANO. HANO will immediately notify the public health department of the name and address of the child.
- Completing risk assessments for any other assisted unit, and its common areas, in the property with a child under six residing in the unit(s). These risk assessments must be completed within 30 calendar days of receiving the results of the environmental investigation for a property with 20 or fewer other covered units and within 60 calendar days for a property with more than 20 other covered units.
- Controlling and clearing all lead-based paint hazards identified by environmental investigation or risk assessment in the index units, other assisted units, and their common areas, using a certified lead-based paint abatement firm or certified lead renovation firm. Work shall include occupant protection, and clearance of the unit and common areas servicing that unit by an independent certified risk assessor or a trained dust sampling technician working under the risk assessor in accordance with section 24 CFR 35.1340. If the property has 20 (or fewer) other covered units, the lead hazard control work and clearance must be completed within 30 calendar days of receiving the results of the risk assessment. If the property has more than 20 other covered units, the lead hazard control work and clearance must be completed within 90 calendar days of receiving the result of the risk assessment.
- Notifying all residents of lead evaluation and hazard control activities.
- Maintaining covered housing without deteriorated paint if there is a child under 6 in the family in accordance with sections 24 CFR 35.1220 and 35.1355(a).

13.4 OWNER REQUIREMENTS

24 CFR 982.306, 24 CFR 982.452

HANO will conduct owner certifications for owners prior to approving tenancy and for owners when there is a transfer in ownership on existing HCV program units to certify and verify the following:

- Owner can verify ownership by producing a copy of the Deed of Record or a HUD 1 Settlement Statement or from the Parish of New Orleans Civil District, provided that the owner name is an exact match;
- Owner has provided a verified Employer Identification Number or verified Social Security Number;
- Owner has provided a valid government issued photo identification;
- Owner has signed VAWA Owner Notice;
- Owner has provided a W-9 to HANO;
- Owner has signed the Owner Certification of Civil Rights Compliance and No Conflict of Interest;
- Owner has provided a signed and completed Authorization for Direct Deposit;
- If an owner uses an authorized agent/landlord to manage the unit and/or make decisions on his behalf, HANO will require a signed contract between the owner and agent to certify that the individual presenting him/herself to HANO to act on the owner’s behalf is authorized by the owner to do so. Such agent must also provide a government photo ID; and
- HANO will issue a 1099 tax form to the owner at the address provided to HANO.

HANO may abate or suspend Housing Assistance Payments or terminate the HAP contract if owner certification requirements are not met.

13.5 OWNERS BARRED FROM PARTICIPATION

24 CFR 982.306(a)(b)

HANO will not approve the assisted tenancy if HANO has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct HANO not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements or if such an action is pending.

13.6 LEASING TO RELATIVES

24 CFR 982.306(d), HCVP GB p. 11-2

HANO will not approve a RFTA if the owner is the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of the voucher holder's family. HANO may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists.

This restriction does not apply to the Section 8 homeownership program and only applies at the time that the family initially receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

13.7 CONFLICT OF INTEREST

24 CFR 982.161; HCVP GB p. 8-19

HANO will not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Applicants/participants who own or have a financial interest in the dwelling unit they intend to rent (exception provision is when a unit owned as a cooperative, an applicant/participant who is a member of the cooperative may receive HCVP Rental Assistance, provided they meet all other eligibility requirements);
- Any present or former member or officer of HANO (except a participant commissioner);
- Any employee of HANO or any contractor, subcontractor, or agent of HANO, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
- Any member of the Congress of the United States.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. HANO must submit a waiver request to the appropriate HUD Field Office for determination.

13.8 OWNER ACTIONS THAT MAY RESULT IN DISAPPROVAL OF A TENANCY REQUEST

24 CFR 982.306(c)

HUD regulations permit HANO, at HANO's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions. If HANO disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

HANO will refuse to approve a request for tenancy if HANO becomes aware that any of the following are true:

- The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending;

- A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements;
- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act;
- The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program; or
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest, or another person under the control of any member of the household that:
 - Threatens the right to peaceful enjoyment of the premises by other residents;
 - Threatens the health or safety of other residents, of employees of HANO, or of owner employees or other persons engaged in management of the housing;
 - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises
 - Is engaged in drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessments.

In considering whether to disapprove owners for any of the discretionary reasons listed above, HANO will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, and the health and safety of participating families. Upon consideration of such circumstances, HANO may, on a case-by-case basis, choose to approve an owner.

13.9 NON-DISCRIMINATION

HAP Contract – Form HUD-52641

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with HANO.

The owner must cooperate with HANO and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with HANO.

13.10 CHANGE IN OWNERSHIP

HUD-52641

HANO requires that upon a change in ownership a new lease and HAP contract be signed.

HANO will screen new owners to verify ownership (a copy of the Deed of Record or HUD 1 Settlement Statement) from the new owner. New owners are subject to the same owner requirements as the existing owners (i.e., photo ID, etc.).

The existing owner must submit, in writing, the request for change in ownership. The request must include the name and

address of the new HAP payee and the effective date of the change.

HANO will evaluate the request and inform the current owner in writing whether the change is approved by HANO.

The new owner must provide a written certification to HANO that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the Social Security Number of the new owner; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to sign a HAP contract or fails to provide the necessary documents, HANO will not approve the change in ownership.

13.11 FORECLOSURE

If HANO is notified of or learns that a property with HANO-assisted tenants is in foreclosure, the agency will take the following actions:

- Make all reasonable efforts to determine the status of the foreclosure and ownership status of the property. This may include, but is not limited to, review of legal notices in the local newspaper and/or local government websites and/or obtaining information provided by the tenant notifying the agency of the foreclosure (i.e. a 90 day notice to vacate).
- Continue to make payments to the original owner until ownership is legally transferred in accordance with the HAP contract.
- Attempt to obtain written acknowledgement of the assignment of the HAP contract from the successor in interest. The written agreement may include a request for owner information such as a Tax ID Number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of the law.

Inform the tenant that they must continue to pay rent in accordance with the lease and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay the rent into escrow, as failure to pay rent may constitute an independent ground for eviction.

Inform the family if HANO is unable to make HAP payments to the successor in interest due to either (1) an action or inaction by the successor in interest that prevents such payments (e.g. failure to maintain property in accordance with HQS) or (2) an inability to identify the successor in interest.

Make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCVP assistance, will be (or has been) assisted under the Neighborhood Stabilization Program (NSP). If the unit has been assisted under NSP, HANO may use rental funds to pay owner-paid utilities or to pay family moving costs (including security deposit). HANO will take reasonable steps to notify the owner the agency intends to pay utilities rather than make payments to the owner and will notify the owner within a reasonable time after making any utility payments.

13.12 OWNER TERMINATION OF TENANCY

During the lease term an owner shall not terminate the tenancy of an assisted family except for specific reasons. See chapter on Termination for specific policies on owner termination of tenancy.

CHAPTER 14: PAYMENT STANDARDS AND UTILITY ALLOWANCES

14.1 PAYMENT STANDARDS

24 CFR 982.503; HCVP GB, Ch. 7

Payment standard is defined as the maximum monthly assistance payment for a family assisted in the voucher program, prior to deducting the total tenant payment by the family.

HANO will establish a payment standard schedule that establishes payment standard amounts for each Fair Market Rent (FMR) or Small Area Fair Market Rent (SAFMR) area within HANO's jurisdiction and for each unit size within each of the FMR or SAFMR areas. For each unit size, HANO may establish a single payment standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, HANO is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR or SAFMR for each unit size.

14.2 APPLYING PAYMENT STANDARDS

24 CFR 982.505, 24 CFR 982.4(b) HCVP GB 12-5

The payment standard for a family is the lower of:

1. The payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under HANO's subsidy standards [24 CFR 982.4(b)]; or
2. The payment standard for the size of the dwelling unit rented by the family.

If HANO has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, HANO may use the appropriate payment standard for the exception area. (See exception payment standards, below).

HANO will pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, HANO may recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit. [HCVP GB, p. 7-8]

14.2.1 Changes in Payment Standards

HANO's current payment standard will be used to calculate the family rent and Housing Assistance Payment at the family's regular reexamination.

14.2.2 Increases in Payment Standards

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next scheduled reexamination.

14.2.3 Decreases in Payment Standards

If the payment standard is decreased during the term of the HAP contract, the decreased payment standard will be applied at the second annual reexamination following the effective date of the decrease in the payment standard.

For example, if the payment standards in effect were:

- At admission: \$881;

- At first reexamination: \$850; and
- At second reexamination: \$801.

Then the payment standards applied would be as follows:

- At admission: \$881;
- At first reexamination: \$881;
- At second reexamination: \$850; and
- At following reexamination: \$801 (unless the payment standard increases).

If the family moves to a new unit or a new HAP contract is executed due to changes in the lease (even if the family remains in place), the current payment standard applicable to the family will be used when the new HAP contract is processed.

14.2.4 Changes in Family Unit Size

Regardless of any increase or decrease in the payment standard, if the family's unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

14.2.5 Payment Standards at Interim Reexamination

During an interim reexamination, HANO will apply the payment standard that was in effect at the last regular recertification.

14.2.6 Updating Payment Standards

HANO will review the appropriateness of the payment standards on an annual basis when the new FMR is published.

14.2.7 Exception Payment Standards

24 CFR 982.503(b) and (c)

As HANO is not designated as a Small Area FMR area and has not opted to voluntarily implement SAFMRs, HANO may establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published Small Area FMRs. The PHA may establish an exception payment standard up to 110 percent of the HUD published SAFMR for that ZIP code area. The PHA must notify HUD if it establishes an exception payment standard based on the SAFMR. The exception payment standard must apply to the entire ZIP code area. HANO publishes all payment standards on its website www.hano.org.

HANO can request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area.

14.2.8 Unit-by-Unit Exceptions

24 CFR 982.503(b)(1)(v) & (vi)

When needed as a reasonable accommodation, HANO may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size]. HANO may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception.

In order to approve an exception, or request an exception from HUD, HANO will determine that:

- The unit has features that meet the needs of a family member with disabilities;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable based on the analysis and determination by HANO [See Section 11.2].

14.2.9 Success Rate Payment Standard Amounts

24 CFR 982.503(e)

If a substantial percentage of families have difficulty finding a suitable unit, HANO may request a success rate payment standard that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows HANO to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, HANO will demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- HANO had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- HANO had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, HANO may choose to adjust the payment standard for only some unit sizes in all or a designated part of HANO's jurisdiction within the FMR area.

14.2.10 Decreases in the Payment Standard below the Basic Range

24 CFR 982.503(d)

HANO will request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

14.3 SINGLE ROOM OCCUPANCY PAYMENT STANDARDS

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on HANO's payment standard schedule.

14.4 UTILITY ALLOWANCES

24 CFR 982.517

A HANO-established utility allowance schedule is used in determining family share and HANO subsidy. HANO will maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule will be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, HANO will use normal patterns of consumption for the community as a whole, and current utility rates.

A unit must have separate meters for any utility for which the tenant is responsible for payment. Any utility that is not separately metered will be the responsibility of the owner.

14.4.1 Reasonable Accommodation

HANO may approve a utility allowance amount higher than shown on HANO's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability.

14.5 APPLICATION OF UTILITY ALLOWANCES

24 CFR 982.517(d), HCVP GB, p. 12-5

At lease-up, HANO will apply the utility allowance in effect on the effective date of the lease-up.

At regular reexamination, HANO will apply the utility allowance in effect on the effective date of the reexamination.

At interim reexamination, HANO will apply the utility allowance in effect on the effective date of the interim reexamination.

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner or in HANO's utility allowance schedule.

When there are changes in the utility arrangement with the owner, HANO will use the utility allowances in effect at the time the new lease and HAP contract are executed.

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual or interim reexamination after the allowance is adopted.

14.6 SINGLE ROOM OCCUPANCY UTILITY ALLOWANCES

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

CHAPTER 15: CONTINUED OCCUPANCY

15.1 OVERVIEW

HANO must conduct a reexamination of family income and composition at least annually. Family circumstances may change throughout the period between annual reexaminations. HUD and HANO policies dictate what kinds of information about changes in family circumstances must be reported and under what circumstances HANO must process interim reexaminations to reflect those changes.

15.2 FAMILY OBLIGATIONS

24 CFR 982.551

The following are family obligations and terms and conditions related to use and occupancy of the unit:

- The family must supply any information that HANO or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status;
- The family must supply any information requested by HANO or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition;
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information;
- Any information supplied by the family must be true and complete;
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay for or maintain tenant-provided utilities or appliances or by damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest;
- The family must allow HANO to inspect the unit at reasonable times and after reasonable notice, as described in this plan;
- The family must not commit any serious or repeated violations of the lease;
- The family must use the assisted unit for residence by the family;
- The family may not transfer their voucher to another unit, household, or family member [See Section 15.20.5 Remaining Members of Tenant Family];
- The unit must be the family's only residence;
- HANO must approve the composition of the assisted family residing in the unit;
- The family must request HANO approval to add household members as occupants of the unit. HANO's approval of such additions is subject to the family composition requirements.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease;
- If HANO has given approval, a foster child or a live-in-aide may reside in the unit;
- The family must notify HANO and the owner before moving out of the unit or terminating the lease;
- The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to HANO at the same time the owner is notified;
- The family must promptly give HANO a copy of any owner eviction notice;

- The family must not sub-lease or sub-let the unit;
- The family must not assign the lease or transfer the unit;
- The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the programs;
- The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises;
- The members of the household must not abuse alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises;
- The family must supply any information requested by HANO to verify that the family is living in the unit or information related to family absence from the unit;
- The family must not own or have any interest in the unit (other than in a cooperative and owners of a manufactured home leasing a manufactured home space); and
- A family must not receive HCVP assistance while residing in a unit owned by a spouse, parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless HANO has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide a reasonable accommodation for a family member who is a person with a disability.

HANO will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of the tenant portion of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used to determine if a serious or repeated lease violation has occurred is whether or not the reason for the eviction was through no fault of the tenant or the tenant's guests.

15.3 ANNUAL REEXAMINATIONS

24 CFR 982.516

HANO conducts a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated.

15.3.1 Scheduling Annual Reexaminations

HANO will begin the annual reexamination process approximately 120 calendar days in advance of the reexamination's scheduled effective date. Generally, HANO's reexamination effective dates coincide with the family's anniversary date.

Anniversary date is defined as the first day of the month in which the lease is signed for the unit. For example, a participant moving into a particular unit on March 15, 2018 has an anniversary date for that same unit of March 1 on each consecutive year.

If a family requests a move and the last regular reexamination interview date was within 60 calendar days from the date of the request to move, HANO will not complete a full reexamination, but will verify any information that has changed. If the last regular reexamination interview date was more than 60 calendar days from the request to move, a full reexamination will be completed. The move will be coded as a regular reexamination.

HANO may also schedule a reexamination for completion prior to the anniversary date for administrative purposes.

15.3.2 Notification of and Participation in the Annual Reexamination Process
Notice PIH 2012-9

Generally, HANO will have families participate in an annual reexamination interview, attended by the head of household and all adult household members. For elderly and disabled families, HANO will only require the head of household and adult household members to come into HANO's office on alternate years. On the years that the family is not required to attend an in-person interview, HANO will mail recertification packets for the family to complete at home and return to HANO within ten (10) business days. If participation in an in-person interview poses a hardship because of a family member's disability, the family may contact HANO to request a reasonable accommodation. HANO may allow complete reexaminations by mail.

If a family fails to attend two scheduled interviews or fails to return the mail-out recertification packet after two notifications without HANO approval or if the notice is returned by the post office with no forwarding address, a notice of termination will be sent to the family's address of record and to any alternate address provided in the family's file.

15.3.3 Conducting Annual Reexaminations
24 CFR 982.551(b)

As part of the annual reexamination process, families are required to provide updated information to HANO regarding the families:

- Income;
- Expenses; and
- Composition.

The information provided by the family generally will be verified [See the Chapter 9: Verification for policies].

Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis, including:

- Legal identity;
- Age;
- Social security numbers;
- A person's disability status; and
- Citizenship or immigration status.

15.3.4 Determining Ongoing Eligibility of Certain Students
24 CFR 982.552(b)(5), 24 CFR 5.612

During the annual reexamination process, HANO will determine the ongoing eligibility of each student who is subject to eligibility restrictions by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his or her parents, the parents' income will not be reviewed.

If the student is no longer income-eligible based on his or her own income or the income of his or her parents, the student's assistance will be terminated.

If the student continues to be income-eligible based on his or her own income and the income of his or her parents (if applicable), HANO will process a reexamination in accordance with the policies in this chapter.

15.3.5 Criminal Background Checks

Each household member who has turned 18 years since the last reexamination or will be 18 years of age on or before the

effective date of the next reexamination, will be required to execute a consent form for a criminal background check as part of the reexamination process.

The consent form will be used to complete outstanding warrant check and certification of no criminal activity. If the results of this criminal background check results in a proposed termination of program assistance, the family has a right to a hearing to present extenuating circumstances and to obtain legal representation prior to program termination. HANO may also consider extenuating circumstances and offer other remedies, such as the removal of the offending family member, prior to proposing termination of program assistance.

If the criminal background check identifies a pending criminal investigation, HANO will defer a termination decision for existing participants until the case is decided. This does not preclude HANO from addressing any permanent absence from the unit due to incarceration.

HANO reserves the right to conduct additional certifications of no criminal activity to maintain the integrity of the program.

15.3.6 Household Member Turning 18 between Reexamination Interview and Reexamination Effective Date

When a household member will turn 18 between the date of the reexamination interview and on or before the effective date of the reexamination, HANO will include the household member's income in the calculation of annual income. For example, a household has a reexamination effective date of November 1st and one of the household members, at the reexamination interview on September 1st is still 17, but will turn 18 on September 30th, HANO will calculate the income of that household member as if they were an adult, since the household member will be 18 by the effective date of the reexamination. Deductions will also be applied as if the household member was an adult. For example, the household with a member who is 17 at the reexamination interview, but 18 on the reexamination effective date will NOT be given a dependent deduction for the household member who is turning 18 unless that household member is a full time student or disabled.

When a household member will turn 18 between the date of the reexamination interview, but on or before the effective date of the reexamination, HANO will have a parent/legal guardian sign any consent/release forms on behalf of that household member in order to authorize HANO to obtain their income verification.

When a household member will turn 18 between the date of the reexamination interview, but on or before the effective date of the reexamination, HANO will have a parent/legal guardian sign the consent for criminal background check on behalf of that household member in order to authorize HANO's criminal background check.

15.3.7 Subsequent Reexaminations and Background Checks

After the reexamination effective date, if HANO wishes to complete verifications or background checks on a household member who was not 18 at the reexamination interview, but who subsequently turned 18, HANO will obtain that household member's signature on any required release form before conducting any type of verification or background check. If no other verifications or background checks are completed between regularly scheduled reexaminations, HANO will wait until the next regular reexamination to obtain the executed release forms from the household member who had turned 18 between the regularly scheduled reexaminations.

15.3.8 Effective Dates

24 CFR 982.516

As part of the reexamination process, HANO must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

15.3.9 Increases in Rent

In general, an increase in the tenant rent that results from a reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 calendar days in advance.

If less than 30 calendar days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the family causes a delay in processing the reexamination, increases in the family share of the rent will be applied retroactively to the scheduled effective date of the reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement at the discretion of HANO.

15.3.10 Decreases in Rent

In general, a decrease in the tenant rent that results from a reexamination will take effect on the family's anniversary date.

If the family causes a delay in processing the reexamination, decreases in the family share of the rent will be applied prospectively from the first day of the month following completion of the reexamination processing.

15.3.11 Delays in Reexamination Processing

A delay in reexamination processing is defined as delays considered to be caused by the family by the family failing to provide information requested by HANO by the date specified and/or failing to attend scheduled reexamination interviews without good cause. These delays prevent HANO from completing the reexamination as scheduled.

15.4 STANDARD FOR TIMELY REPORTING OF CHANGES

Generally, HANO requires that families report interim changes described in this Administrative Plan to HANO within 10 business days from the date the change occurred. Any information, document, or signature needed from the family to verify the change must be provided within 10 business days from the date the change occurred, unless another time frame is specified.

If the change is not reported within the required time period or if the family fails to provide signatures, certifications, or documentation in the time period required by HANO, it will be considered program non-compliance and may subject the family to termination from the program.

15.5 INTERIM REEXAMINATIONS

24 CFR 982.516, HCVP GB, p. 12-10

Family circumstances may change throughout the period between regular reexaminations. HUD and HANO policies dictate what kinds of information about changes in family circumstances must be reported and under what circumstances HANO will process interim reexaminations to reflect those changes. HUD regulations also permit HANO to conduct interim reexaminations of income or family composition at any time.

An interim reexamination does not affect the date of the regular reexamination.

15.5.1 Frequency of Reexamination

Households have no restrictions on the frequency of interim reexaminations.

If there are changes in a family's income, household composition, or eligible deductions between regularly scheduled reexaminations, an interim reexamination may be conducted.

During an interim reexamination, HANO will verify only the items that have changed and will require families to complete either the ACO or other acceptable forms.

During an interim reexamination, HANO will apply the utility allowance in effect at the effective date of the interim and the payment standard in effect at the last regular reexamination. For application of payment standards and utility allowance during reexamination *see Chapter 14: Payment Standards and Utility Allowances in Sections 14.2.4, 14.2.5, and 14.5.*

HANO may require participating households to complete an interim reexamination and/or interim verifications at additional times to ensure that the participant is in compliance with program requirements.

15.5.2 Family Requests for Interim Reexaminations

24 CFR 982.516(c)

Families have the choice of requesting an interim reexamination under the following circumstances:

- They receive a decrease in income which may result in a rent decrease; or
- They have an increase in the following eligible allowances or deductions:
 - An increase in unreimbursed expenses for the care of a child or disabled family member;
 - An increase in permissible deductions and/or expenses due to a change in HUD regulations; or
 - For elderly/disabled families only, an increase in unreimbursed medical expenses.

Families are not required to report increases in household income except under circumstances as described below. If a family reports an increase in income that was not required to be reported between regular reexamination, HANO will not process an interim reexamination.

15.5.3 Circumstances Requiring an Interim Reexamination

An interim reexamination must be performed for a family when any one of the circumstances listed below occurs. In these circumstances, only changes in household status and income will be verified and considered in determining total tenant payment:

- Increase in income after a zero income household or zero income individual reports zero income or after having an approved financial hardship exemption from minimum rent. If there are multiple zero income individuals in a household, an interim would be processed for each zero income individual who receives an increase in income;
- Increase in income or a decrease in eligible deductions for a family who at their last regularly scheduled reexamination was calculated to receive a Utility Allowance Payment (UAP) or to pay the \$50 minimum rent to the owner;
- Increase in income following an interim rent reduction. What this means is that if a family requests an interim reexamination due to a loss of income/benefits, the family is required to report the next increase in income/benefits within 10 business days from the date of the change. If the family experiences another increase in income before the next regular reexamination, the family does not have to report that increase until the next regular reexamination. For example, a family has a regular reexamination effective date of June 1, 2018. The family reports a loss of income on October 1, 2018. One of the family members gets a new job on December 2, 2018. The family is required to report the new income within 10 business days from December 2, 2018. In February 2019, another family member has an increase in hours. The family is not required to report that increase until their next regular reexamination in June of 2019;
- Change in contract rent between regular reexaminations; and
- Household Changes. New persons may not be added to the household without HANO's prior approval (other than the birth of a child, court awarded custody, or adoption). Participants must report all changes in household composition within 10 business days of the occurrence involving:
 - Any addition of an adult member;
 - The loss of an adult member; or
 - The addition of a minor to the household.

15.5.4 Fraud Prevention – Interim Reexamination

After two (2) or more instances of job loss, income reduction, or increased medical or childcare expenses within 90 days of a scheduled recertification, the household's rent is determined using past, rather than prospective income data.

Rent is determined using the past year's income from EIV, W-2, or using other past income information as available.

HANO may choose not to use prior year's income information if the household can provide verifiable evidence that the two (2) or more instances of job loss, income reduction, or increased medical or childcare expenses within 90 days of a scheduled recertification are reasonable.

15.5.5 Temporary and Sporadic Income

Temporary and sporadic income is excluded from the calculation of annual income. As such, more frequent reexaminations may be required. Households/household members reporting only temporary or sporadic income will be subject to the zero income verification and reexamination requirements. See below. The "Verification of Zero Income" section in the Verification chapter includes specific policy guidance on verification requirements for zero income households.

15.5.6 Zero Income

Zero income households and zero income individuals are required to report monetary and/or non-monetary changes in income or benefits between regular reexamination periods. Once income or benefits are reported, the household is no longer required to report increases in income/benefits until the next regular reexamination. The "Verification of Zero Income" section in the Verification chapter includes specific policy guidance on this subject. Zero income households/household members are required to report monetary and/or non-monetary changes in income within 10 business days from the date the change occurred.

15.5.7 Earned Income Disallowance

For families receiving the Earned Income Disallowance (EID), HANO will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).

HANO will also conduct interim reexaminations for families that qualify for the EID when the EID family's share of rent will change as a result of the increase. In all other cases, HANO will note the information in the tenant file, but will not conduct an interim reexamination.

15.5.8 Other Interim Reexamination

If at the time of regular reexamination, third party documents were not available and the reexamination was processed without third party verification, HANO will conduct an interim reexamination if upon receipt of third party documents, the difference in income is greater than \$2,400 per year.

HANO may conduct an interim reexamination at any time in order to amend a previous reexamination or to investigate a tenant fraud complaint.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced.

15.5.9 Changes in Family and Household Composition

All families must report all changes in family and household composition that occur between reexaminations.

HANO will conduct interim reexaminations to account for any changes in household composition that occur between reexaminations. Changes in family or household composition may make it appropriate to downsize the voucher to comply with occupancy standards. Any income and/or deduction changes resulting from the composition change will be considered as well.

Families are required to report to HANO, within 10 business days, any changes in family composition that may occur between regularly scheduled reexaminations.

HANO may approve an addition to the household if:

- The new member is a minor child of a current member of the household;
- The new member is a minor member of the immediate family who is added as a result of birth,

adoption, or court awarded custody;

- The new member is a person for whom the head of household can prove legal guardianship; or
- There is sufficient program funding.

Any request to add/remove a member to the household must be done in writing and must be accompanied by verification to support the requested additions to or deletions from the household.

Families must notify HANO in writing if any family member no longer lives in the unit. HANO must review and, if applicable, approve all changes to the family composition.

Families must notify owners and obtain their written permission to add a family member to the lease. The owner is permitted to apply their customary screening criteria, without regard to HANO's Criminal Background Policy, and make the decision to accept or deny the additional member. Documentation of owner approval of changes to family composition must be submitted to HANO in writing. The property owner reserves the right to make any mutually agreed upon changes to the lease.

When family composition changes occur, HANO will conduct an interim reexamination and determine if there are applicable changes in income or deductions associated with the change in family composition.

Requests to accommodate additional household members based on health-related reasons must be verified by a doctor/medical professional and/or social service professional.

15.5.10 New Family Members Not Requiring Approval

The addition of a minor family member as a result of birth, adoption, or court-awarded custody does not require HANO approval. The family, however, is required to promptly notify HANO of the addition. The family must inform HANO of the birth, adoption, or court-awarded custody of a child within 10 business days of the event.

15.5.11 New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HANO approval to add a new family member or other household member (spouse, child, significant other, live-in aide, or foster child).

This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days or 90 cumulative days within a twelve-month period and therefore no longer qualifies as a guest. Requests must be made in writing and approved by HANO prior to the individual moving in the unit.

HANO will not approve the addition of a new family or household member unless the individual meets HANO's eligibility and screening criteria, including providing a social security number for all applicable household members.

If HANO determines an individual meets HANO's eligibility and screening criteria, HANO will provide written approval to the family.

If HANO determines that an individual does not meet HANO's eligibility and screening criteria, HANO will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

15.5.12 Departure of a Family or Household Member

If a household member ceases to reside in the unit, the family must inform HANO within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform HANO within 10 business days.

If a household member is deceased, the family must inform HANO within 10 business days.

Owners must be informed when family members no longer reside in the unit and owner acknowledgement of the change must be submitted to HANO in writing.

15.5.13 Processing Interim Reexaminations

The head of household and adult members reporting changes will be required to attend an interview for an interim reexamination. Based on the type of change reported, HANO will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from HANO. This time frame may be extended for good cause with HANO approval. HANO will accept required documentation by mail, fax, e-mail, or in person.

15.5.14 Increase in Family Share of Rent

An increase in rent generally will be effective on the first of the month following 30 calendar days' notice to the family. If a family fails to report a required change within the required time frame or fails to provide all required information within the required time frame, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy [See Section(s) 15.3.9 and 15.3.11]. HANO also has the option to enter into a repayment agreement to recoup the overpaid funds.

15.5.15 Decrease in Family Share of Rent

A decrease in rent will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective through no fault of the family, the change will be made retroactively. In the case of HANO caused delays in scheduling or processing of interim reexaminations, the change will also be made retroactively.

15.5.16 Notification of New Family Share and HAP Amount

HCVP GB, p. 12-6, 24 CFR 982.555(a)(1)(i)

HANO will notify the owner and family of any changes in the amount of the HAP payment. The notice will include the following information:

- The amount and effective date of the new HAP payment;
- The amount and effective date of the new family share of the rent; and
- The amount and effective date of the new tenant rent to owner.
- Notification that the family may request an informal hearing to review this rent determination.

15.5.17 Notice to Ineligible Families

HANO will give the participant prompt written notice of a decision that the family has been determined to be ineligible for continued program participation. The written notice will contain a statement on the reason for the ineligible decision. The notice will include information related to requesting an informal hearing in the event that the participant does not agree with the determination. Participants will be informed that a request for an informal hearing must be in writing and must be received by HANO within 10 business days of the date of the HANO notification letter.

15.5.18 Discrepancies

During a regular or interim reexamination, HANO may discover that information previously reported by the family was in error or that the family intentionally misrepresented information. In addition, HANO may discover other errors made. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the Program Integrity policies in this Administrative Plan. *See the chapter on Program Integrity, Sections 20.7, 20.11, 20.12, and 20.14.*

15.5.19 Absence from the Unit

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

The family must supply any information or certification requested by HANO to verify that the family is living in the unit or relating to family absence from the unit. HANO may review on a case-by-case basis circumstances which dictate a family's absence from the unit. HANO's established policies on absence from the unit include the following:

- The family may be absent from the unit for brief periods.
- An entire household may not be absent from the unit for a period of more than 90 consecutive days for any reason.

Housing assistance payments and the HAP contract terminate if the family is absent for longer than 90 consecutive days. The owner must reimburse HANO for any Housing Assistance payments received for the period after the termination.

To verify family occupancy or absence, HANO may send letters to the family at the unit, make telephone calls, visit the unit, and/or conduct other appropriate inquiries.

The family must remain in compliance with the terms of the HCV program and their assisted lease during any absence from the unit.

15.5.20 Remaining Members of the Tenant Family

Participant families who separate while being assisted under the tenant-based programs will be assessed on a case-by-case basis to determine which family members remain assisted under the program. HANO policy is as follows:

- The head, co-head, or remaining family member of the household who has full legal custody of any minor children will retain the use of the tenant-based voucher;
- A remaining family adult household member may retain use of the tenant-based voucher if that adult is in compliance with all program rules and regulations, meets all other eligibility and continued occupancy requirements, and has been part of the household for at least one year, since admission, or since the beginning of the head of household's tenancy;
- In cases where the head and co-head of household have a joint custody arrangement for minor children, the original head of household will retain the use of the tenant-based voucher;
- In cases where the head of household dies or leaves the unit, leaving minor children, a temporary guardian will be allowed to reside in the unit until a court appointed guardian is established as the new head of household. HANO must be made aware of the presence of this temporary guardian and they must provide HANO with proof that they are working towards securing a court appointed guardian or custody by mandate. The new head of household will be subject to all HANO eligibility and admission requirements;
- In cases where there is a head of household and a co-head of a household with no minor children, the head of household will retain the use of the tenant-based voucher;
- In cases where a live-in aide is added to a household as a result of a care situation for an elderly or disabled household member, the live-in aide is not considered to be a remaining family member and is not eligible to retain the use of the tenant-based voucher;
- In cases where a non-related adult has been added to the household, the original head of household will retain use of the tenant-based voucher;
- Exceptions to the remaining family member requirement will be reviewed by on a case-by-case basis;
- If a separation is the result of a divorce or covenant marriage separation of bed and board under a settlement or judicial decree, HANO will follow any court determination of which family members keep the voucher assistance.

- In order for a minor to continue to receive assistance as a remaining family member, a court has to have awarded emancipated minor status to the minor or HANO has to verify that a legal order has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period of time; and
- If exceptional circumstances exist concerning the remaining member of a tenant family, a discretionary administrative determination may be made by on a case-by- case basis.

15.6 UNIT SIZE DETERMINATIONS

During regularly scheduled and interim reexaminations, the family composition will be evaluated to determine the minimum and maximum unit size appropriate to their needs, using HANO's occupancy standards. The family may lease an otherwise acceptable unit with fewer bedrooms than the family voucher size; however, the unit must meet the applicable HQS space requirements. For more on voucher size determinations, see the chapter on Housing Quality Standards.

15.6.1 Overcrowded Units in Violation of HQS Space Standards

If a change in family size causes a violation of HQS space standards, HANO will issue the family a new voucher and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HANO will terminate the HAP contract in accordance with its terms.

15.6.2 Overcrowded Units Not Violating HQS Space Standards

HANO will notify the client when a change in family composition results in a household's unit size being too small. HANO may grant an exception to its occupancy standards and allow the family to remain in the unit if the unit meets HUD's HQS space standards and the exception is justified by the age, sex, health, disability, or relationship of family members or other personal circumstances. The client will be required to submit, in writing to HANO, their request to remain in the unit or move to a larger unit.

CHAPTER 16: MOVING WITH CONTINUED ASSISTANCE

16.1 MOVING WITH CONTINUED ASSISTANCE: OVERVIEW

Freedom of choice is a hallmark of the Housing Choice Voucher Program (HCVP). Therefore, HUD regulations impose few restrictions on where families may live or move with HCVP assistance. In order for a family to move with continued assistance, there are general rules that apply to all moves by a family assisted under HANO's HCV program, when the family moves to another unit within HANO's jurisdiction.

16.2 ALLOWABLE MOVES

HUD lists six regulatory conditions in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in this Plan:

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give HANO a copy of the notice at the same time [24 CFR 982.354(d)(1)];
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)], and, in accordance with HANO policies, after the initial lease term. See "Restrictions on Moves," below. If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give HANO a copy of the termination agreement;
- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give HANO a copy of any owner eviction notice [24 CFR 982.551(g)]; or
- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to HANO, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)].

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, HANO will request documentation in accordance with the policies this plan. HANO reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases HANO will document the waiver in the family's file.

- HANO has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)]; or
- HANO determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, HANO must issue the family a new voucher, and the family and HANO must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, HANO must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which HANO gives notice to the owner [24 CFR 982.403(a) and (c)].

16.2.1 Transfers under VAWA

HANO is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), HANO allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of HANO to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether HP has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD).

A tenant may also move as the result of a family break-up in which a victim wishes to move after the termination of the perpetrator who was a participant family member. See Chapter 19: Termination of Assistance and Tenancy for more details.

16.2.2 Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

16.2.3 Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify HANO's HCVP Director and submit a written request for a transfer. HANO will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under HANO's program; or
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

16.2.4 Confidentiality

HANO will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives HP written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant [See the Notice of Occupancy Rights under the Violence Against Women Act for more information about HANO's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking].

16.2.5 Emergency Transfer Timing and Availability

HANO cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. HANO will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. A HCVP participant who requests an emergency transfer will be issued a tenant based voucher to move and will be allowed to port to another jurisdiction regardless of how long the household has lived in HANO's jurisdiction prior to this request.

At the tenant's request, HANO will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

16.3 SAFETY AND SECURITY OF TENANTS

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at: 1 (800) 799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling: 1 (800) 787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at: 1 (800) 656-HOPE (4673), or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

A local resource for domestic violence victims is the New Orleans Family Justice Center who can be contacted at their 24 Hour Crisis Hotline (504) 866-9554 or the LA Statewide Hotline who can be contacted at 1 (800) 411-1333.

16.4 RESTRICTIONS ON MOVES

24 CFR 982.1(b)(2), 24 CFR 982.354

HUD regulations permit HANO to deny a family permission to move under the following conditions:

16.4.1 Insufficient Funding and Moves

24 CFR 982.354(e)(1), PIH Notice 2016-092016-09

HANO will deny a family permission to move on grounds that HANO does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or HANO; (b) HANO can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) HANO can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

HANO may only deny a request to move to a higher cost unit within HANO's jurisdiction or to higher cost area in accordance with 24 CFR 982.354(e)(1) if HANO would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments. HANO will provide written notification to the local HUD Office when they determine it is necessary to deny moves to a higher cost unit or to a higher cost area based on insufficient funding. The notification to HUD will be in accord with the requirements of PIH Notice 2016-09.

For moves within HANO's jurisdiction, a "higher cost unit" is defined as a unit in which HANO would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.

A "lower cost area" is defined as an area where the subsidy amount is equal to or lesser than the current subsidy paid because of lower payment standards or less generous subsidy standards (e.g. the receiving PHA issues a 2- bedroom voucher to a family that received a 3-bedroom voucher from the initial PHA).

HANO may not deny a requested move due to insufficient funding under 24 CFR 982.354(e)(1) simply because the family wishes to move to a higher cost unit within HANO's jurisdiction or to a higher cost area. HANO may not deny requests to move due to insufficient funding, including portability moves, if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family or if the area the family has selected is in a lower cost area. Vouchers that have

been issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and HANO is legally obligated to make HAP payments.

HANO will create a list of families whose moves have been denied due to insufficient funding. A move request that has been denied due to insufficient funding will be deemed active for a period of 12 months from the date of the denial due to insufficient funding. HANO will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list. The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

If HANO approves a family's request to move and then subsequently experiences a funding shortfall, HANO may only retract the voucher if the family would be allowed to remain in their current unit. If the family cannot remain in the unit, (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) HANO must not retract the voucher. This requirement applies to moves both within the PHA's jurisdiction and to portability moves.

HANO will not issue vouchers or admit families from their waiting list while the limitations on moves to a higher cost unit or to a higher cost area are in place.

16.4.2 Grounds for Denial or Termination of Assistance Related to Moves

24 CFR 982.354(d)(2)

If HANO has grounds for denying or terminating a family's assistance, HANO will act on those grounds in accordance with the regulations and policies set forth in this plan. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

16.4.3 Restrictions on Elective Moves

24 CFR 982.354(c)

HANO will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within HANO's jurisdiction or outside it under portability.

HANO will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in HANO's jurisdiction. Such prohibition does not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member.

HANO will consider exceptions to these policies for the following reasons:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs);
- To accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area); or
- To address an emergency situation over which a family has no control.

In addition, HANO will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

16.5 MOVING PROCESS

16.5.1 Notification

24 CFR 982.354(d), Notice PIH 2016-09

If a family wishes to move to a new unit, the family must notify HANO and the owner before moving out of the old unit or terminating the lease on notice to the owner. If the family wishes to move to a unit outside HANO's jurisdiction under portability, the notice to HANO must specify the area where the family wishes to move. The notices must be in writing.

16.5.2 Approval

Upon receipt of a family's notification that it wishes to move, HANO will determine whether the move is approvable in accordance with applicable regulations and policies.

16.5.3 Reexamination of Family Income and Composition

For families approved to move to a new unit within HANO's jurisdiction, HANO will perform a new annual reexamination in accordance with the policies set forth in this plan. The new reexamination date will align with the new lease term.

16.5.4 Voucher Issuance and Briefing

For families approved to move to a new unit within HANO's jurisdiction, HANO will issue a new voucher within 10 business days of HANO's written approval to move. No briefing is required for these families. HANO will follow applicable policies on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance, if the owner agrees and HANO approves. Otherwise, the family will lose its assistance. See Section 7.3.1 for voucher term and Section 7.3.2 for extension rules.

16.5.5 Housing Assistance Payments and Moves

24 CFR 982.311(d)

When a family moves out of an assisted unit, HANO may not make any housing assistance payments to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit is not considered to constitute a duplicative housing subsidy.

CHAPTER 17: PORTABILITY

17.1 PORTABILITY OVERVIEW

Within the limitations of applicable requirements, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States, providing that the unit is located within the jurisdiction of a housing authority (HA) administering a tenant-based voucher program.

The process by which a family obtains a voucher from one housing authority and uses it to lease a unit in the jurisdiction of another housing authority is known as portability. The first housing authority is called the “initial HA.” The second is called the “receiving HA.”

The receiving housing authority has the option of administering the family’s voucher for the initial housing authority or absorbing the family into its own program. Under the first option, the receiving housing authority bills the initial housing authority for the family’s housing assistance payments and the fees for administering the family’s voucher. Under the second option, the receiving housing authority pays for the family’s assistance out of its own program funds and the initial housing authority has no further relationship with the family.

17.2 MOVES UNDER PORTABILITY

24 CFR 982.353(b), 24 CFR 982.355(b)

A family may move with voucher assistance only to an area where there is at least one housing authority administering a voucher program. If there is more than one housing authority in the area, the initial housing authority may choose the receiving PHA.

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside HANO’s jurisdiction under portability. The initial housing authority, in accordance with the initial housing authority’s policy, determines whether a family qualifies.

Project-based assistance is not portable as the assistance is attached to the unit.

17.2.1 Restrictions on Moves Under Portability During Repayment Agreements

24 CFR 982.354(e)(2) 24CFR 982.552(a)(3) and (c)(1)(v)

If the family requests to port to another jurisdiction and has a repayment agreement in place, the family will be required to pay the balance in full prior to being approved to port, regardless of whether or not the family is current with its payments.

17.3 APPLICANT FAMILIES

A family that has not leased a unit under the HCV program is eligible for portability if the head of household or spouse was a resident in HANO’s jurisdiction at the time the application for assistance was submitted.

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in HANO’s jurisdiction at the time the family’s application for assistance was submitted, the family must live in HANO’s jurisdiction with voucher assistance for the initial lease term before requesting portability. HANO will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking. Any exception to this policy is subject to the approval of the receiving PHA.

HANO may deny a portability move by an applicant family for insufficient funding and if grounds for denial of assistance are present. See policies in the Moves chapter on Insufficient Funding.

17.4 PARTICIPANT FAMILIES

24 CFR 982.353(b)

HANO will not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. A family, however, is exempt from this prohibition if the family is otherwise in compliance with program

obligations, but has moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit. (VAWA Act of 2013.)

17.5 DETERMINING INCOME ELIGIBILITY

24 CFR 982.353(d), 24 CFR 982.355(c)(1), Notice PIH 2016-09

An applicant family may lease a unit in a particular area under portability only if the family is income-eligible for admission to the voucher program in that area. The family must specify the area to which the family wishes to move.

The initial housing authority is responsible for determining whether the family is income eligible in the area to which the family wishes to move. If the applicant family is not income eligible in that area, the initial housing authority must inform the family that it may not move there and receive voucher assistance.

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability.

17.6 PORT-OUTS: HANO AS INITIAL HOUSING AUTHORITY (IHA)

17.6.1 Reexamination of Family Income and Composition

A new reexamination of family income and composition is not required for a participant family who is approved to move out of its jurisdiction under portability. If the porting family's regular reexamination is due to be completed within the next 120 calendar days, however, HANO will conduct a reexamination of family income and composition.

17.6.2 Briefing

HANO will provide the name, address, and phone of the contact for the housing authority in the jurisdiction to which they wish to move. HANO will advise the family that they will be under the receiving housing authority's policies and procedures, including subsidy standards and voucher extension policies.

17.6.3 Voucher Issuance and Term

24 CFR 982.353(b)

An applicant family has no right to portability until after the family has been issued a voucher. In issuing vouchers to applicant families, HANO will follow the policies set forth in this plan.

For families approved to move under portability, HANO will issue a new voucher. The initial term of the voucher will be 120 calendar days.

17.6.4 Voucher Extensions and Expiration

HANO will not approve extensions to a voucher issued to an applicant or participant family porting out of HANO's jurisdiction except under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving HA;
- The family decides to return to HANO's jurisdiction and search for a unit; or
- The family decides to search for a unit in a third housing authority's jurisdiction.

To receive or continue receiving assistance under HANO's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving housing authority's jurisdiction within 60 calendar days following the expiration date of the HANO's voucher term.

17.6.5 Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-

mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH 2016-09.]

17.6.6 Initial Notification to the Receiving HA

24 CFR 982.355(c)(2), Notice PIH 2016-09

After approving a family's request to move under portability, HANO will notify the receiving housing authority to expect the family. HANO will also advise the family how to contact and request assistance from the receiving HA.

Because the portability process is time-sensitive, HANO will notify the receiving housing authority to expect the family.

17.6.7 Sending Documentation to the Receiving HA

HCVP GB, p. 13-3, PIH Notice 2016-09

HANO will send the receiving housing authority the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out;
- A copy of the family's voucher;
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058; and
- A copy of the most recent EIV report (if available).

In addition to these documents, HANO will provide the following information, if available, to the receiving HA:

- Social security numbers (SSNs);
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system;
- Documentation of legal identity;
- Documentation of citizenship or eligible immigration status;
- Documentation of participation in the earned income disallowance (EID) benefit; and
- Documentation of participation in a family self-sufficiency (FSS) program

17.6.8 Initial Billing Deadline

Notice PIH 2016-09

If HANO has not received an initial billing notice from the receiving housing authority by the deadline specified on form HUD-52665, it will contact the receiving housing authority by telephone, fax, or e-mail. If the receiving housing authority reports that the family is not yet under HAP contract, HANO will inform the receiving housing authority whether it will honor a late billing submission.

HANO will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving HA.

17.6.9 Monthly Billing Payments

24 CFR 982.355(e), Notice PIH 2016-09

If the receiving housing authority is administering the family's voucher, HANO will make billing payments in a timely manner. The first billing amount is due within 30 calendar days after HANO receives Part II of form HUD-52665 from the receiving HA. The receiving housing authority must receive subsequent payments no later than the fifth business day

of each month.

The receiving housing authority is required to notify HANO, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.);
- An abatement or subsequent resumption of the HAP payments;
- Termination of the HAP contract;
- Payment of a damage/vacancy loss claim for the family; or
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide HANO with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

17.6.10 Annual Updates of Form HUD-50058

If the initial HA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving HA. If the initial HA fails to receive an updated 50058 by the family's annual reexamination date, the initial HA should contact the receiving HA to verify the status of the family.

17.6.11 Denial or Termination of Assistance

24 CFR 982.355(c)(9)

If HANO has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, HANO may act on those grounds at any time.

17.7 PORT-INS: HANO AS RECEIVING HA

24 CFR 982.355

17.7.1 Receiving Housing Authority Role

HANO's procedures and preferences for selection among eligible applicants do not apply and HANO's waiting list is not used for incoming families. The incoming family's unit, or voucher, size is determined in accordance with the subsidy standards of HANO and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving housing authority's voucher program.

17.7.2 Responding to Initial PHA's Request

PIH Notice 2016-09

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date.

17.7.3 Initial Contact with Family

24 CFR 982.355(c)

When a family moves into HANO's jurisdiction under portability, the family is responsible for promptly contacting HANO and complying with HANO's procedures for incoming portable families.

If the voucher issued to the family by the initial housing authority has expired, HANO will not process the family's paperwork, but will instead refer the family back to the initial HA.

Although HANO may initially bill the initial housing authority for the family's assistance, it may later decide to absorb

the family into its own program.

If for any reason the receiving HA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2008- 43].

17.7.4 Briefing

HANO will inform the incoming family about HANO's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

17.7.5 Income Eligibility and Reexamination

24 CFR 982.355(c)(11) PIH Notice 2016-09

For any family moving into its jurisdiction under portability, HANO will conduct a new reexamination of family income and composition. HANO will not delay issuing the family a voucher for this reason, nor will HANO delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and HANO cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, HANO will rely upon any verification provided by the initial housing authority to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 calendar days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Port-in families are reexamined on an annual basis.

17.7.6 Voucher Issuance

24 CFR 982.355(c)(6)

When a family ports in to HANO's jurisdiction, HANO will issue the family a voucher based on the paperwork provided by the initial housing authority unless the family's paperwork from the initial housing authority is incomplete, the family's voucher from the initial housing authority has expired, or the family does not comply with HANO's procedures. HANO will update the family's information when verification has been completed.

17.7.7 Voucher Term

24 CFR 982.355(c)(6)

HANO's voucher will expire on the same date as the initial housing authority's voucher.

17.7.8 Voucher Extensions

24 CFR 982.355(c)(6), Notice PIH 2016-09

HANO may provide additional search time to the family beyond the expiration date of the initial housing authority's voucher; however, if it does so, it will inform the initial housing authority of the extension. Unless willing and able to absorb the family, HANO will try to ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial HA.

17.7.9 Notifying the Initial HA

24 CFR 982.355

HANO will notify the initial housing authority if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of HANO's voucher. HANO will use Part II of form HUD-52665, Family Portability Information, for this purpose.

If an incoming portable family ultimately decides not to lease in HANO's jurisdiction, but instead wishes to return to the initial housing authority's jurisdiction or to search in another jurisdiction, HANO will refer the family back to the initial HA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial HA. Any extension of search time provided by HANO's voucher is only valid for the family's search in HANO's jurisdiction.

17.8 ADMINISTERING A PORTABLE FAMILY'S VOUCHER

17.8.1 Initial Billing Deadline

If a portable family's search for a unit is successful and HANO intends to administer the family's voucher, HANO must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date it executes a HAP contract on behalf of the family and (b) in time that the notice will be received no later than 60 calendar days following the expiration date of the family's voucher issued by the initial HA.

A copy of the family's form HUD-50058, Family Report, completed by HANO must be attached to the initial billing notice. HANO may send these documents either by mail, fax, or e-mail.

17.8.2 Billing Procedures

- HANO will bill the initial housing authority once a month for Housing Assistance Payments.
- The billing cycle for other amounts, including administrative fees and special claims, will be once a month.
- HANO will bill 100% of the Housing Assistance Payment, 100% of special claims and 80% of the administrative fee (at the initial housing authority's rate) for each portability voucher leased as of the first day of the month.
- HANO will notify the initial housing authority of changes in subsidy amounts and will expect the initial housing authority to notify HANO of changes in the administrative fee amount to be billed within 10 business days of any change in the monthly payment.
- HANO will update Administrative Fees on an annual basis for portability billing.
- Additionally, as provided by HUD, HANO will prorate Administrative Fees in accordance with any HUD proration.

17.8.3 Change in Billing Amount

HANO is required to notify the initial HA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.);
- An abatement or subsequent resumption of the HAP payments;
- Termination of the HAP contract;
- Payment of a damage/vacancy loss claim for the family; or
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial housing authority with advance notice of the change. If HANO fails to send Form HUD-52665 within 10 business days of effective date of billing changes, the initial housing authority is not responsible for any increase prior to notification.

17.8.4 Late Payments

Notice PIH 2016-09

If the initial HA fails to make a monthly payment for a portable family by the fifth business day of the month, HANO must promptly notify the initial housing authority in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late).

HANO must send a copy of the notification to the Office of Public Housing (OPH) in the area HUD office. If the initial

housing authority fails to correct the problem by the second month following the notification, HANO may request by memorandum to the director of the OPH with jurisdiction over HANO that HUD transfer the unit in question.

A copy of the initial notification and any subsequent correspondence between the housing authorities on the matter must be attached. HANO must send a copy of the memorandum to the initial HA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial housing authority is still responsible for any outstanding payments due to HANO.

17.8.5 Overpayments

Notice PIH 2016-09

In all cases wherein HANO has received billing payments for billing arrangements no longer in effect, HANO is responsible for returning the full amount of any overpayment (including the portion provided for administrative fees) to the initial HA.

In the event that HUD determines billing payments have continued for at least three months because HANO failed to notify the initial housing authority that the billing arrangement was terminated, HANO must return the full amount of the overpayment, including the portion provided for administrative fees, to the initial HA.

Once full payment has been returned, HANO will notify the Office of Public Housing in the HUD area office with jurisdiction over HANO of the date and the amount of reimbursement to the initial HA.

17.8.6 Denial or Termination of Assistance

24 CFR 982.355(c)

At any time, HANO may make a determination to deny or terminate assistance to a portable family for family action or inaction.

If HANO elects to deny or terminate assistance for a portable family, HANO will notify the initial housing authority after the informal review or hearing if the denial or termination is upheld. HANO will base its denial or termination decision on the policies set forth in this plan.

17.8.7 Absorbing a Portable Family

24 CFR 982.355(d)(1), Notice PIH 2016-09

HANO may absorb an incoming portable family into its own program when HANO executes a HAP contract on behalf of the family or at any time thereafter providing that (a) HANO has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over-leasing.

If HANO decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, HANO will notify the initial HA. The effective date of the HAP contract will be the effective date of the absorption.

If HANO decides to absorb a family after that time period, it will provide the initial housing authority with 30 calendar days advance notice.

17.9 SUBSEQUENT FAMILY MOVES

Notice PIH 2016-09

17.9.1 Outside HANO's Jurisdiction

If HANO is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the jurisdiction or back to HANO's jurisdiction, the voucher originally issued by HANO is considered the voucher of record for the family and HANO will send form HUD-52665 and supporting documentation to the new receiving HA.

Any extensions of the initial voucher from HANO necessary to allow the family additional search-time to return to HANO's jurisdiction or to move to another jurisdiction would be at the discretion of HANO.

CHAPTER 18: INFORMAL REVIEWS AND HEARINGS

18.1 DECISIONS SUBJECT TO INFORMAL REVIEW

24 CFR 982.554(a), 24 CFR 982.552(a)(2), 24 CFR 982.554(c):

HANO will give an applicant the opportunity for an informal review of a decision denying assistance. Denial of assistance may include any or all of the following:

- Denying listing on HANO waiting list;
- Refusing to enter into a HAP contract or approve a lease;
- Refusing to process or provide assistance under portability procedures;
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence, sexual assault or stalking; or
- Denial of a reasonable accommodation.

Informal reviews are *not* required for the following reasons:

- Discretionary administrative determinations by HANO;
- General policy issues or class grievances;
- A determination of the family unit size in accordance with HANO subsidy standards;
- A determination not to approve an extension or suspension of a voucher term;
- A HANO determination not to grant approval of the tenancy;
- A HANO determination that the unit is not in compliance with the HQS; or
- A HANO determination that the unit is not in accordance with the HQS due to family size or composition.

18.2 NOTICE TO THE APPLICANT

24 CFR 982.554(a)

HANO will give an applicant prompt notice of a decision denying assistance and will describe how to request an informal review.

18.2.1 Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to HANO either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of HANO's denial of assistance.

HANO will schedule the review within 30 days from the date of the request and send the family written notice of the date and time.

18.3 INFORMAL REVIEW PROCEDURES

24 CFR 982.554(b)

In accordance with HANO procedures, the informal review will be conducted by a Hearing Officer who is a person other than the one who made or approved the decision under review, or a subordinate of this person.

Upon receipt of the written request for a review, the complainant will be notified, in writing, of the date, time and location of the review.

18.4 INFORMAL REVIEW DECISION

24 CFR 982.554(e)(6)

HANO will promptly notify the applicant of the final decision, including a statement explaining the reason(s) for the decision.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

18.5 INFORMAL HEARINGS FOR PARTICIPANTS

24 CFR 982.555, Pub. L. 109-162

HANO offers an informal hearing for certain HANO determinations relating to the individual circumstances of a participant family.

- A “participant” is defined as a family that has been admitted to HANO’s HCV program and is currently assisted in the program.

The purpose of the informal hearing is to consider whether HANO’s decisions related to the family’s circumstances are in accordance with applicable requirements. For terminations, HANO will have the burden of proof to provide evidence to support the intended action. For tenant initiated hearings, the tenant will have the burden of proof to provide evidence to support their disputed actions.

HANO will not terminate a family’s assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

Termination of assistance for a participant may include any or all of the following:

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

Circumstances for which HANO will give a family an opportunity for an informal hearing are as follows:

- A determination of the family’s annual or adjusted income, and the use of such income to compute the housing assistance payment;
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HANO utility allowance schedule;
- A determination of the family unit size under HANO’s subsidy standards;
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under HANO’s subsidy standards, or HANO determination to deny the family’s request for exception from the standards;
- A determination to terminate assistance for a participant family because of the family’s actions or failure to act;
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HANO policy and HUD rules;

- A determination to terminate a family’s Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family’s escrow account;
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, sexual assault, or stalking; or
- Denial of a reasonable accommodation request;
- Determination of a change to or discontinuation of a reasonable accommodation.

HANO will not grant an informal hearing for the following:

- Discretionary administrative determinations by HANO;
- General policy issues or class grievances;
- Establishment of the HANO schedule of utility allowances for families in the program;
- A HANO determination not to approve an extension or suspension of a Voucher term;
- A HANO determination not to approve a unit or tenancy;
- A HANO determination that a unit selected by the applicant is not in compliance with the HQS;
- A HANO determination that the unit is not in accordance with HQS because of family size or composition;
- A determination by HANO to exercise or not to exercise any right or remedy against an owner under a HAP contract; or
- Restrictions on assistance for non-citizens. Provisions for the denial of assistance on the basis of ineligible immigration status are contained at 24 CFR Part 5, subpart E.

18.6 INFORMAL HEARING OFFICER

24 CFR 982.555(e)(4)

Informal hearings will be conducted by a person or people approved by HANO, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

18.7 INFORMAL HEARING PROCEDURES

18.7.1 Notice to the Family

24 CFR 982.555(c)

In cases where HANO makes a decision for which informal hearings are offered, a notice will be sent to the family and copied to the owner, and will include, but not be limited to, the following:

- HANO’s proposed action or decision;
- A brief statement of the reasons for the decision;
- The date the proposed action will take place;
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision;
- A deadline for the family to request the informal hearing; and

- To whom the hearing request should be addressed.

18.7.2 Scheduling an Informal Hearing

24 CFR 982.555(d)

A participant must submit a written request for an informal hearing to HANO within 10 business days from the date of HANO's letter of determination.

Upon receipt of the written request for a hearing, HANO will promptly notify the complainant of the hearing date. The informal hearing will be held before a Hearing Officer. A copy of the procedures governing the hearing will be included with the written notification.

If the participant does not request a hearing in accordance with HANO's procedures, HANO's determination will become final.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, HANO may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact HANO. HANO will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

18.7.3 Attendance at the Informal Hearing

Hearings may be attended by a Hearing Officer and the following applicable people:

- A HANO representative(s) and any witnesses for HANO;
- The participant and any witnesses for the participant;
- The participant's counsel or other representative; and
- Any other person approved by HANO as a reasonable accommodation for a disability.

18.7.4 Hearing Officer's Decision

The hearing report will include a statement of whether HANO's decision is upheld or overturned. If it is overturned, the hearing officer will instruct HANO to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct HANO to restore the participant's program status if HANO's decision is overturned.

18.7.5 Reconvening of a Hearing

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the Hearing Officer, the action of HANO will take effect and another hearing will not be granted.

18.7.6 Notice of Final Decision

24 CFR 982.555(f)

HANO will promptly mail a "Notice of Final Decision" including the Hearing Officer's report, to the participant and their representative. This Notice will be sent by first-class mail. The participant will be mailed the original "Notice of Final Decision." A copy of the "Notice of Final Decision" will be maintained in HANO's file.

18.8 HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS

24 CFR 5.514

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family will not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family will not be terminated or denied while a HANO hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or HANO informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

18.8.1 Notice of Denial or Termination of Assistance for Non-Citizens

24 CFR 5.514(d)

The notice of denial or termination of assistance for non-citizens will inform the family of the following:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;
- The family may be eligible for proration of assistance;
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families;
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal; and
- That the family has a right to request an informal hearing with HANO either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

18.8.2 USCIS Appeal Process

24 CFR 5.514(e)

When HANO receives notification that the USCIS secondary verification failed to confirm eligible immigration status, HANO will notify the family of the results of the USCIS verification. The family will have 30 calendar days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide HANO with a copy of the written request for appeal and the proof of mailing.

HANO will promptly notify the family of the results of the USCIS secondary verification.

18.8.3 Informal Hearing Procedures for Applicants - Citizenship

24 CFR 5.514(f)

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that HANO provide a hearing. The request for a hearing must be made either within 30 calendar days of receipt of HANO's notice of denial, or within 30 calendar days of receipt of the USCIS appeal decision.

18.8.4 Evidence

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

18.8.5 Hearing Decision

HANO will promptly provide the family with a written final decision, which will state the basis for the final decision.

18.8.6 Informal Hearing Procedures for Residents - Citizenship

24 CFR 5.514(f)

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that HANO provide a hearing. The request for a hearing must be made either within 30 calendar days of receipt of the HANO notice of termination, or within 30 calendar days of receipt of the USCIS appeal decision.

18.8.7 Retention of Documents
24 CFR 5.514(h)

HANO will retain for a minimum of 5 years documents that may have been submitted to HANO by the family, or provided to HANO as part of the USCIS appeal or the HANO informal hearing process:

- The application for assistance;
- The form completed by the family for income recertification;
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;
- The request for a USCIS appeal;
- The final USCIS determination;
- The request for an informal hearing; and
- The final informal hearing decision.

CHAPTER 19: TERMINATION OF ASSISTANCE AND TENANCY

19.1 OVERVIEW

This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner.

19.2 GROUNDS FOR TERMINATION OF ASSISTANCE

19.2.1 Termination of Assistance Due to Zero HAP

24 CFR 982.455

As a family's income increases, the amount of HANO subsidy goes down. If the amount of HCVP assistance provided by HANO drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify HANO of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

19.2.2 Family Chooses to Terminate Assistance

If a family seeks to terminate assistance, the request can be made at any time. The request to terminate assistance should be made in writing and signed by the head of household or co-head.

19.2.3 Termination Due to Permanent Absence from Unit

24 CFR 982.312, 24 CFR 983.256(g)

HANO must terminate the family's assistance whenever a family has been absent from a unit greater than 90 days. Under no circumstances or any reason must the family be absent for a period of more than 180 consecutive calendar days. The HAP will terminate when the family is permanently absent. The HAP will not terminate when a family is permanently absent from a PBV unit.

19.2.4 Termination Due to Eviction

24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)

HANO will terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. In the case of victims or threatened victims of violence or stalking, incidents of actual or threatened domestic violence, dating violence, sexual abuse, or stalking may not be construed as serious or repeated violations of the lease by the victim/threatened victim.

A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary. If HANO moves after the owner has given the family an eviction notice but before a legal eviction order has been issued, HANO will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance. Upon consideration of circumstances and factors, HANO may, on a case-by-case basis, choose not to terminate assistance. As an alternative to termination, HANO may require that the household member responsible for the lease violation no longer resides in the unit.

Serious and repeated lease violations will include, but not be limited to:

- Nonpayment of rent;
- Disturbance of neighbors;
- Destruction of property;

- Living or housekeeping habits that cause damage to the unit or premises; and
- Criminal activity.

Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant and/or guests.

19.2.5 Termination Due to Sex Related Offenses

HUD regulations at 24 CFR § 5.856 and § 982.553(a)(2) prohibit admission after June 25, 2001, if any member of a household is subject to a State lifetime sex offender registration requirement. This regulation reflects a statutory prohibition. A household receiving assistance with such a member is receiving assistance in violation of federal law.

If HANO discovers that a household member was erroneously admitted (the household member was subject to a lifetime registration requirement at admission and was admitted after June 25, 2001), HANO will immediately pursue termination of assistance for the household member. Regulations for hearings for the HCV program at 24 CFR § 982.555 continue to apply. If HANO erroneously admitted a lifetime sex offender, HANO will give the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, HANO will terminate assistance for the household.

For admissions before June 25, 2001, there is currently no HUD statutory or regulatory basis to evict or terminate the assistance of the household solely on the basis of a household member's sex offender registration status.

Anyone who is convicted of a Sex Offense as characterized by the State of Louisiana will be terminated from the program.

19.2.6 Termination Due to Failure to Provide Consent

24 CFR 982.552(b)(3)

HANO will terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a recertification.

19.2.7 Termination Due to Failure to Document Citizenship

24 CFR 982.552(b)(4), 24 CFR 5.514(c)

HANO will terminate assistance if:

- A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- A family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
- A family member, as determined by HANO, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. Such termination will be for a period of at least 24 months. This does not apply to ineligible non-citizens already in the household where the family's assistance has been prorated.

19.2.8 Termination Due to Failure to Provide Social Security Documentation

24 CFR 5.218(c), Notice PIH, 2018-24

HANO will terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number or joins the family [See sections 4.19 and 9.12 for time frame family has to provide documents].

19.2.9 Termination Due to Manufacture or Production of Methamphetamine

24 CFR 982.553(b)(1)(ii)

HANO will terminate assistance if any household member has ever been convicted of the manufacture or production of

methamphetamine on the premises of federally assisted housing.

19.2.10 Termination Due to Failure of Students to Meet Ongoing Eligibility Requirements
24 CFR 982.552(b)(5), FR 4/10/06

HANO must terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612. *See Section 4.21.*

19.2.11 Termination Due to Drug and Alcohol Abuse

HANO will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

HANO will terminate assistance if any household member's use, abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

HANO will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, HANO may consider alternatives and specific circumstances and may, on a case-by-case basis, choose not to terminate assistance.

19.2.12 Termination Due to Drug-Related and Violent Criminal Activity
24 CFR 5.100, 24 CFR 982.551(l)

If any household member is currently engaged in or has engaged in any of the criminal activities outlined in this chapter, the family may be terminated.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

HANO will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

HANO will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, HANO may consider alternatives and specific circumstances and may, on a case-by-case basis, choose not to terminate assistance.

19.3 OTHER AUTHORIZED REASONS FOR TERMINATION OF ASSISTANCE
24 CFR 982.552(c), 24 CFR 5.2005(c)(1)

HANO may terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program;
- Any family member has been evicted from federally-assisted housing in the last three years;
- Any housing authority has ever terminated assistance under the program for any member of the family;

- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The family owes rent or other amounts to any housing authority in connection with the Hover any other public housing programs. For more on family debt to HANO, see the chapter on Program Integrity;
- The family has not reimbursed any HANO for amounts HANO paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- The family has breached the terms of a repayment agreement entered into with HANO; or
- A family member has engaged in or threatened violent or abusive behavior toward HANO personnel. “Abusive or violent behavior towards HANO personnel” includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, HANO may consider alternatives and specific circumstances and may, on a case-by-case basis, choose not to terminate assistance.

19.3.1 **Insufficient Funding**

24 CFR 982.454, PIH 2013-19

HANO may terminate a family’s HAP contract if HANO determines that HCVP funding is insufficient to support continued assistance for families in the program. HANO will determine if any other actions can be taken to reduce costs prior to terminating any HAP contracts due to insufficient funding.

If, after implementing all reasonable cost cutting measures, there remains insufficient funding available to provide continued assistance for all current participants, HANO will terminate HAP contracts as a last resort. Prior to terminating any HAP contracts, HANO will notify the local HUD field office of the agency’s decision. HANO will terminate the minimum number of vouchers needed to reduce HAP costs to a level within the agency’s budget authority.

HANO will terminate families due to insufficient funding in the following order. Within each category, HANO will adopt the policy of “first-in, first out.” Under this policy, HANO will terminate families according to date of the family’s admission to the program, starting with those who have been receiving assistance the longest:

- Non-elderly, non-disabled single family members;
- Non-elderly, non-disabled families with no children under the age of 18;
- Non-elderly, non-disabled families with children under the age of 18;
- Elderly and disabled families; and
- Families with Special Purpose Vouchers, i.e. NED, HUD-VASH, and FUP families.

If HANO is not assisting the required number of special purpose vouchers (NED, HUD-VASH, and FUP) at the time the agency stops issuing vouchers, when HANO resumes issuing vouchers, HANO will issue vouchers first to special purpose voucher families on its waiting list. Special purpose families will continue to receive this preference until the agency reaches the required number of special purpose vouchers.

19.3.2 **Missed Appointments and Deadlines**

It is a family obligation to supply information, documentation, and certification as needed for HANO to fulfill its responsibilities. HANO schedules appointments and sets deadlines in order to obtain required information. The obligations also require that the family allow HANO to inspect the unit. Appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without

notifying HANO, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow HANO to inspect the unit.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Verification Procedures;
- Voucher Issuance and Briefings;
- Housing Quality Standards and Inspections;
- Recertifications; and
- Appeals.

The family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation. After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing, the notice will be rescinded if the family offers to cure and the family does not have a history of non-compliance. Termination is subject to a request for reasonable accommodations.

Acceptable reasons for missing appointments or failing to provide information by deadlines include, but are not limited to:

- Medical emergency;
- Incarceration; and
- Family emergency.

HANO will require verification to substantiate the cause of a missed appointment or deadline.

19.4 METHOD OF TERMINATION

24 CFR 982.552(a)(3)

HANO may terminate assistance by:

- Terminating housing assistance payments under a current HAP contract;
- Refusing to approve a request for tenancy or to enter into a new HAP contract; or
- Refusing to process a request for or refusing to provide assistance under portability procedures.

19.5 ALTERNATIVES TO TERMINATION OF ASSISTANCE - HOUSEHOLD COMPOSITION

24 CFR 982.552(c)(2)(ii)

As a condition of continued assistance, HANO may require that any household member who participated in or was responsible for an offense no longer resides in the unit.

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon HANO request.

19.6 ALTERNATIVES TO TERMINATION OF ASSISTANCE - REPAYMENT OF FAMILY DEBTS

If a family owes amounts to HANO, as a condition of continued assistance, HANO may, but is not required, to offer the family a repayment agreement. See chapter on Program Integrity for policies related to repayment agreements.

19.7 CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

HANO will use the concept of preponderance of the evidence as the standard for making all termination decisions.

“Preponderance of the evidence” is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, HANO will determine whether the behavior is related to the disability. If so, upon the family’s request, HANO will determine whether alternative measures are appropriate as a reasonable accommodation. HANO will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter on Fair Housing for a discussion of reasonable accommodation.

19.7.1 Evidence

24 CFR 982.553(c)

HANO will terminate assistance if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants. HANO will pursue fact-finding efforts as needed to obtain credible evidence.

Criminal activity that occurred prior to program participation cannot be grounds for termination.

19.7.2 Consideration of Circumstances

24 CFR 982.552(c)(2)(i)

HANO may consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents;
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault, or stalking;
- The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future;
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully; and
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

HANO will require the participant to submit evidence of the household member’s current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

19.8 TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

19.8.1 Termination Due to Family Break-Up Resulting from Domestic Violence, Dating Violence, Sexual Assault, or Stalking

24 CFR 982.315

If a victim of domestic violence, dating violence, sexual assault, or stalking informs HANO that a family member in their assisted household is the perpetrator of the violence, assault, or stalking and the victim wishes to retain assistance, HANO will pursue termination of the perpetrator. HANO must ensure that the victim retains assistance, if the victim so desires.

When a victim informs HANO of an occurrence of domestic violence, dating violence, sexual assault, or stalking perpetrated by one of their assisted family's members, HANO will provide the VAWA Notice of Occupancy Rights. This form must be provided if it has not already been given to the individual through the normal recertification or program move process.

HANO can either accept the victim's statement regarding this occurrence or request documentation as follows:

- (1) HUD form 5382 which acts as certification of domestic violence, dating violence, sexual assault, or stalking against the victim;
- (2) A document signed by the victim and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.
- (3) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (4) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Based off of this documentation, HANO will propose termination of the perpetrator and ensure that the victim is aware prior to the proposed termination letter being mailed to the perpetrator. The proposed termination will be based off of the violation of the family obligations, specifically 24 CFR 982.551(l), Crime by a household member.

If the perpetrator requests an informal hearing, it must be scheduled expeditiously and the perpetrator must be provided an opportunity to review the documentation related to the hearing, except that the HANO must remove or otherwise withhold any information that may place the victim at risk of further violence. Such information would include a temporary address of the victim. HANO may consult with a local domestic violence expert who is not involved with the case and may request that this expert join the panel. A written hearing decision must be provided to both the perpetrator and the victim. If the perpetrator is terminated and the victim wishes to move, HANO must allow the participant to move with continued tenant-based assistance.

19.9 TERMINATION NOTICE

If a family's assistance is to be terminated, whether voluntarily or involuntarily, HANO will give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated;
- The effective date of the termination. This will generally be at least 30 calendar days following the date of the termination notice; however, exceptions may be made when HUD rules, HANO policies, or other circumstances surrounding the termination require; and,
- The family's right to an informal hearing.

If a criminal record is the basis of the termination, a copy of the record will accompany the notice to the head of household. A copy of the criminal record also must be provided to the subject of the record.

If immigration status is the basis of a family's termination, the termination notice will include additional information, as outlined in Chapter 18: Informal Reviews and Hearings.

When termination is initiated by HANO, the notice to terminate will be sent to the family and the owner. However, if a family vacates the unit without informing HANO, advance notice will not be given. In these cases, the notice to terminate will be sent at the time HANO learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing. HANO will then send a confirmation notice to the family and the owner no later than the termination effective date (as requested by the family).

19.10 HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically. The owner may offer the family a separate unassisted lease.

19.11 TERMINATION OF TENANCY BY THE OWNER

24 CFR 5.2005(c), 24 CFR 982.310, Form HUD-52641-A, Tenancy Addendum

Termination of an assisted tenancy is a matter between the owner and the family; HANO is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. The reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of State or local law, or other good cause.

19.11.1 Termination by the Owner Due to Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking and the victim is protected from eviction by the Violence against Women Act of 2005. A serious lease violation includes failure to pay rent or other amounts due under the lease. However, HANO's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Criminal activity that occurred prior to tenancy cannot be grounds for termination.

19.11.2 Termination by the Owner Due to Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates Federal, State, or local law that imposes obligations in connection with the occupancy or use of the premises.

19.11.3 Termination by the Owner Due to Criminal Activity or Alcohol Abuse

24 CFR 5.100

The owner may terminate tenancy during the term of the lease if any covered person, meaning any member of the household, a guest, or another person under the tenant's control commits any of the following types of criminal activity:

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, people residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of Louisiana, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under Federal or State law.

If the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking and if the tenant or immediate family member is the victim, the criminal activity may not be used as a reason for terminating the victim's tenancy.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

19.11.4 Termination by Owner - Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

19.11.5 Termination by Owner Due to Other Good Cause

24 CFR 982.310(d)

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

"Other good cause" does not include vacating a property that has been foreclosed upon during the lease term prior to the sale of the property. However, if the new owner will occupy the unit as a primary residence and has provided the tenant a notice to vacate of at least 90 days, the new owner of the property may terminate the tenancy effective on the date of transfer of the unit.

19.11.6 Owner Initiated Eviction

24 CFR 982.310(e)(f), Form HUD-52641-A, Tenancy Addendum

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds for termination may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action.

The owner must give HANO a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give HANO a copy of any eviction notice.

If the eviction action is finalized in court, the owner must provide HANO with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

19.11.7 Owner Decision Whether to Terminate Tenancy
24 CFR 982.310(h), 24 CFR 982.310(h)(4)

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action;
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program; and
- The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L.

19.11.8 Effect of Owner Tenancy Termination on the Family's Assistance

If a termination is not due to a serious or repeated violation of the lease, and if HANO has no other grounds for termination of assistance, HANO may issue a new voucher so that the family can move with continued assistance.

CHAPTER 20: PROGRAM INTEGRITY

20.1 OVERVIEW

HANO is committed to assuring that the proper level of benefits is paid to all participating families and that housing resources reach only income-eligible families so that program integrity can be maintained. Further, HANO will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. This chapter outlines HANO's policies for the prevention, detection, and investigation of program abuse and fraud.

20.2 QUALITY CONTROL

As part of Program Integrity assurance, HANO has developed and implemented a quality control program to ensure that HANO is assisting eligible families to afford decent, safe, and sanitary housing at the correct subsidy costs and to determine HANO compliance with agency and regulatory requirements.

20.3 DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, HANO will use a variety of activities to detect errors and program abuse.

HANO will use the results of monitoring reports to identify potential program abuses as well as to assess the effectiveness of HANO's error detection and abuse prevention efforts. HANO will encourage staff, program participants, and the public to report possible program abuse.

20.4 INVESTIGATING ERRORS AND PROGRAM ABUSE

HANO will review referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals to determine whether they warrant investigation.

HANO will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

20.5 CONSENT TO RELEASE OF INFORMATION

24 CFR 982.516

HANO may investigate possible instances of error or abuse using all available HANO and public records. If necessary, HANO will require HCVP families to give consent to the release of additional information.

20.6 ANALYSIS AND FINDINGS

HANO will base its evaluation on a preponderance of the evidence collected during its investigation. For each investigation HANO will determine:

- Whether an error or program abuse has occurred;
- Whether any amount of money is owed HANO; and
- What corrective measures or penalties will be assessed.

20.7 CONSIDERATION OF REMEDIES

All errors and instances of program abuse will be corrected prospectively. Whether HANO will enforce other corrective actions and penalties, depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, HANO will take into consideration:

- The seriousness of the offense and the extent of participation or culpability of individual family members;
- Any special circumstances surrounding the case;
- Any mitigating circumstances related to the disability of a family member;
- The effects of a particular remedy on family members who were not involved in the offense. In the case of owner-caused errors or program abuse, HANO will take into consideration:
 - The seriousness of the offense;
 - The length of time since the violation has occurred; and
 - The effects of a particular remedy on family members who were not involved in the offense.

20.8 NOTICE AND APPEALS

HANO will inform the relevant party in writing of its findings and remedies at the conclusion of the investigation. The notice will include:

- A description of the error or program abuse
- The basis on which HANO determined the error or program abuse
- The remedies to be employed, and
- The family's right to appeal the results through the informal review or hearing process, if applicable.

20.9 CORRECTIVE MEASURES AND PENALTIES

20.9.1 Subsidy Under or Over Payments

A subsidy under- or overpayment includes:

- An incorrect housing assistance payment to the owner
- An incorrect family share established for the family, and
- An incorrect utility reimbursement to a family.

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, HANO will promptly correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented only after the family has received 30 calendar days' notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

20.10 RECOVERY OF DEBTS TO HANO

HCVP GB pp. 22-12 - 22-13

When an action or inaction of an owner or participant results in the overpayment of housing assistance, HANO holds the owner or participant liable to return any overpayments to HANO.

HANO will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to HANO, HANO will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies;
- Small claims court;
- Civil law suit; or
- State income tax set-off program.

20.11 FAMILY CAUSED ERRORS AND PROGRAM ABUSE

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows HANO to use incorrect information provided by a third party. Increases in a family's share of rent family-caused errors or incorrect reporting will be effective retroactively to the date the correct reporting of income should have started.

20.12 FAMILY DEBTS TO HANO

Any amount owed to HANO by an HCVP family must be repaid by the family. In the case of family-caused errors, program abuse, or resumption of the \$50 minimum rent after a temporary hardship the family will be required to repay all amounts due. HANO may, but is not required to, offer the family a repayment agreement. If the family fails to repay the amount due, HANO may terminate the family's assistance.

20.13 FAMILY DEBTS TO HANO PRIOR TO ADMISSION OR RE-ADMISSION

Families currently owing HANO must pay the entire amount in full prior to allowing the family admission or re-admission to the HCV Program. Families on the waiting list, under repayment agreements to HANO or any other public housing agency, must repay all amounts owed to HANO or any other public housing agency before selection from the waiting list. (For more information on family debts owed to HANO and program eligibility, see the chapter on Eligibility.)

20.14 REPAYMENT AGREEMENTS

24 CFR 792.103, Notice PIH 2018-18

20.14.1 General Repayment Agreement Guidelines for Families

The following guidelines will be used for repayment agreements:

- Maximum term: 2 years;
- Amount Due at Signing: 10%
- The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income.
- The total amount should not exceed \$3,000, although the family can opt to pay a lump-sum to decrease the amount owed to the \$3,000 threshold.

Exceptions may be made on a case-by-case basis taking into consideration the following:

- The amount owed by the family to HANO;

- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control;
- The family's current and potential income and expenses;
- The family's current family share, as calculated under 24 CFR 982.515; and
- The family's history of meeting its financial responsibilities.

HUD requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which HANO may terminate assistance because of a family's action or failure to act;
- A statement clarifying that each month the family not only must pay to HANO the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner;
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases; and
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

20.14.2 Execution of the Agreement

Any repayment agreement between HANO and a family must be signed and dated by HANO and by the head of household and co-head (if applicable).

20.14.3 Late or Missed Payments

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by HANO, HANO will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and HANO will terminate assistance.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default and HANO will terminate assistance.

20.14.4 Consequences of Default

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, HANO will terminate the family's assistance in accordance with HANO's termination policies. HANO may also pursue other modes of collection.

20.14.5 No Offer of Repayment Agreement

HANO generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

20.15 PROHIBITED ACTIONS

Title 18 U.S.C. Section 1001, 24 CFR 982.552(c)(iv)

An applicant or participant in the HCV program will not knowingly:

- Make a false statement to HANO; or

- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The following examples of family program abuse include, but are not limited to:

- Payment to the owner in excess of amounts authorized by HANO for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to HANO Board of Commissioners, employees, contractors, or other HANO representatives;
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to HANO on the family's behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (i.e., income, family composition);
- Omitted facts that were obviously known by a family member (i.e., not reporting employment income); and
- Admission of program abuse by an adult family member.

HANO may determine other actions to be program abuse based upon a preponderance of the evidence.

20.16 PENALTIES FOR PROGRAM ABUSE

In the case of program abuse caused by a family HANO may, at its discretion, impose any of the following remedies:

- HANO may require the family to repay excess subsidy amounts paid by HANO, as described earlier in this section;
- HANO may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit;
- HANO may deny or terminate the family's assistance; or
- HANO may refer the family for State or Federal criminal prosecution.

20.17 OWNER CAUSED ERROR OR PROGRAM ABUSE

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (i.e., the number of bedrooms, which utilities are paid by the family). Owner error or abuse also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

20.18 OWNER REIMBURSEMENT TO HANO

HCVP GB p. 22-13

Any amount due to HANO by an owner must be repaid by the owner within 30 calendar days of HANO determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, HANO will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments, HANO may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by HANO.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, HANO will ban the owner from future participation in the program and pursue other modes of collection.

20.19 PROHIBITED OWNER ACTIONS

Title 18 U.S.C. Section 1001, 24 CFR 982.453(a)(3)

An owner participating in the HCV program will not make any false statement to HANO and/or commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program including, but not limited to:

- Charging the family rent above or below the amount specified by HANO;
- Charging a security deposit other than that specified in the family's lease;
- Charging the family for services that are provided to unassisted tenants at no extra charge;
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
- Knowingly accepting incorrect or excess housing assistance payments;
- Offering bribes or illegal gratuities to HANO Board of Commissioners, employees, contractors, or other HANO representatives;
- Offering payments or other incentives to an HCVP family as an inducement for the family to make false or misleading statements to HANO; and
- Residing in the unit with an assisted family.

20.20 REMEDIES AND PENALTIES

When HANO determines that the owner has committed program abuse, HANO may take any of the following actions, including, but not limited to:

- Require the owner to repay excess housing assistance payments;
- Terminate the HAP contract;
- Bar the owner from future participation in any HANO programs; and
- Refer the case to state or federal officials for criminal prosecution.

20.21 HANO-CAUSED ERRORS OR PROGRAM ABUSE

HCVP GB. 22-12

HANO-caused incorrect subsidy determinations include, but are not limited to:

- Failing to correctly apply HCVP rules regarding family composition, income, assets, and expenses;
- Assigning the incorrect voucher size to a family; and
- Errors in calculation.

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by HANO staff.

HANO will reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result

of staff-caused error or staff or owner program abuse.

20.21.1 HANO Staff Prohibited Activities

Any of the following will be considered evidence of program abuse by HANO staff:

- Failing to comply with any HCV program requirements for personal gain;
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other people who provide services or materials to HANO;
- Disclosing confidential or proprietary information to outside parties;
- Gaining profit as a result of insider knowledge of HANO activities, policies, or practices;
- Misappropriating or misusing HCVP funds;
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program; and
- Committing any other corrupt or criminal act in connection with any federal housing program.

20.22 CRIMINAL PROSECUTION

When HANO determines that program abuse by an owner, family, or HANO staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or State law, HANO may refer the matter to the appropriate entity for prosecution.

Other criminal violations related to the HCV program may be referred to the appropriate local, State, or Federal entity.

20.23 FRAUD AND PROGRAM ABUSE RECOVERIES

HANO may retain a portion of program fraud losses that HANO recovers from a family or owner through litigation, court order, or a repayment agreement in accordance with applicable requirements.

CHAPTER 21: SPECIAL HOUSING, VASH AND HOMEOWNERSHIP

21.1 OVERVIEW

HANO operates special housing programs in accordance with applicable regulations and policies. Payment Standards, Utility Allowances, HAP Calculations, and Housing Quality Standards may vary based on the type of special housing. See the chapter on Housing Quality Standards, “Special Housing Types” for HQS specific to Special Housing Types.

Currently, HANO operates the following special housing programs: Single Room Occupancy (SRO), the Homeownership Program, and the Project-Based Voucher (PBV) program. For information on project- based vouchers, see the chapter on Project-Based Voucher Program.

21.2 SINGLE ROOM OCCUPANCY

24 CFR 982.602 - 982.605

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant, but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCVP regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances. For information on applying payment standards and utility allowances to SROs, see the chapter on Payment Standards and Utility Allowances.

21.3 SINGLE ROOM OCCUPANCY HOUSING QUALITY STANDARDS

HQS requirements apply to SRO housing except as modified below:

- **Access:** Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law;
- **Fire Safety:** All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law;
- **Sanitary facilities and space and security standards** must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605];
- **Sanitary Facilities:** At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level;
- **Space and Security:** An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable; and
- Because no children live in SRO housing, the housing quality standards applicable to lead- based paint do not apply.

21.3.1 HAP Calculation

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

21.4 VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH)

The Housing and Urban Development - Veterans Affairs Supported Housing (HUD-VASH) Program provides permanent housing and ongoing case management for eligible homeless veterans who would not be able to live independently without the support of case management. This program allows eligible veterans to live in veteran- selected housing units with a “Housing Choice” voucher. These vouchers are portable to support the veteran’s choice of housing in communities served by their VA medical facility where case management services can be provided. HUD-VASH services include outreach and case management to ensure integration of services and continuity of care. This program enhances the ability of VA to serve homeless women veterans, and homeless veterans with families.

Through the Supportive Services for Low-Income Veterans Program, VA aims to improve very low-income Veteran families’ housing stability by providing supportive services to very low-income Veteran families in or transitioning to permanent housing. VA funds community-based organizations to provide eligible Veteran families with outreach, case management, and assistance in obtaining VA and other benefits. Grantees may also provide time-limited payments to third parties (e.g., landlords, utility companies, moving companies, and licensed child care providers) if these payments help the Veteran family.

Generally, the HUD-VASH HCVP is administered in accordance with regular HCV program requirements (24 CFR part 982); however, the Act allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program in order to effectively deliver and administer HUD-VASH voucher assistance. The HUD-VASH Operating Requirements (including the waivers and alternative requirements from HCV program rules) were published in the Federal Register on May 6, 2008.

- VASH vouchers must be identified in PIC with the VASH voucher coding and retain this coding throughout the family’s participation in the program;
- Eligible veterans for VASH vouchers will be referred by the VAMC with written documentation of the referral maintained in the file;
- Screening will include income eligibility and sex offender screening only. EIV prior debt and adverse termination screening do not apply to VASH families;
- Other VASH family members should be screened and denied if they have a lifetime sex offender registration requirement;
- The initial voucher term for a VASH voucher will be 120 days;
- Initial leases may be less than one year if a shorter lease term would improve housing opportunities for the tenant;
- VASH voucher holders may use their voucher to live on the grounds of a VAMC in units owned by the VAMC;
- VASH participants may only reside in jurisdictional areas that are accessible to case management services as determined by the partnering VAMC. In all cases of portability, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family’s new location;
- If the receiving PHA does not administer a HUD-VASH program, it must always bill the initial PHA;
- If the receiving PHA does administer HUD-VASH vouchers, it may only absorb the family if a HUD- VASH voucher is available and case management can be provided through a VA facility that partners with the receiving PHA;

- In all cases of portability within the same catchment area, the initial VA facility must make the determination regarding which VA facility will provide the family with case management. This determination will ultimately affect whether the receiving PHA can absorb the family;
- If the veteran dies, the voucher remains with the remaining members of the tenant family, however the PHA may issue a regular tenant based voucher and free up the VASH voucher;
- In the case of family splits, i.e. divorce, the VASH voucher remains with the veteran;
- VASH families are eligible to enroll in FSS. FSS staff must work with VAMC case management staff to establish goals and the Individual Training and Services Plan. The PHA does not have to terminate a VASH family for failure to comply, without good cause, with the FSS contract of participation;
- A VASH voucher family may be terminated for failure to participate is required case management; however, a VAMC determination that the participant family no longer requires case management is not grounds for termination of assistance. The PHA has the option to offer this family one of its regular vouchers in order to free up the VASH voucher;
- VASH families are entitled to informal hearings and reviews; and
- Renewal funding is subject to Congressional appropriation.

21.5 HOMEOWNERSHIP

24 CFR 982.625 - 643

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. HANO must have the capacity to operate a successful HCVP homeownership program as defined by the regulations.

HANO offers monthly assistance payments.

21.5.1 Family Eligibility

24 CFR 982.627

The family must meet all of the requirements listed below before the commencement of homeownership assistance:

- The family must have been admitted to the Housing Choice Voucher program;
- The family must qualify as a first-time homeowner, or may be a cooperative member;
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. HANO may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not HANO's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit;
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12;
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families;
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before

commencement of homeownership assistance for the family;

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, HANO must grant an exemption from the employment requirement if HANO determines that it is needed as a reasonable accommodation;
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option;
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home; and
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

21.5.2 Selection of Families

24 CFR 982.626

Unless otherwise provided (under the homeownership option), HANO may limit homeownership assistance to families or purposes defined by HANO and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in HANO administrative plan.

If HANO limits the number of families that may participate in the homeownership option, HANO must establish a system by which to select families to participate.

21.5.3 Eligible Units

24 CFR 982.628

In order for a unit to be eligible, HANO must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
 - A public housing or Indian housing unit;
 - A unit receiving Section 8 project-based assistance;
 - A nursing home, board and care home, or facility providing continual psychiatric, medical, or nursing services;
 - A college or other school dormitory;
 - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions;
 - The unit must be under construction or already exist at the time the family enters into the contract of sale;
 - The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium;
- The unit must have been inspected by HANO and by an independent inspector designated by the family;
- The unit must meet Housing Quality Standards;
- For a unit where the family will not own fee title to the real property (such as a manufactured home),

the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years; and

- For HANO-owned units all of the following conditions must be satisfied:
 - HANO informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and HANO-owned unit is freely selected by the family without HANO pressure or steering;
 - The unit is not ineligible housing; and
 - HANO obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any HANO provided financing. All of these actions must be completed in accordance with program requirements.

HANO must not approve the unit if HANO has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

21.5.4 Additional Requirements for Search and Purchase

24 CFR 982.629

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. HANO may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by HANO, HANO may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

21.5.5 Homeownership Counseling

24 CFR 982.630

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete a pre-assistance homeownership and housing counseling program required by HANO.

21.5.6 Home Inspections

24 CFR 982.631

HANO will not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until HANO has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

21.5.7 Contract of Sale

24 CFR 982.631

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give HANO a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;

- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

21.5.8 Disapproval of a Seller

24 CFR 982.306(c) and 24 CFR 982.631

In its administrative discretion, HANO may deny approval of a seller for the same reasons HANO may disapprove an owner under the regular HCV program.

21.5.9 Financing

24 CFR 982.632

HANO will follow established requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt.

21.5.10 Homeownership Option 10 Year Asset Exclusion

24 CFR 5.603(b)

For the first ten years after the closing date, a home purchased with voucher assistance is exempt from being counted as an asset. This exemption terminates after a family's 10th year of participation in the program.

21.5.11 Continued Assistance Requirements: Family Obligations

24 CFR 982.633, 24 CFR 982.551

Homeownership assistance may only be paid while a family is residing in the home. If a family moves out of the home, HANO may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to HANO the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt;
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i);
- The family must supply information to HANO or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by HANO or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses;
- The family must notify HANO before moving out of the home;
- The family must notify HANO if the family defaults on the mortgage used to purchase the home; and
- No family member may have any ownership interest in any other residential property.

21.5.12 Maximum Term of Homeowner Assistance

24 CFR 982.634

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer;
- Ten years, in all other cases; and
- The maximum term described above applies to any member of the family who:
 - Has an ownership interest in the unit during the time that homeownership payments are made; or
 - Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different housing authorities, the total of such assistance terms is subject to the maximum term described in this part.

21.5.13 Homeownership Assistance Payments and Homeownership Expenses
24 CFR 982.635

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, HANO will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

HANO may pay the homeownership assistance payments directly to the family, or at HANO's discretion, to a lender on behalf of the family.

If the assistance payment exceeds the amount due to the lender, HANO must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

HANO may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

Homeownership expenses (not including cooperatives) only include amounts allowed by HANO to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- HANO allowance for maintenance expenses;
- HANO allowance for costs of major repairs and replacements;

- HANO utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if HANO determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located [*see 24 CFR 982.628(b)*]; and
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by HANO to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- HANO allowance for maintenance expenses;
- HANO allowance for costs of major repairs and replacements;
- HANO utility allowance for the home;
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if HANO determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person; and
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

21.5.14 Homeownership Portability

24 CFR 982.636, 982.637, 982.353(b)(c), 982.552, 982.553

Subject to the restrictions on portability included in HUD regulations and HANO policies, a family may exercise portability if the receiving housing authority is administering a voucher homeownership program and accepting new homeownership families. The receiving housing authority may absorb the family into its voucher program, or bill the initial housing authority.

21.5.15 Moving with Continued Homeownership Assistance

24 CFR 982.637

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

HANO may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.

- At any time, HANO may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with HANO's policy regarding number of moves within a 12-month period. HANO must deny the family permission to move to a new unit with continued voucher rental assistance if:
- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

21.5.16 Denial or Termination of Homeownership Assistance

24 CFR 982.638, 24 CFR 982.551 - 982.553

At any time, HANO may deny or terminate homeownership assistance in accordance with HCV program requirements.

HANO may also deny or terminate assistance for violation of participant obligations.

HANO must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

21.6 MORTGAGE DEFAULT AND FORECLOSURE

HCVP Homeownership GB, p. 139

HANO will terminate homeownership voucher assistance for a family that defaults on a mortgage loan and is dispossessed from the home under a judgment or order of foreclosure.

If the mortgage loan is not insured by the FHA, HANO may or may not, on a case-by-case basis and in accordance with its policies, allow the family to move to a new unit with rental assistance.

If the family defaults on a mortgage insured by FHA, HANO will not approve rental assistance for the family unless the family has both:

- Conveyed title to the home, as required by HUD, to HUD or HUD's designee; and
- Moved from the home within the period established or approved by HUD.

HANO will not allow the family to purchase another unit with homeownership assistance if the family defaults on any mortgage loan (FHA or non-FHA) and is dispossessed from the home under a judgment of foreclosure. In all cases, the family will be informed as to whether they will be able to receive rental assistance or if its participation in the housing voucher program is being terminated.

CHAPTER 22: PROJECT-BASED VOUCHER PROGRAM

22.1 OVERVIEW/PBV PROGRAM CAP

24 CFR 983.5 - 6, 24 CFR 983.52, Federal Register, Volume 82, Number 11

The project-based voucher (PBV) program allows HANO to take up to 20 percent of its voucher program unit allocation and attach the funding from that allocation to specific units. Certain units do not count towards HANO's 20 percent cap and are exempt from the income-mixing requirement.

The following categories of units are excluded from the income-mixing requirement when PBV assistance is attached to them, if placed under HAP contract on or after April 18, 2017:

- a. The unit received one of the following forms of HUD assistance:
 - i. Public Housing Capital or Operating Funds.
 - ii. Project-Based Rental Assistance, which includes the Section 8 Moderate Rehabilitation Program, including the Single-Room Occupancy (SRO) program.
 - iii. Housing for the Elderly (Section 202 of the Housing ACT of 1959).
 - iv. Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).
 - v. The Rent Supplement (Rent Supp) program (Section 101 of the Housing and Urban Development Act of 1965).
 - vi. Rental Assistance Program (RAP) (Section 236(f)(2) of the National Housing Act).
- b. The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:
 - i. Section 236.
 - ii. Section 221(d)(3) or (d)(4) BMIR.
 - iii. Housing for the Elderly (Section 202 of the Housing Act of 1959).
 - iv. Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).

Units that were previously receiving PBV assistance or HCVP tenant-based assistance are not covered by this exception.

In addition to having received HUD assistance or having been subject to rent restrictions as described above, the unit must meet the following conditions:

- 1) Existing and Rehabilitated Units;
 - (a) The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017; and
 - (b) In the 5 years prior to the date that HANO either issued the RFP under which the project was selected or selected the PBV project on a prior competition or without competition, the unit received at least one form of assistance or was subject to a rent restriction as described above. If the existing or rehabilitated project was selected based on a prior competition or without competition, then the date of the selection used to determine if the 5-year threshold has been met is the date of the HANO written notice of owner selection under 24 CFR 983.51(d).

- 2) PBV New Construction of a Qualifying Replacement Unit
 - (a) The original unit that the new construction PBV unit is replacing must have received one of the above listed forms of HUD assistance or was subject to a rent restriction as a result of one of the HUD loan or insurance programs listed above no more than 5 years from the date HANO either :
 - (b) Issued the RFP under which the PBV new construction project was selected; or
 - (c) Selected the PBV new construction project based on a prior competition or without competition. If the PBV new construction project was selected based on a prior competition or without competition, then the date of selection used to determine if the 5-year threshold has been met is the date of the HANO written notice of owner selection under 24 CFR 983.51(d).
- 3) The newly constructed unit is on the same site as the unit it is replacing. An expansion of or modification to the prior project's site boundaries is acceptable as long as the majority of the replacement units are built back on the site of the original public housing development and any units that are not built on the existing site share a common border with, are across a public right of way from, or touch that site.
- 4) One of the primary purposes of the planned development of the new construction PBV project is or was to replace the affordable rental units that previously existed at the site, as evidenced by at least one of the following:
 - (a) Former residents of the original project are provided with a selection preference that provides the family with the right of first occupancy at the PBV new construction project; or
 - (b) Prior to the demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.
- 5) The HAP contract first became effective on or after April 18, 2017.

For any new construction or rehabilitation project, the exception to the program limitation for PBV units cannot exceed the total number of covered units in the original project that the PBV units are replacing or rehabilitating. For example, if a former Public Housing Project consisted of 50 units and the PBV new construction project is going to consist of 60 units, only 50 of those new units can be exceptions from the program limitation and the other 10 new units would count towards the 20 percent program cap.

Any PBV RAD or HUD-VASH PBV set-aside vouchers would also be excluded from the 20 percent program cap. HANO may choose to project-base VASH vouchers without additional HUD approval.

22.1.1 Tenant-Based vs. Project-Based Voucher Assistance

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, HANO policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

22.2 RELOCATION REQUIREMENTS

24 CFR 983.7

Any people displaced as a result of implementation of the PBV program will be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. HANO will not use voucher program funds to cover relocation costs, except that HANO may use its administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. HANO will ensure the owner complies with these requirements.

22.3 EQUAL OPPORTUNITY REQUIREMENTS

24 CFR 983.8

HANO will comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, HANO will comply with HANO Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

22.4 SOLICITATION AND SELECTION OF PROPOSALS

24 CFR 983.51

HANO will request and select PBV proposals in accordance with the selection procedures in this administrative plan.

HANO will request and select proposals using the following methods:

- Request and Selection of PBV Proposals: HANO may solicit proposals by using a request for proposals (RFP). HANO will then select proposals on a competitive basis in response to the RFP; and
- Selection of Proposals Previously Selected Based on a Competition: This may include selection of a proposal for housing assistance under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program requiring competitive selection of proposals (i.e., HOME, and units for which competitively awarded low-income housing tax credits have been provided). Eligible proposals must have been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. See also below, "HANO Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program."

HANO may submit a proposal for project-based housing that is owned or controlled by HANO.

Unless otherwise described in a solicitation using an RFP, when HANO requests PBV proposals, its procedures will involve public notice. Detailed application and selection information will be provided at the request of interested parties.

HANO may evaluate proposals for existing, rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build, rehabilitate, and manage and maintain housing as identified in the RFP;
- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers HANO's goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property;
- Other factors identified by HANO in the specific RFP for PBV assistance;
- Extent to which units will be suitable for families that are eligible to participate in the PBV program; and
- For rehabilitated and newly constructed units, projects with less than the greater of 25 units or 25

percent of the units assisted will be rated higher than projects with more than the greatest of 25 units or 25 percent of the units assisted. In the case of projects for occupancy by the elderly, people with disabilities or families needing other services, HANO will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

Within 10 business days of HANO making the selection, HANO will notify the selected owner in writing of the owner's selection for the PBV program. HANO will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

22.4.1 HANO Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

HANO may award PBV assistance to owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

In addition to, or in place of, advertising, HANO may also directly contact specific owners that have already been selected for federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

HANO may evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers HANO's goal of deconcentrating poverty and expanding housing and economic opportunities;
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, HOME program activities, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community; and
- Other factors that further the mission and goals of HANO.

22.4.2 HANO Selection of HANO-Owned Housing Proposals

CFR 983.51(e), 983.59

HANO's project-based voucher program will comply with HUD and HANO regulations and policies. If HANO-owned units are selected for project-based voucher assistance, HANO will, in accordance with HUD guidelines, submit its proposal to an independent third party and/or the local HUD field office to review HANO's proposal and selection process. HANO will obtain HUD approval of the process, and any third-party entity used, prior to selecting the proposal for HANO-owned housing.

A HANO-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HANO-owned units were appropriately selected based on the selection procedures specified in HANO administrative plan. If HANO selects a proposal for housing that it owns or controls, HANO will identify the entity that will review HANO proposal selection process and perform specific functions with respect to rent determinations, the establishment of contract terms and any renewals, and inspections.

In the case of HANO-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity. The independent entity must provide notices to the family, HANO, and/or the owner regarding rent determinations and inspections.

The independent entity that performs these program services may be the unit of general local government for HANO jurisdiction (unless HANO is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HANO may only compensate the independent entity and appraiser from HANO ongoing administrative fee income (including amounts credited to the administrative fee reserve). HANO may not use other program receipts to compensate the independent entity and appraiser for their services. HANO, independent entity, and appraiser may not charge the

family any fee for the appraisal or the services provided by the independent entity.

See the definition of PHA-owned housing for details on what qualifies as a HANO-owned unit in the Glossary of Public Housing Terms.

22.4.3 Attaching PBVs to Certain PHA-Owned Projects without Following a Competitive Process

24 CFR 983.51(b), PIH Notice 2017-21

HANO may attach PBV assistance to units in a project in which HANO has an ownership interest or has control of without following a competitive process. An ownership interest means that HANO or its officers, employees, or agents are in an entity that holds any direct or indirect interest in the project in which the units are located, including but not limited to an interest as: titleholder; lessee; stockholder; member, or general or limited partner; or member of a limited liability corporation. For purposes of this authority, HANO ownership interest also includes a scenario in which HANO is the lessor of the ground lease for the land upon which the PBV project to improve, develop, or replace the public housing property is located or will be constructed.

In order to qualify for this non-competitive selection, the following conditions must be met:

- HANO must be engaged in an initiative to improve, develop, or replace public housing properties or sites, which may be in the inventory or have been removed from the inventory within 5 years of the date on which HANO entered into the AHAP or HAP;
- If HANO plans rehabilitation or new construction, a minimum threshold of \$25,000 in hard costs per-unit is required;
- If HANO plans to replace public housing by attaching PBV to existing housing in which HANO has an ownership interest or control of, then the \$25,000 threshold does not apply as long as the existing housing substantially complies with HQS, as defined in the Glossary of Subsidized Housing Terms; and
- If HANO opts to use this option, the agency must explain its work plan and how many PBV units it intends to add at a property in this Administrative Plan.

22.4.4 HUD Waiver of PBV Regulatory Selection Requirements

Notwithstanding the provisions of 983.51(a), for certain developments associated with the Choice Neighborhoods Implementation grant, HANO may implement alternative non-competitive selection methods in accordance with the HUD waiver granted to HANO by letter dated March 6, 2012.

22.4.5 HANO Notice of Owner Selection

24 CFR 983.51(d)

HANO will give prompt written notice to the party that submitted a selected proposal and will also give prompt public notice of such selection. Public notice procedures will include means designed and implemented to provide broad public notice.

22.5 HOUSING TYPE

24 CFR 983.52

HANO may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing. A housing unit is considered an “existing unit” for purposes of the PBV program if, at the time of notice of HANO selection, the unit substantially complied with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

HANO will determine what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing.

HANO’s choice of housing type must be reflected in its solicitation for proposals.

22.5.1 Assistance for Certain Unit Types

24 CFR 983.53

HANO may not attach or pay PBV assistance to properties that include nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (including assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; and transitional housing.

22.5.2 Subsidized Housing

24 CFR 983.54

HANO will not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of HCVP assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a HANO may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for people with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance; and
- A unit with any other duplicative federal, state, or local housing subsidy.

22.5.3 Subsidy Layering Requirements

24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10

HANO may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits. HANO will submit the necessary documentation to HUD for a subsidy layering review.

Except in cases of HAP contracts for existing structures, or if such reviews have been conducted by the applicable state and local agencies (defined by HUD as qualified housing credit agencies, or HCAs), HANO may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

22.5.4 Cap on Number of PBV Units in Each Site

In general, HANO may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units in a project or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions are allowed and PBV units are not counted against the 25 unit or 25 percent per project cap if:

- The units are in a single-family building (one to four units); and
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly families or families eligible for supportive services (also known as *qualifying families*).

Units in projects that are in a census tract with a poverty rate of 20 percent or less are subject to a higher 40 percent cap. For these projects up to the greater of 25 units or 40 percent of the units may be project based. The poverty rate will be determined using the most recent American Community Survey 5-Year Estimates. A project that qualifies for the increased project cap at the time of HAP contract execution continues to qualify for the exception for the length of the contract regardless of changes in the poverty rate for the census tract in which the project is located.

The RFP for PBV assistance will describe the type of supportive services that will qualify for the above. HANO will not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a qualifying family at the time of initial tenancy is receiving Family Self-Sufficiency supportive services or any other supportive services as defined in HANO administrative plan and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as a unit receiving supportive services for as long as the family resides in the unit.

HANO will monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. HANO administrative plan must state the form and frequency of such monitoring.

The unit loses its excepted status if the family becomes ineligible for the supportive services during its tenancy, provided that:

- (i). The family becomes ineligible for all supportive services available to the family, and (ii) the family becomes ineligible for reasons other than successfully completing the supportive services objective. A family that becomes ineligible for the supportive services during its tenancy cannot be terminated from the program or evicted from the unit; and
- (ii). If the unit loses its excepted status, and HANO does not want to reduce the number of excepted units in its project-based portfolio, HANO may:
 - a. Substitute the excepted unit for a non-excepted unit if it is possible to do so in accordance with 24 CFR §983.207(a). HANO may wish to consider adding units to the HAP contract to allow for the substitution of units.
 - b. Remove the unit from the PBV HAP contract, and provide the family with tenant-based assistance. Once the family has moved from the unit, HANO may consider adding the unit back to the contract. Any family newly admitted to the unit must be eligible for supportive services in order for the unit to retain its excepted status.

22.6 PROMOTING PARTIALLY-ASSISTED BUILDINGS

24 CFR 983.56(c)

HANO may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

HANO may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. HANO may also determine not to provide PBV assistance for excepted units, or HANO may establish a per-building cap of less than 25 units or 25 percent.

22.7 SITE SELECTION STANDARDS

24 CFR 983.57(b)

22.7.1 Compliance with PBV Guidelines, Civil Rights Requirements, and HQS Site Standards

HANO will select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, HANO will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, HANO may grant exceptions to the 20 percent standard where HANO determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD- designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

All units selected for PBV assistance must meet housing quality standards and/or other local standards developed by HANO. For more on PBV program housing quality standards, see the chapter on Housing Quality Standards.

22.7.2 Existing and Rehabilitated Housing Site and Neighborhood Standards

24 CFR 983.57(d)

HANO will not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted people in areas containing a high proportion of low-income people;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the

neighborhood to places of employment is not excessive.

22.7.3 New Construction Site and Neighborhood Standards 24 CFR 983.57(e)

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless HANO determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area;
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted people in areas containing a high proportion of low-income people;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly people, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

22.8 ENVIRONMENTAL REVIEW 24 CFR 983.58

HANO activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 or 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). HANO will not enter into a HAP contract until the owner has complied with the environmental review requirements and the review is completed.

HANO may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

HANO may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner; HANO, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

HANO will supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site.

HANO will require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

22.9 PROJECT BASED VOUCHER PROGRAM HOUSING QUALITY STANDARDS

24 CFR 983.101

The housing quality standards (HQS) for the tenant-based program or other local standards established by HANO, including those for special housing types, generally apply to the PBV program.

22.9.1 Lead-Based Paint

24 CFR 983.101(c), 24 CFR 35.730, PIH Notice 2017-13

The lead-based paint requirements for the tenant-based Voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

PBV owners are responsible for complying with regulations relating to children with elevated blood lead levels outlined in section 13.3; however, PBV owners have the following additional responsibilities:

- *Environmental investigation.* Within 15 calendar days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an elevated blood lead level, the owner shall complete an environmental investigation of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when the owner receives the notification of the elevated blood lead level. The requirements of this paragraph shall not apply if the owner conducted an environmental investigation of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the owner received the notification of the elevated blood lead level. If the owner conducted a risk assessment of the unit and common areas servicing the unit during that period, the owner need not conduct another risk assessment there but shall conduct the elements of an environmental investigation not already conducted during the risk assessment. If a public health department has already conducted an evaluation of the dwelling unit in regard to the child's elevated blood lead level case, the requirements of this paragraph shall not apply.
- The owner must notify HANO of the results of the environmental investigation and then of the lead hazard control work within 10 business days of the deadline for each activity. HANO will notify the HUD field office.
- The owner must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. The requirements for ongoing LBP maintenance are found in 24 CFR 35.1355(a).
- If the PBV is for more than \$5,000 per unit per year, the owner must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in 24 CFR 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in 24 CFR 35.1355(c).

22.9.2 Housing Accessibility for People with Disabilities

Housing selected for the PBV program must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 C.F.R. part 8. Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 C.F.R. 100.205, as applicable.

22.9.3 Pre-selection Inspection

24 CFR 983.103(a)

HANO will examine the proposed site before the proposal selection date. If the units to be assisted already exist, HANO will inspect all the units before the proposal selection date, and must determine whether the units substantially comply

with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, HANO may not execute the HAP contract until the units fully comply with HQS.

22.9.4 Pre-HAP Contract Inspections

24 CFR 983.103(b)

HANO will inspect each contract unit before execution of the HAP contract. HANO will not enter into a HAP contract covering a unit until the unit fully complies with HQS.

22.9.5 Turnover Inspections

24 CFR 983.103(c)

Before providing assistance to a new family in a contract unit, HANO will inspect the unit. HANO will not provide assistance on behalf of a family until the unit fully complies with HQS.

22.9.6 Biennial Inspections

24 CFR 983.103(d)

At least biennially during the term of the HAP contract, HANO must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections are not counted toward meeting this inspection requirement.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, then HANO must re-inspect 100 percent of the contract units in the building.

HANO may also use the procedures applicable to HCVP units in 24 CFR 982.406.

22.9.7 Other Inspections

24 CFR 983.103(e)

HANO will inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. HANO will take into account complaints and any other information coming to its attention in scheduling inspections.

HANO will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS. In conducting HANO supervisory quality control HQS inspections, HANO will include a representative sample of both tenant-based and project-based units.

22.9.8 Inspecting HANO-owned Units

24 CFR 983.103(f)

In the case of HANO-owned units, the inspections required under this section must be performed by an independent agency designated in accordance with 24 CFR 983.59, rather than by HANO.

22.9.9 Mixed-Finance Properties

24 CFR 983.103(g)

In the case of a property assisted with PBVs that is subject to an alternative inspection, HANO may rely upon inspections conducted at least triennially to demonstrate compliance with the inspection requirement of 24 CFR 982.405(a).

22.10 HAP CONTRACT FOR REHABILITATED OR NEWLY CONSTRUCTED UNITS

24 CFR 983.151

When selecting a proposal for rehabilitated or newly constructed units, HANO will not enter into an agreement or HAP contract until construction of the units is completed and the units have been determined to comply with HQS or such other local standard. Upon selection, and prior to execution of the HAP contract, HANO may send an award letter notifying the owner of the project's selection.

22.10.1 Agreement to Enter into HAP Contract

In order to offer PBV assistance in rehabilitated or newly constructed units, HANO will enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement will be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and HANO agrees that upon timely completion of such development in accordance with the terms of the Agreement, HANO will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

22.10.2 Content of the Agreement

24 CFR 983.152(c)

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by HANO, specifications and plans. For new construction units, the description must include the working drawings and specifications; and
- Any additional requirements for quality, architecture, or design over and above HQS.

22.10.3 Execution of the Agreement

24 CFR 983.153, FR Notice 11/24/08

The Agreement will be executed promptly after HANO notice of proposal selection to the selected owner. Generally, HANO may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, HANO may not enter into the Agreement until the environmental review is completed and HANO has received environmental approval. However, HANO may not conduct a subsidy layering review in the case of a HAP contract for an existing structure or if the applicable state or local agency has conducted such a review.

Similarly, environmental reviews may not be conducted for existing structures unless otherwise required by law or regulation.

22.10.4 Labor Standards

24 CFR 983.154(b)

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. HANO will monitor compliance with labor standards.

22.10.5 Equal Opportunity

24 CFR 983.154(c)

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

22.10.6 Owner Disclosure

24 CFR 983.154(d) and (e)

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

22.10.7 Evidence of Completion

24 CFR 983.155(b)

At a minimum, the owner must submit the following evidence of completion to HANO in the form and manner required by HANO:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At HANO's discretion, the agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

22.10.8 HANO Acceptance of Completed Units

24 CFR 983.156

Upon notice from the owner that the housing is completed, HANO will inspect to determine if the housing has been completed in accordance with applicable requirements, including compliance with HQS and any additional requirements imposed under the RFP or award letter. HANO will also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, HANO will not enter into the HAP contract.

If HANO determines the work has been completed in accordance with the foregoing and that the owner has submitted all required evidence of completion, HANO will execute the HAP contract with the owner.

22.10.9 Broadband Infrastructure

24 CFR 983.157

Any new construction or substantial rehabilitation of a building with more than four (4) rental units and where the date of the notice of owner proposal selection of the start of the rehabilitation while under a HAP contract is after January 19, 2017 must include installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the owner determines and documents the determination that:

- The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;

- The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

Substantial rehabilitation, for the purposes of when installation of broadband infrastructure is required as part of substantial rehabilitation of multifamily rental housing, is defined as work that involves:

- Significant work on the electrical system of the multifamily rental housing. “Significant work” means complete replacement of the electrical system or other work for which the pre-construction cost estimate is equal to or greater than 75 percent of the cost of replacing the entire electrical system. In the case of multifamily rental housing with multiple buildings with more than 4 units, “entire system” refers to the electrical system of the building undergoing rehabilitation; or
- Rehabilitation of the multifamily rental housing in which the pre-construction estimated cost of the rehabilitation is equal to or greater than 75 percent of the total estimated cost of replacing the multifamily rental housing after the rehabilitation is complete. In the case of multifamily rental housing with multiple buildings with more than 4 units, the replacement cost must be the replacement cost of the building undergoing rehabilitation.

22.11 HOUSING ASSISTANCE PAYMENTS CONTRACT

24 CFR 983.203, FR Notice 11/24/08

HANO will enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term.

22.11.1 Contract Information

24 CFR 983.203, FR Notice 11/24/08

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project’s name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the greater of 25 units or 25 percent per project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

22.11.2 Execution of the HAP Contract

24 CFR 983.204

HANO will not enter into a HAP contract until each contract unit has been inspected and HANO has determined that the unit complies with the housing quality standards (HQS).

For existing housing, the HAP contract must be executed promptly after HANO selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after HANO has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

22.11.3 Term of HAP Contract

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HANO may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years. The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

For any PBV HAP contract that is still within the initial term, HANO and the owner may mutually agree to extend the contract for up to the maximum initial term of 20 years.

Prior to expiration of the HAP contract, HANO may extend the term of the contract for an additional term of up to 20 years if HANO determines an extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HANO at the time of the extension. When determining whether or not to extend an expiring PBV contract, HANO will consider whether such extension is in the interests of HANO and its low-income clients. The determination to extend must be made no earlier than 24 months prior to the expiration of the HAP contract.

22.11.4 Termination by HANO

24 CFR 983.205(c)

The term of HANO's contractual commitment is subject to the availability of sufficient appropriated funding. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, HANO may terminate the HAP contract by notice to the owner.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, HANO may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

22.11.5 Termination by Owner

24 CFR 983.205(d), FR Notice 11/24/08

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to HANO. In this case, families living in the contract units must be offered tenant-based assistance.

22.11.6 Remedies for HQS Violations

24 CFR 983.208(b)

HANO will not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS or comparable local standard. If HANO determines that a contract does not comply with such standard, HANO may exercise any of its remedies under the HAP contract, for any or all of the contract units.

Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HANO will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program.

22.12 AMENDMENTS TO HOUSING ASSISTANCE PAYMENTS CONTRACT

22.12.1 Substitution of Contract Units

24 CFR 983.207(a)

At HANO's discretion, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, HANO will inspect the proposed unit and determine the reasonable rent for the unit.

22.12.2 Addition of Contract Units 24 CFR 983.207(b)

At HANO's discretion, a HAP contract may be amended to add additional PBV units under an existing HAP contract without competition. This type of amendment is subject to all PBV program requirements, including the percentage limitation on PBVs, project cap, and rent reasonableness, except that a new PBV proposal is not required.

If an owner wishes to add units to an existing HAP contract, a request must be made in writing. In order to be approved for additional units, the following criteria must be met:

- The proposed units are in a Census Tract with a poverty rate of less than twenty percent or with a poverty rate that has decreased over the past five years, as based on US Census Bureau data.
- The minority rate is less than or equal to the minority rate of the city as a whole, unless there is an overriding housing need in the neighborhood, which has seen rising housing prices or is predicted to see such changes due to investment in new market rate housing.
- All units are in compliance with HQS and none are on abatement.
- Within the past year, no units have been on abatement for more than ninety (90) days.
- No more than twenty-five percent of referrals are turning down a unit offer at the property due to not liking the area that the unit is located in.
- No units have been removed due to owner non-compliance within the past five years, or since the contract commenced, whichever is less.

If HANO approves the addition of units to an existing HAP contract, the term and anniversary date of the new units will match that of the existing contract.

22.13 HAP CONTRACT ANNIVERSARY AND EXPIRATION DATES 24 CFR 983.207(c), 983.302(e)

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term. The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

22.14 PBV CONTRACT TERMINATION OR EXPIRATION WITHOUT EXTENSION 24 CFR 983.206

Per the statutory notice requirements, not less than one year before termination of a PBV HAP contract, the owner must notify the PHA and assisted tenants of the termination, which would result from the expiration of the HAP contract or an owner's refusal to renew the HAP contract. If an owner does not give timely notice of termination, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of an owner's ability to collect an increased tenant portion of rent.

With HANO's agreement, an owner may renew the terminating HAP contract for a period of time sufficient to give

tenants one-year advance notice.

For families who wish to remain at the property, the HCV assistance does not commence until the end of the owner's required notice period.

In order for the family to remain at the project with tenant-based HCVP assistance, the unit must meet HQS requirements.

In order to determine the effective date of the HCVP HAP and family leases, HANO and the owner must work together to assure continued payments for families under lease as the units transition from PBV to HCVP. During this transition, the following requirements apply:

- HANO may execute a HCVP HAP contract before the PBV HAP contract terminates, but the HCVP HAP contract may not be effective prior to the PBV contract termination or expiration date.
- HANO may not commence the tenant-based HCVP housing assistance payment to an owner until the HCVP tenant-based HAP contract has been executed.
- The HCVP HAP contract may not be executed before the PHA approves the assisted tenancy in accordance with 24 CFR 982.305.
- If the HCVP HAP contract has a different rent than the PBV HAP contract did and the new rent is determined to be reasonable, then HANO will use the new gross rent to calculate the family's HCVP HAP going forward. The family will be responsible for paying the new rent starting at the effective date of the HCVP HAP contract.

A PBV owner may not terminate the tenancy of a family that exercises its right to remain except for in response to a serious or repeated lease violation or other good cause.

A family that remains in the unit with continued tenant-based HCV assistance must pay the total tenant payment and any additional amount by which the unit rent exceeds the applicable payment standard. The family's initial share of the rent may exceed 40 percent of the family's adjusted monthly income, irrespective of the normally applicable restriction on the amount a family may pay when initially assisted in any unit under 24 CFR 982.305(a)(5).

22.15 OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT

24 CFR 983.209

When the owner executes the HAP contract, he or she certifies that at such execution and at all times during the term of the HAP contract that:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by HANO, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

22.16 ADDITIONAL HAP REQUIREMENTS

22.16.1 Housing Quality and Design Requirements

24 CFR 983.101(e), 983.208(a)

The owner is required to maintain and operate the contract units and premises in accordance with HQS or such other local standards. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with HANO and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

HANO may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HANO will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. HANO will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

22.17 VACANCY PAYMENTS

CFR 983.352(b)

HANO will not provide vacancy payments.

22.18 PROJECT-BASED PARTICIPANTS

24 CFR 982

Many of the provisions of the tenant-based voucher regulations also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program.

22.18.1 Eligibility for PBV Assistance

24 CFR 983.251

HANO may select families for the PBV program from those who are participants in HANO's tenant-based voucher program, from those who have applied for admission to the voucher program, owner referrals to a PB SBWL, and/or from those who have applied to the Project-Based program.

For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be re-determined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and HANO, have income at or below eligible income limits, and qualify on the basis of citizenship or the eligible immigration status of family members. In addition, an applicant family must provide social security information for family members and consent to HANO's collection and use of family information regarding income, expenses, and family composition. An applicant family must also meet HANO's requirements related to criminal record screening.

HANO will determine an applicant family's eligibility for the PBV program in accordance with the policies in the chapter on Eligibility.

22.18.2 In-Place Families

24 CFR 983.251(b)

An eligible family residing in a proposed PBV contract unit on the date a proposal is selected by HANO is considered an “in-place family.” These families are afforded protection from displacement. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family will be placed on HANO’s waiting list.

If the family’s continued eligibility for PBV assistance is determined (HANO may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family will be given an absolute selection preference and HANO will refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

22.19 PBV WAITING LIST

22.19.1 Organization of the Wait List

24 CFR 983.251

HANO established separate waiting lists for PBV units for each individual project/building. HANO notified applicants on the tenant-based waiting list of the opportunity to be placed on any/all PBV waiting lists. When applicants on the tenant-based waiting list elected to have their name on the PBV waiting list they maintained their master waiting list sequence number.

As the PBV site-based waiting lists are subsets of the HCVP waiting list, applicants who are on the HCVP waiting list and wish to be placed on the PBV site-based waiting list(s) may be added to those lists at any time. These applicants would be added to the PBV site-based list(s) with the same relative position that they hold on the HCVP waiting list.

22.19.2 Placement on the PBV SBWL

HANO may use date and time of application or a drawing or other random choice technique to determine placement on the PB SBWLs. The specific method used for placement on the SBWL will be stated in HANO’s public notice. HANO will ensure that there is a clear audit trail to verify that each applicant has been selected in accordance with regulatory and agency requirements.

Applicants who have already applied to a PB SBWL may add their name to additional SBWLs at any time, provided that the applicable SBWLs are open. If an applicant submits multiple pre-applications, HANO will add the client to each waiting list in accordance with the date and time and/or the randomly selected order of the corresponding pre-application. For example, if the applicant submits a pre-application for Development 1 on 5/12/13 and Development 2 on 6/5/14, the applicant will have a different date and time of application for each development.

22.19.3 Selection from the Waiting List

24 CFR 983.251

Applicants who will occupy units with PBV assistance must be selected from HANO’s waiting list. HANO may place families referred by the owner onto the PBV Site-Based Waiting List. HANO may establish selection criteria or preferences for occupancy of particular PBV units. At least 75 percent of the families admitted to HANO’s tenant-based and project-based voucher programs during HANO’s fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

22.19.4 Units with Accessibility Features

24 CFR 983.251(c)(7)

When selecting families to occupy PBV units that have special accessibility features for people with disabilities, HANO and/or owners must first refer families who require such features to the owner.

22.19.5 Preferences

24 CFR 983.251(d), FR Notice 11/24/08

HANO may use the same selection preferences that are used for the tenant-based voucher program, or establish selection criteria or preferences for the PBV program as a whole. HANO may also establish a selection preference for occupancy of particular PBV developments or units. HANO will provide an absolute selection preference for eligible in-place families as described above.

Although HANO is prohibited from granting preferences to people with a specific disability, HANO may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled people who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If HANO has projects with more than the greater of 25 units or 25 percent of the units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), HANO will give preference to such families when referring families to these units [24 CFR 983.251(d)].

22.20 OFFER OF PBV ASSISTANCE

24 CFR 983.251(e)(3)

If a family refuses HANO's offer of PBV assistance, such refusal does not affect the family's position on the waiting list for tenant-based assistance.

HANO is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under HANO's selection policy; and
- Remove the applicant from the tenant-based voucher waiting list.

HANO shall remove an applicant from the PBV SBWL when the applicant refuses an offer of housing and does not have a verifiable good cause for the refusal. In such cases, applicants will retain their position on all other site-based waiting lists to which they have applied. Good cause for a refusal includes but is not limited to, family death, medical and/or legal emergencies. If an applicant has good cause for refusal, they will maintain their position on the SBWL. Once a PBV applicant is housed in a PB unit, the applicant's name will be removed from all other PBV site based waiting lists. The applicant's position on the tenant-based waiting list will remain unchanged.

22.20.1 Disapproval by Landlord

24 CFR 983.251(e)(2)

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on HANO tenant-based voucher waiting list.

22.21 FAMILY BRIEFING

24 CFR 983.252

When a family accepts an offer for PBV assistance, HANO will give the family a verbal briefing. The briefing may include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, HANO will provide a briefing packet that explains how HANO determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

22.21.1 People with Disabilities

If an applicant family's head or spouse is disabled, HANO, in accordance with 24 CFR 8.6, conduct an oral briefing and provide a written information packet as applicable. This may include making alternative formats available. In addition, HANO will have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

22.21.2 People with Limited English Proficiency

HANO will take reasonable steps to assure access by people with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

22.21.3 Family Obligations

24 CFR 982.551

Refer to 15.2 Family Obligations for list of family obligations.

22.22 OWNER SELECTION OF TENANTS

24 CFR 983.253(2)

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

22.22.1 Leasing

24 CFR 983.253(a)

During the term of the HAP contract, the owner must lease contract units to eligible families that have been deemed eligible by HANO. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on HANO's subsidy standards.

22.22.2 Filling Vacancies

24 CFR 983.254(a)

The owner must promptly notify HANO of any vacancy or expected vacancy in a contract unit. After receiving such notice, HANO will make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. HANO and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy. The owner shall maintain records of all waiting list outreach, offers of housing and reasons for rejection. Such records must be made available to HANO upon request.

22.22.3 Reduction in HAP Contract Units Due to Vacancies

24 CFR 983.254(b)

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, HANO may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

22.23 TENANT SCREENING

24 CFR 983.255

22.23.1 HANO Responsibility

HANO is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, HANO may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening. HANO will not conduct screening to determine a PBV applicant family's suitability for tenancy.

HANO will provide the owner with an applicant family's current and prior address (as shown in HANO records) and the name and address (if known by HANO) of the family's current landlord and any prior landlords.

HANO may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation.

22.23.2 Owner Responsibility

Owners are responsible for determining the suitability of prospective tenants. The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's history with respect to the following factors:

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

22.24 LEASE

24 CFR 983.256

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

22.24.1 Form of Lease

24 CFR 983.256(b)

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HANO tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HANO.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease.

HANO may review the owner's lease form to determine if the lease complies with state and local law. If HANO determines that the lease does not comply with state or local law, HANO may decline to approve the tenancy.

22.24.2 Lease Requirements

24 CFR 983.256(c)

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;

- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

22.24.3 Tenancy Addendum

24 CFR 983.256(d)

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by HANO (the names of family members and any HANO-approved live-in aide); and
- All provisions in HUD -required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

22.24.4 Initial Term and Lease Renewal

24 CFR 983.256(f)

The initial lease term must be for at least two years. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, HANO will provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

22.24.5 Changes in the Lease

24 CFR 983.256(e)

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give HANO a copy of all changes.

The owner must notify HANO in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by HANO and in accordance with the terms of the lease relating to its amendment.

HANO will re-determine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

22.24.6 Owner Termination of Tenancy

24 CFR 983.257

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for “good cause” does not include doing so for:

- A business or economic reason; or
- A desire to use the unit for personal or family use or other non-residential purpose.

22.24.7 Non-Compliance with Supportive Services Requirement

24 CFR 983.257(b), FR Notice 11/24/08

If a family is living in a project-based unit because of participation in a supportive services program (i.e., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

22.24.8 Family Absent from the Unit

24 CFR 983.256(g)

The owner may specify in the lease a maximum period of family's absence from the unit that is shorter than the maximum period permitted by HANO policy. The family may not be absent from the unit for a period of more than 90 consecutive calendar days in any circumstance or for any reasons. The family and the HAP contract must be terminated except that the PBV unit is not terminated from the HAP contract.

22.24.9 Security Deposits

24 CFR 983.259

The owner may collect a security deposit from the tenant. HANO may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

Subject to state and local law, HANO will allow the owner to collect a security deposit amount the owner determines is appropriate. When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

HANO has no liability or responsibility for payment of any amount owed by the family to the owner.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant.

HANO has no liability or responsibility for payment of any amount owed by the family to the owner.

22.25 OVERCROWDED, UNDER-OCCUPIED AND ACCESSIBLE UNITS

24 CFR 983.260

If HANO determines that a family is occupying a PBV unit that is the incorrect size, based on HANO's subsidy standards, or a PBV unit with accessibility features that the family does not require, and the unit is needed by a family that does require such features, HANO will notify the family and the owner of this determination, and HANO will offer the family the opportunity to receive continued housing assistance in another unit.

HANO will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit. HANO may offer the family the following types of continued assistance, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If HANO offers the family a tenant-based voucher, HANO will terminate the housing assistance payments for the wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by HANO).

When HANO offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 calendar days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, HANO will terminate the housing assistance payments at the expiration of this 30-day period. HANO may make exceptions to this 30-day period if needed as a reasonable accommodation or for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

22.26 FAMILY LEASE TERMINATION

24 CFR 983.261

The family may terminate the lease at any time after the initial term. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to HANO. If the family wishes to move with continued tenant-based assistance, the family must contact HANO to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, HANO will offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, HANO will give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

22.27 PBV EMERGENCY TRANSFER PLAN

PIH Notice 2017-08

If a PBV participant is the victim of domestic violence, dating violence, stalking, or sexual assault and informs HANO that they need to move from their current unit because they believe that there is a reasonable threat of imminent harm from further violence if they were to remain in the assisted unit, the participant may request an emergency transfer from their PBV unit. HANO would require documentation as established in Part 16.2.3 of this plan.

If the PBV participant has been on the program for at least one year and there is a tenant-based voucher available, HANO will issue a tenant-based voucher to move with continued assistance. The PBV participant victim would be issued the next available voucher and would be given a preference over other PBV participants who had requested to move with continued assistance. The victim could use this voucher to move within HANO's jurisdiction or to port out to another jurisdiction.

If HANO did not have an available tenant-based voucher or the family had not been on the PBV program for at least one year, the family would be provided with a list of available PBV units of the correct bedroom size and would be allowed to elect which unit would be the safest option for transfer. Once this selection was made, the family would be referred to the property for transfer. HANO would inform the property that the family would take precedence over any other applicant family who was not in need of an emergency transfer.

If neither a HCVP voucher nor another safe PBV unit are an option for emergency transfer, HANO will provide the participant with names and contact information for agencies that may be able to assist with locating a temporary shelter or another housing opportunity.

If a family break-up is necessary in order to complete an emergency transfer, HANO will follow the procedure outlined in Part 19.8.1 of this plan.

22.28 EXCEPTIONS TO THE OCCUPANCY CAP

24 CFR 983.262; FR Notice 11/24/2008

HANO will not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by HANO. At least one member must be receiving at least one qualifying supportive service.

- If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by HANO and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit;
- A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the greater of 25 units or 25 percent per project cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by HANO, and HANO will cease paying housing assistance payments on behalf of the non-qualifying family;
- If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by HANO; and
- HANO will not provide PBV assistance for excepted units.

22.29 RENT TO OWNER

24 CFR 983.301(a)(2)

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term.

22.29.1 Rent Limits

24 CFR 983.301(b)

The rent to owner will not exceed the lowest of the following amounts:

- An amount determined by HANO, not to exceed 110 percent of the applicable fair market rent (or any HANO exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; and
- The rent requested by the owner.

22.29.2 Certain Tax Credit Units

24 CFR 983.301(c), FR Notice 11/24/08

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a HANO-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

However, HANO may use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8.

In these cases, Section 8 rent reasonableness requirements must continue to be met.

Definitions:

- *A qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD; and
- *Tax credit rent* is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

22.29.3 Exception Payment Standards and Utility Allowances

24 CFR 983.301(f)

When determining the initial rent to owner, HANO will use the most recently determined payment standard in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, HANO will use the most recently determined payment standard and the utility allowance schedule in effect at the time of redetermination.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

22.29.4 Rent Increase

24 CFR 983.302, FR Notice 11/24/08

If an owner wishes to request an increase in the rent to owner from HANO, it must be requested at the annual anniversary of the HAP contract. The request must be in writing and in the form and manner required by HANO. HANO may only approve rent increases in accordance with the rent limits described in this chapter. There are no provisions in the PBV program for special adjustments (i.e. adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates or similar costs).

An owner's request for a rent increase must be submitted to HANO 60 calendar days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing. HANO may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

22.29.5 Rent Decrease

24 CFR 983.302, FR Notice 11/24/08

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment. See also, the chapter on Payment Standards and Utility Allowances for application

of Payment Standards.

22.29.6 Notice of Rent Changes

The rent to owner is re-determined by written notice from HANO to the owner specifying the amount of the re-determined rent. HANO notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract.

The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

22.30 REASONABLE RENT

24 CFR 983.303

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit will not exceed the reasonable rent for the unit as determined by HANO.

22.30.1 When Rent Reasonable Determinations are Required

HANO will re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a ten percent decrease in the published FMR in effect 60 calendar days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- HANO approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

22.30.2 HANO-owned Units

24 CFR 983.301(g)

For HANO-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by an independent entity approved by HUD.

HANO will use the rent to owner established by the independent entity.

22.30.3 Reasonable Rent Determination

The reasonable rent of a unit receiving PBV assistance is determined by comparison to rent for other comparable unassisted units. When making this determination, HANO will consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

22.30.4 Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, HANO may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

22.30.5 Other Subsidy

24 CFR 983.304

At its discretion, a HANO may reduce the initial rent to owner because of other governmental subsidies, including grants and other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

22.30.6 Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

22.30.7 Rent Control

24 CFR 983.305

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

22.31 HOUSING ASSISTANCE PAYMENTS (HAP)

24 CFR 983.351

During the term of the HAP contract, HANO will make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment will be paid to the owner on or about the first day of the month for which payment is due, unless the owner and HANO agree on a later date.

HANO will not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by HANO is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

22.32 TENANT RENT TO OWNER

24 CFR 983.353

The tenant rent is the portion of the contract rent paid by the family. The amount of tenant rent is determined by HANO in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in HANO's notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by HANO is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by HANO. The owner must immediately return any excess payment to the tenant.

22.32.1 Tenant and HANO Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by HANO. HANO is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. HANO is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. HANO may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

22.32.2 Utility Allowance Payments

If the amount of the utility allowance exceeds the total tenant payment, HANO will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero. HANO may pay the Utility Allowance Payment directly to the family or to the utility supplier on behalf of the family. If HANO chooses to pay the utility supplier directly, HANO will notify the family of the amount paid to the utility supplier.

22.33 OTHER FEES AND CHARGES

24 CFR 983.354

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

CHAPTER 23: FAMILY SELF SUFFICIENCY (FSS)

23.1 OVERVIEW

The Family Self-Sufficiency (FSS) program is designed to promote the development of strategies to coordinate the use of HCVP assistance with public and private resources to enable families to achieve economic independence and self-sufficiency.

23.1.1 FSS Program Coordinating Committee

HANO has established the FSS Program Coordinating Committee (PCC) to assist the FSS Program in securing commitments from various public and private social services and resources for the operation of the FSS Program. The PCC routinely examines its membership in an effort to better serve the needs of FSS participants.

23.2 FSS ELIGIBLE PROGRAM PARTICIPANTS

HANO conducts outreach and solicits participation from current HCVP participants.

- FSS family or participating family means a family who receives assistance under the HCV program who elects to participate in the FSS program and whose designated head has signed the Contract of Participation;
- Head of the FSS family means the adult member of the FSS family who is the head of household for purposes of determining income eligibility and rent;
- FSS participants may be selected from current tenants of HCVP project-based units;
- HANO may refuse to select a family for participation in the FSS program for a second time if that family previously participated and did not meet its FSS obligations and was terminated from the program; and
- HANO may deny admission to participants who owe HANO money related to their participation in the HCVP or Public Housing programs.

HANO will consider families eligible for participation the FSS program under the following conditions:

- The family is a current HCVP participant in compliance with its family obligations as defined by HUD regulations or HANO's Administrative Plan;
- The family has attended an FSS briefing; and
- The family has completed the FSS application.

HANO will give selection preference to incoming portable families with active FSS Contracts of Participation in accordance with the Portability policies, below, and in its FSS Action Plan.

23.3 FSS CONTRACT OF PARTICIPATION

The family and HANO set personal achievable goals and specific interim goals as a means to measure the family's progress toward achieving economic independence. These goals are recorded in the family's Individual Training and Service Plan (ITSP) based on information gathered during the family interview (see below, "FSS Participation").

The participant will be notified by mail to come in and sign the Contract of Participation. Participants will also be informed that the goals in the ITSP can be modified as needed to reflect the changing needs of the family.

The designated head of each family participating in the FSS Program will execute an FSS Contract of Participation with

HANO. The initial term of the Contract is five years. The contract may be extended, in writing and at the family's request, for up to two additional years for good cause.

23.4 DENIAL OF PARTICIPATION

HANO may, at its discretion, deny participation in the FSS program to a family that previously participated in the program and was terminated for failure to meet its obligations as outlined in their Contract of Participation. HANO may also deny participation in the FSS program to a family that does not meet the requirements of the Family Selection Procedures, as described in this document. Families will be notified in writing of the decision.

Families denied participation in the FSS program may request an Informal Hearing to determine whether the decision was made in accordance with HUD regulations and the guidelines of this plan. The request for an Informal Hearing must be made in accordance with informal hearing policies.

23.5 COMPLETION OF THE CONTRACT

The family's contract will be considered completed if:

- The FSS family has fulfilled all obligations under the contract before the expiration of the contract term (or extension);
- The family's monthly adjusted income equals or exceeds the FMR for the size unit for which the family qualifies (voucher size in the HCV program); and
- The head of household certifies that no household member is receiving federal, state or local welfare assistance.

The contract may be completed before the five years have expired. The family does not have to be free of housing assistance to have completed the contract.

23.6 COORDINATION WITH HCV PROGRAM ASSISTANCE

FSS families must meet all required family obligations listed on their Housing Choice Voucher and the terms of their Assisted Lease.

Families being assisted by the HCV program are not required to participate in the FSS Program if it is offered to them. This decision will not affect their right to continued occupancy in accordance with their HCV program Assisted Lease. HANO will coordinate with participating HANO's and applicable agencies to assist families in identifying housing opportunities in low poverty and non-impacted areas.

23.7 FSS PARTICIPATION

The individual training and services plan is a written plan that is prepared for the head of the FSS family (and each adult member of the FSS family who elects to participate) by HANO in consultation with the family member. The family's individual training and services plan will designate which resources may be awarded to assist the family in fulfilling the terms of their FSS Contract of Participation. Individual needs of participating families are assessed by HANO staff and when appropriate resources are available, referrals are made to other agencies that regularly provide job training programs and individualized case management.

HANO will create an escrow account for each FSS participant who obtains employment.

As the family's earnings increase over time, the escrow account is credited with a portion of the amount of increased rent they pay due to increases in earned income.

- The family may withdraw funds from the escrow account for specific purposes while they are participating in the FSS program, provided they have met certain interim goals as determined by HANO; and
- Upon completion of the FSS Contract of Participation, the family may receive the balance of their

escrow account. Successful completion requires that the family no longer receive welfare assistance, although they may still receive housing assistance.

23.8 ESCROW ACCOUNT

24 CFR 984.305

Generally, as the family's earnings increase over time, the escrow account is credited with a portion of the amount of increased rent they pay due to increases in earned income.

The family's Annual Income, Earned Income, and Family Rent are inserted into the Contract of Participation at execution. These become the baseline figures for future escrow calculations. HANO will take these figures from the last reexamination or interim determination before the family's initial participation in the FSS program, unless more than 120 calendar days will pass between the effective date of the reexamination and the effective date of the contract. HANO will conduct a new reexamination if more than 120 calendar days will have expired. Escrow credits are based on increase of earned income.

Other escrow account features include:

- Increases in income other than earned income do not contribute to the escrow credit;
- If additional family members are approved by HANO, their earned income is counted when computing the escrow regardless of whether they have an individual training and services plan;
- No credits will be made to the family's FSS escrow account after the FSS family has completed the Contract of Participation or when the contract is terminated or otherwise nullified; and
- Money in the escrow account may not be fully disbursed until all Contract of Participation goals are completed, or in accordance with "Interim Disbursements" policies, below.

23.8.1 Guidelines for Determining the FSS Credit for Very Low Income Families

HANO will determine the escrow credit for very-low-income families who have an increase in earned income using the calculations below:

- 30% of the current adjusted monthly income minus family rent (TTP or 30%) minus any increases in earned income since contract effective date;
- Current family rent minus family rent at contract effective date; and
- The lesser result of these two calculations is the escrow credit for a very-low-income family. If the family's adjusted annual income is below the low-income limit, but greater than the very-low-income limit, 30% of the amount by which the adjusted income exceeds the very- low-income limit is deducted from the estimated credit.

23.8.2 Guidelines for Determining the FSS Credit for Low Income Families

If the family's adjusted annual income is above the very-low income limit, but within the low-income limit, there is an additional step in the calculation.

- 30% of the current adjusted monthly income minus family rent (TTP or 30%) minus any increases in earned income since contract effective date;
- Current family rent minus family rent at contract effective date;
- The lesser result of these two calculations is the escrow credit for a very-low-income family. If the family's adjusted annual income is below the low-income limit, but greater than the very-low-income limit, 30% of the amount by which the adjusted income exceeds the very- low-income limit is deducted from the estimated credit; and

- If the family's adjusted annual income increases to more than 80% of area median income, FSS credits are no longer made.

23.8.3 Timing of the Escrow Credit Calculations

- When the family is selected for the FSS program and executes a contract of participation, HANO will enter the baseline income data into the contract;
- There will not be an escrow calculation until the family has a qualifying increase in earned income after the date of the contract;
- Thereafter, whenever HANO conducts an annual or interim reexamination during the contract, HANO will also calculate the monthly escrow credit;
- HANO will follow its Administrative Plan to determine whether an interim reexamination should be conducted, and when increases will go into effect; and
- If the family has one or more interim reexaminations during the year, the monthly escrow amount may change during the year. Otherwise, the monthly escrow credit will be the same for the entire period between annual reexaminations.

23.8.4 Crediting the Escrow Account

- HANO will deposit all escrowed credits into a single depository account;
- The IRS does not count the funds or interest on the funds in the escrow account as income for purposes of income taxes, either before or when the family actually receives the escrow;
- The total of the combined FSS account funds for families will be supported in HANO's accounting records by a subsidiary ledger. This ledger will show the balance applicable to each FSS family;
- HANO may either credit the account monthly, since interim adjustments may change the amount of the credit, or the FSS worksheet credit calculations may be added for the 12 month period and HANO may make one adjustment;
- If HANO finds that a family did not report income they were required to report, HANO will not credit the family's escrow account retroactively with any portion of the unreported income; and
- In addition, if the family committed program fraud, it is grounds for termination from the HCVP and programs, as well as the FSS program.

23.8.5 Investing the FSS Account

HANO will invest funds in the FSS account in HUD-approved investments specified in HUD Handbook REV. The investment income for funds in the FSS account will be prorated and credited to each family's FSS account. The credit will be based on the balance in each family's FSS account at the end of the investment income credit period.

Before applying the interest, HANO will verify whether:

- The owner has reported that the family has not paid rent or other amounts due under the lease;
- If the family owes these amounts, HANO will reduce the balance in the account by the amount owed before prorating the interest income. This is because the contribution to the escrow account is based on the amount of Family Rent actually paid by the family, not the amount of Family Rent charged; and
- HANO will not submit IRS form 1099 to FSS families with escrow account balances or who receive final disbursements. This is not required by the IRS.

23.8.6 Reporting on the FSS Account

- HANO will make a report, at least once annually, to each FSS family on the status of the family's FSS account; and
- HANO may opt to provide the report at the reexamination date, FSS contract anniversary date, the end of the calendar year, or any other time selected by HANO.

At a minimum, the report will include:

- The balance at the beginning of the reporting period;
- The amount of the family's rent payment that was credited to the FSS account during the reporting period;
- Any deductions made from the account for amounts due HANO before interest is distributed;
- The amount of interest earned on the account during the year; and
- The total in the account at the end of the reporting period.

23.8.7 Disbursing the FSS Account

- The amount in an FSS account, in excess of any amount owed to HANO by the FSS family, is paid to the head of the FSS family:
- When the Contract of Participation has been completed (even if the contract term has not expired); or
- Whenever the family's monthly adjusted income equals or exceeds the FMR for the unit size for which the family qualifies, based on HANO's occupancy standards (even if the five years is not up); and
- When, at contract completion, the head of the family certifies that, to the best of their knowledge and belief, no family member receives Federal or State welfare assistance.

Even if the family is welfare free for 12 consecutive months before the contract expiration date, if the family has not met its other FSS obligations (obtained employment) the family is not eligible for the escrow.

An intergenerational family whose head becomes independent of welfare assistance but whose adult daughter with a child continues to receive welfare assistance is not eligible for the escrow because ALL family members must be free of federal and state welfare assistance.

23.8.8 Use of FSS Funds

The family may use the final disbursement of escrow account funds without restriction.

An FSS family may use its FSS escrow account funds for the purchase of a home, including a home:

- Under one of HUD's homeownership programs; or
- Under other Federal, State, or local homeownership programs.

Before disbursing the funds, HANO may verify that the family is no longer receiving welfare assistance by:

- Requesting contract of participation of documents; and
- Contacting the welfare agency.

HANO cannot restrict a family's use of FSS escrow account funds withdrawn by the family unless the funds are withdrawn to aid in the completion of an interim goal.

If a family receives an advance payment from their escrow account prior to completing the contract, the advance payment does not have to be repaid to HANO if they drop out of the FSS program, unless the payment was based on fraud or misinformation by the family.

23.8.9 Interim Disbursements

Generally, only one disbursement per calendar year will be approved during the term of the Contract of Participation. Requests for interim disbursements will be considered under the following conditions:

- Requests must be made in writing; and
- The family must be in compliance with all family obligations under the Housing Choice voucher Program;

The funds are needed to complete goals in the family's Contract of Participation and Individual Training and Service Plan, including expenses for things activities or purchases as:

- School tuition (or other school costs);
- Job training expenses;
- Business start-up expenses;
- Car (when public transportation is unavailable or inaccessible to the family);
- Verification of requested amount must be provided (i.e., repair estimates, tuition bill, credit report, etc.);
- The family can verify that other resources were explored (i.e., child care assistance, federal student financial aid, etc.);
- The family has participated in the program for at least twelve months;
- The family can demonstrate completion of and/or progression toward completion of at least one interim goal; and
- All disbursements will be in the form of a check. Checks may be made payable to the agency, business, or individual providing the required product or service.

The family will be notified in writing of the approval or denial of their request.

Families denied the disbursement request may request an Informal Hearing to determine whether the decision was made in accordance with HUD regulations and the guidelines in this plan. Requests for an Informal Hearing must be made in writing in accord with informal hearing policies.

23.8.10 Final Disbursements

The participating family will receive a disbursement of their escrow funds upon successful completion of the Contract of Participation. The FSS Coordinator will meet with the family to discuss their request and the completion of their contract before processing the request. The family may use these funds for any purpose.

Final disbursements will be made under the following conditions:

- The request must be made in writing;
- The family must certify that it no longer receives any federal, state, or other public assistance. This does not include Section 8 rental assistance or transitional assistance;
- The head of household must provide verification of suitable employment; and
- Any money owed to HANO will be withheld from the total escrow amount before disbursement.

23.8.11 Forfeiting the Account

Amounts in the FSS account will be forfeited if:

- The Contract of Participation is terminated; or
- The Contract of Participation is completed but the family is receiving welfare assistance when the contract expires, including extensions.

If the head of the family dies and the remaining members of the family choose not to continue participating in the program and the contract obligations have not been met, the escrow funds would be forfeited.

If families do not pay their rents to the HCVP owner, the funds may be forfeited because:

- Compliance with the applicable HCVP lease is a family obligation under the contract; and
- Nonpayment of rent is grounds for terminating a family's FSS participation and forfeiture of the escrow.

FSS account funds forfeited by the family will be treated as program receipts for payment of program expenses under HANO's HCVP budget.

The escrow funds may be used by HANO for HUD approved expenses such as HCVP housing assistance payments.

23.9 NON-COMPLIANCE WITH FSS REQUIREMENTS

HANO will conduct regular progress reviews with the family and outside-agency case managers. If any member of the family does not meet his or her responsibilities under this contract, the family will not receive the money in its FSS escrow account and HANO may:

- Stop supportive services for the family;
- Terminate the family's participation in the FSS Program; and
- If the family is participating in the Rental Voucher Program, terminate the HCVP assistance, when allowed by HUD requirements.

Families may request an Informal Hearing after being notified of a corrective action by HANO.

23.10 TERMINATION OF THE CONTRACT OF PARTICIPATION

24 CFR 984.303

HANO will terminate the family's Contract of Participation if:

- The family and HANO agree to terminate the contract;
- HANO determines that the family has not fulfilled its responsibilities under the FSS Program;
- The family withdraws from the FSS program;
- An act occurs that is inconsistent with the purpose of the FSS program (i.e., noncompliance with the Housing Choice Voucher Program Family Obligations, fraud, or a violent or drug related criminal act);
- HANO is permitted to terminate the contract in accordance with HUD requirements;
- The family does not complete the contract prior to the expiration date; or

- The family exercises portability to a jurisdiction that does not have an FSS program or the family is not accepted into the new jurisdiction's FSS program

HANO may terminate or withhold assistance, the supportive services, and the FSS family's participation in the FSS program, if HANO determines that the FSS family has failed to comply without good cause with the requirements of the Contract of Participation.

If the head of household refuses to seek or maintain suitable employment during the term of the contract, or fails to live up to other obligations under the contract, FSS staff will work with the family to determine the cause of the problem(s). If the problem(s) cannot be addressed successfully, the family will be terminated from the FSS program, and, according to program guidelines, forfeit any money in the escrow account.

23.11 CHANGES IN FAMILY COMPOSITION

- If the FSS family head leaves the household during the term of the contract, and the remaining family members want to continue participation in the FSS program, the new head of household may be designated as the FSS head and the contract will be revised to reflect the new head of the FSS family;
- If the head of the FSS family left the family after the expiration of the contract, the contract provides for the remaining family members to designate a family member to receive the escrow;
- If any family member with an individual training and services plan leaves the assisted family during the term of the FSS contract, HANO will delete the individual training and services plan for that family member. HANO will determine whether new or revised individual training and services plans need to be established for the family to continue its participation in the FSS program;
- If the initially designated head of the FSS family or any other family member with an individual training and services plan did not meet the obligations under the contract, HANO may terminate the FSS contract or terminate assistance under the program;
- If the head of household marries, household income increases, and 30% of the family's adjusted monthly income equals or exceeds the Section 8 Existing Fair Market Rent, the family is entitled to the escrow, as long as they have met the other requirements for disbursement of the escrow; and
- If a family with two adults splits up and HANO determines that the escrow should be paid, it may be paid if the family member continuing to reside in the unit in public housing or retaining the HCVP assistance:
 - Is already head of the FSS family; or
 - Was not designated as head of the FSS family but now designates himself or herself to receive the escrow.

23.12 FSS PORTABILITY

23.12.1 Port-Ins

- HANO is not obligated to accept incoming portable FSS participants into the FSS program;
- A family participating in a HCVP FSS program must lease an assisted unit within HANO's jurisdiction for 12 months after the effective date of the FSS contract;
- The family exercising portability into the jurisdiction of the Housing Authority of New Orleans must notify HANO of their status in the FSS program;
- Incoming portable families will be given preference for acceptance into the FSS program, if slots are available; and

- After the first 12 months of HANO FSS program participation, the family may move outside the jurisdiction of HANO.

23.12.2 Port-Outs

- FSS families will not be penalized in exercising their right to portability;
- HANO will not terminate a family's assistance solely because they cannot participate in the FSS program in their new location;
- If a family is subject to termination in the FSS program because of failure to meet a contract obligation, the family will not be able to use portability moves to avoid consequences. In this case, HANO may exercise its authority to terminate the family's HCVP assistance;

After 12 months from the effective date of the contract, if a HCVP FSS family moves outside of HANO's jurisdiction under portability, HANO may take one of the following actions:

- HANO may permit the family to continue to participate in its FSS program if the family demonstrates that it can meet its FSS responsibilities in the new location;
- Coordinate the receiving housing authority's acceptance to allow the family to participate in its FSS program; or
- HANO may terminate the contract in cases where the family cannot fulfill its obligations in the new location, or if the receiving housing authority does not allow the family to participate in its FSS program. In either of these cases, the family would forfeit the funds in the escrow account.

23.12.3 Transfer to the Receiving Housing Authority's FSS Program

- A relocating family may participate in the FSS program of the receiving housing authority if approved by the receiving housing authority;
- If the receiving housing authority allows the family to participate, the receiving housing authority enters into a new contract with the family for the term remaining on the initial housing authority's FSS contract. HANO will terminate its FSS contract with the family;
- The effective date of the contract between the family and the receiving housing authority is the first day of the month following the date the contract was signed by the family and the housing authority's representative;
- The expiration date of the contract between the receiving housing authority and the family MUST be the same as the expiration date of the contract between HANO and the family; and
- The receiving housing authority must use the amounts listed for Annual Income, Earned Income, and Family Rent (TTP) on the original Contract of Participation between HANO and the family.

23.12.4 Escrow Accounts

- The initial housing authority must transfer the family's FSS escrow account balance when the family is absorbed by the receiving housing authority;
- Regardless of whether the relocating FSS family is in the initial or receiving housing authority's program, there will be a single FSS account;
- The housing authority that is responsible to pay the housing assistance for the family will maintain the escrow account; and
- If the receiving housing authority absorbs the family into its voucher program, HANO will transfer the family's FSS account to the receiving housing authority, whether or not the receiving housing authority has an existing FSS program.

23.12.5 Monitoring Status

The housing authority which is party to the FSS contract will be responsible for monitoring the family's FSS goal attainment, resource needs, and status. This will be HANO if the family remains in HANO's FSS program. It will be the receiving housing authority if the family becomes a participant in the receiving housing authority's FSS program.

23.12.6 Termination

- The housing authority that is a party to the contract and is monitoring the FSS status is responsible for determining whether the family has violated the FSS contract and whether the family's HCVP assistance should be terminated, in accordance with its FSS Action Plan policies.
- Where the family is not absorbed by the receiving housing authority, but is participating in the receiving housing authority's FSS program, HANO will abide by the termination decision of the receiving housing authority.
- If a relocating FSS family is unable to fulfill its obligations under the FSS contract, the housing authority which is party to the FSS Contract of Participation may:
 - Terminate the family from the FSS program and the family's FSS account will be forfeited; and
 - Terminate the family's HCVP assistance since the family failed to meet its obligations under the FSS contract.
- If the family's FSS account is forfeited, the funds in the account will revert to the housing authority maintaining the FSS account for the family and will be treated as program receipts.

23.13 FSS REPORTING REQUIREMENTS

HANO will submit to HUD, in the form prescribed by HUD, a report regarding the FSS program. The report will include:

- A description of the activities carried out under the program;
- A description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;
- A description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and
- Any recommendation by HANO or the local program coordinating committee for legislative or administration action that would improve the FSS program and ensure the effectiveness of the program.

GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption: In portability (under subpart H of this part 982): the point at which a receiving housing authority stops billing the initial housing authority for assistance on behalf of a portability family. The receiving housing authority uses funds available under the receiving housing authority consolidated Annual Contributions Contract.

Accessible: The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income: Annual income, less allowable HUD deductions.

Adjusted Annual Income: Same as Adjusted Income.

Administrative Fee: Fee paid by HUD to HANO for administration of the program. See 24 CFR 982.152.

Administrative Fee Reserve (formerly “operating reserve”): Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See 24 CFR 982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative Plan: The plan that describes HANO policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by HANO’s board and included as a supporting document to the HANO Plan. See 24 CFR 982.54.

Admission: The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant- based program.

Annual Contributions Contract (ACC): The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and HANO agrees to comply with HUD requirements for the program.

Annual Income: The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family): A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent: An amount that exceeds the published Fair Market Rent (FMR). See 24 CFR 982.504(b).

Assets: (See Net Family Assets.)

At risk of becoming homeless: An individual or family who:

1. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and
2. Meets one of the following conditions:
 - a. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - b. Is living in the home of another because of economic hardship;
 - c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;
 - d. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
 - e. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
 - f. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

- g. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

At serious risk of institutionalization: Includes an individual with a disability who as a result of a public entity's failure to provide community services or its cut to such services will likely cause a decline in health, safety, or welfare that would lead to the individual's eventual placement in an institution. This includes individuals experiencing lack of access to supportive services for independent living, long waiting lists for or lack of access to housing combined with community based services, individuals currently living under poor housing conditions or homeless with barriers to geographic mobility, and/or currently living alone but requiring supportive services for independent living. A person cannot be considered at serious risk of institutionalization unless the person has a disability. An individual may be designated as at serious risk of institutionalization either by a health and human services agency, by a community-based organization, or by self-identification.

Budget Authority: An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to HANO over the ACC term of the funding increment.

Child: A member of the family other than the family head or spouse who is under 18 years of age.

Child Care Expenses: Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen: A citizen or national of the United States.

Co-head: An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Consent Form: Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Continuously Assisted: An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract: (See Housing Assistance Payments Contract.)

Covered Families: Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Covered Housing Provider: For Project-Based Voucher (PBV) program, "covered housing provider," as such term is used in HUD's regulations in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) refers to the PHA or owner (as defined in 24 CFR 982.4), as applicable given the responsibilities of the covered housing provider as set forth in 24 CFR part 5, subpart L. For example, the PHA is the covered housing provider responsible for providing the notice of occupancy rights under VAWA and certification form described at 24 CFR 5.2005(a). In addition, the owner is the covered housing provider that may choose to bifurcate a lease as described at 24 CFR 5.2009(a), while the PHA is the covered housing provider responsible for complying with emergency transfer plan provisions at 24 CFR 5.2005(e).

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the people involved in the relationship

Dependent: A dependent is a family member who is either under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following people can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides.

Disability Assistance Expenses: Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled Family: A family whose head, spouse, or sole member is a person with disabilities; or two or more people with disabilities living together; or one or more people with disabilities living with one or more live-in aides.

Disabled Person: See Person with Disabilities.

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

Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile: The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-Related Criminal Activity: As defined in 42 U.S.C. 1437(f)(5).

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

Employer Identification Number (EIN): The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Environmental investigation: The process of determining the source of lead exposure for a child under age 6 with an elevated blood lead level, consisting of administration of a questionnaire, comprehensive environmental sampling, case management, and other measures, in accordance with Chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ("Guidelines").

Evidence of Citizenship or Eligible Status: The documents which must be submitted to evidence citizenship or eligible immigration status.

Extremely Low Income Family: A family will be deemed as an Extremely Low Income Family when the family's income does not exceed the higher of the following:

- 1) 30 percent of the median income as determined by HUD for Orleans Parish adjusted by the family composition size
- a) EXCEPTION: HUD may modify this requirement if determined that Orleans Parish has unusually high or low family

incomes.

2) Federal poverty level, as established by the Department of Health and Human Services.

Facility: All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act: Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair Market Rent (FMR): The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 C.F.R. part 888.

Family: Includes but is not limited to the following, and can be further defined in HANO policy:

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size);
- An elderly family;
- A displaced family;
- The remaining member of a tenant family; or
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family Rent to Owner: In the voucher program, the portion of rent to owner paid by the family.

Family Self-Sufficiency Program (FSS program): The program established by HANO to promote self-sufficiency of assisted families, including the coordination of supportive services.

Family Share: The portion of rent and utilities paid by the family.

Family Unit Size: The appropriate number of bedrooms for a family, as determined by HANO under HANO subsidy standards.

Federal Agency: A department of the executive branch of the Federal Government.

Foster Child Care Payment: Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-Time Student: A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

Funding Increment: Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for HANO program.

Gross Rent: The sum of the rent to owner plus any utility allowance.

Handicap: Any condition or characteristic that renders a person an individual with handicaps.

Handicap Assistance Expense: See "Disability Assistance Expense."

HAP Contract: Housing assistance payments contract. (Contract). A written contract between HANO and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of Household: The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Homeless:

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
 - c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
2. An individual or family who will imminently lose their primary nighttime residence, provided that:
 - a. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - b. No subsequent residence has been identified; and(iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith based or other social networks, needed to obtain other permanent housing;
3. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 - a. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - b. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - c. Have experienced persistent instability as measured by two moves or more during the 60- day period immediately preceding the date of applying for homeless assistance; and
 - d. Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
4. Any individual or family who:
 - a. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
 - b. Has no other residence; and
 - c. Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

Housing Assistance Payment: The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing Agency (HA): A state, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

Housing Quality Standards: The HUD minimum quality standards for housing assisted under the voucher program.

HUD: The Department of Housing and Urban Development.

Immediate Family Member: A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed Asset: Asset disposed of for less than Fair Market Value during two years preceding examination or recertification.

Imputed Income: HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

Imputed Welfare Income: An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income: Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for Eligibility: Annual Income.

Income Information: means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources;
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law;
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received;
- Unearned IRS income and self-employment, wages and retirement income; and
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with Handicaps: Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Initial Housing Authority (HA): In portability, the term refers to both: (1) A housing authority that originally selected a family that later decides to move out of the jurisdiction of that housing authority; and (2) A housing authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing housing authority.

Initial Payment Standard: The payment standard at the beginning of the HAP contract term.

Initial Rent to Owner: The rent to owner at the beginning of the HAP contract term.

Institutional or other segregated settings: Include, but are not limited to:

1. congregate settings populated exclusively or primarily with individuals with disabilities;
2. congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or
3. Settings that provide for daytime activities primarily with other individuals with disabilities.

Jurisdiction: The area in which HANO has authority under State and local law to administer the program.

Landlord: Either the owner of the property or their representative or the managing agent or their representative, as shall be designated by the owner.

Lease: A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and HANO.

Live-In Aide: A person who resides with one or more elderly persons or persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference: A preference used by HANO to select among applicant families.

Low Income Family: A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured Home: A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see 24 CFR 982.620 and 24 CFR 982.621.

Medical Expenses: Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Minor: A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed Family: A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly Adjusted Income: One twelfth of adjusted income.

Monthly Income: One twelfth of annual income.

National: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Net Family Assets: (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under 24 CFR 5.609.

In determining net family assets, HANO or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Non-Citizen: A person who is neither a citizen nor national of the United States.

Non-elderly person with disabilities (for purposes of determining eligibility under HANO's preference): A person 18 years of age or older and less than 62 years of age, and who:

1. Has a disability, as defined in 42 U.S.C. 423;
2. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - a. Is expected to be of long-continued and indefinite duration;
 - b. Substantially impedes his or her ability to live independently, and
 - c. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - d. Has a developmental disability as defined in 42 U.S.C. 6001.

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

HANO Plan: The annual plan and the 5-year plan as adopted by HANO and approved by HUD.

HANO's Quality Control Sample: An annual sample of files or records drawn in an unbiased manner and reviewed by a HANO supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements.

Participant (participant family): A family that has been admitted to the HCV program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by HANO for the family (first day of initial lease term).

Payment Standard: The maximum monthly assistance payment for a family assisted in the Voucher program (before deducting the total tenant payment by the family).

People with Disabilities: A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for people with disabilities, means and "individual with handicaps" as defined in 24 C.F.R. 8.3. Definition does not exclude people who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps."

Portability: Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial HA.

Premises: The building or complex in which the dwelling unit is located, including common areas and grounds.

Project: For the purposes of PBV, a single building, multiple contiguous buildings, or multiple buildings on a contiguous parcel of land. If a single building(s) is project-based, the HAP contract must be for just that single building, with the exception of single family scattered site projects.

Project Owner: The person or entity that owns the housing project containing the assisted dwelling unit.

Public Assistance: Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA): Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

PHA-Owned Units: A unit is "owned by a public housing agency" only if the unit is in a project that is one of the following categories:

1. Owned by a PHA.

2. Owned by an entity wholly controlled by the PHA.
3. Owned by a Limited Liability Company (LLC) or Limited Partnership (LP) in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner. A “controlling interest” is:
 - a. Holding more than 50% of the stock of any corporation;
 - b. Having the power to appoint more than 50% of the members of the board of directors of a non-stock corporation (such as a non-profit corporation);
 - c. Where more than 50% of the members of the board of directors of any corporation also serve as directors, officers, or other employees of the PHA;
 - d. Holding more than 50% of all managing member interest in an LLC;
 - e. Holding more than 50% of all general partner interests in a partnership; or
 - f. Equivalent levels of control in other organizational structures.

Reasonable Rent: A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Receiving Housing Authority (HA): In portability: A housing authority that receives a family selected for participation in the tenant-based program of another housing authority. The receiving housing authority issues a Voucher and provides program assistance to the family.

Reexamination: Sometimes called recertification. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining Member of Tenant Family: Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to Owner: The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Responsible Entity: For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means HANO administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Risk assessment:

- (1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and
- (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards

Section 8: Section 8 of the United States Housing Act of 1937.

Section 8 Covered Programs: All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214: Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 Covered Programs: is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security Deposit: A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Shared Housing: A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see 24 CFR 982.615 to 24 CFR 982.618.

Single Person: A person living alone or intending to live alone.

Single Room Occupancy Housing (SRO): A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see 24 CFR 982.602 to 24 CFR 982.605.

Social Security Number (SSN): The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special Admission: Admission of an applicant that is not on the HANO waiting list or without considering the applicant's waiting list position.

Special Housing Types: See subpart M of part 24 CFR 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Spouse: The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA): The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy Standards: Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Substantially Comply with HQS: The unit must have no life threatening or emergency findings that cause the unit to fail and must have no more than five non-life threatening items that fail upon initial inspection.

Suspension: Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If HANO decides to allow extensions or suspensions of the Voucher term, HANO Administrative Plan must describe how HANO determines whether to grant extensions or suspensions, and how HANO determines the length of any extension or suspension. This practice is also called "tolling."

Tenancy Addendum: For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant: The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant Rent to Owner: See "Family rent to owner."

Term of Lease: The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP): The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Tuition: The amount of money charged to students for instructional services which may be charged per term, per course, or per credit. (PIH Notice 2015-21)

Tuition and Fees: The amount of tuition and required fees covering a full academic year most frequently charged to students. Required fees include all fixed sum charges that are required of a large proportion of all students. Examples of required fees include, but are not limited to writing and science lab fees and fees specific to a student's major or program. Expenses related to attending an institution of higher education must not be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges (PIH Notice 2015-21).

Unit: Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility Allowance: If the cost of utilities (except telephone) and other housing services for an assisted unit is not included

in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the lesser of the size of dwelling unit actually leased by a family or the voucher size unit issued to the family based on an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility Reimbursement: In the Voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Very Low Income Family: A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice Voucher program.

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

Voucher (Housing Choice Voucher): A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for HANO approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher Holder: A family holding a voucher with an unexpired term (search time).

Voucher Program: The housing choice voucher program.

Waiting List Admission: An admission from the HANO waiting list.

Welfare Assistance: Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103(b)), “welfare assistance” includes only cash maintenance payments from federal or state programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

GLOSSARY OF ACRONYMS

Acronym	Phrase
ACC	Annual Contributions Contract
ADA	Age Discrimination Act of 1975
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CDC	Community Development Corporation
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CIR	Client Information Report
ESS	Economic Self Sufficiency
FHA	Federal Housing Administration
FMR	Fair Market Rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal Year
HA	Housing Authority
HAP	Housing Assistance Payment
HCVP	Housing Choice Voucher Program
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
IRS	Internal Revenue Service
ITSP	Individual Training Services & Training Plan
JTPA	Job Training Partnership Act
LEP	Limited English Proficiency
MOU	Memorandum of Understanding
NCIC	National Crime Information Center
PB	Project Based

Acronym	Phrase
PHA	Public Housing Agency
PIH	(HUD Office of) Public and Indian Housing
PS	Payment Standard
QC	Quality Control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
RFP	Request For Proposals
RFTA	Request For Tenancy Approval
SHI	Special Housing Initiative
SRO	Single Room Occupancy
SSA	Social Security Administration
SSI	Supplemental Security Income
TANF	Temporary Assistance For Needy Families
TTP	Total Tenant Payment
UA	Utility Allowance
USCIS	United States Citizenship and Immigration Services
VAWA	Violence Against Women Reauthorization Act of 2013

FAIR HOUSING APPENDIX: REASONABLE ACCOMMODATION POLICY

HOUSING AUTHORITY OF NEW ORLEANS (HANO) REASONABLE ACCOMMODATION POLICY

INTRODUCTION

It is HANO's policy to provide a "reasonable accommodation" in housing for applicants and residents with disabilities where an accommodation is necessary to provide them with an equal opportunity to use and enjoy housing. This policy is in furtherance of HANO's goal of providing affordable housing to low income people regardless of disability and in compliance with applicable federal, state, and local laws.

A "reasonable accommodation" is a modification or change that HANO can make to its procedures and rules or to the person's dwelling or common area which would assist an otherwise eligible person with a disability to benefit from housing, provided that the change does not pose an undue financial and administrative burden to HANO or result in a fundamental alteration of its program. A reasonable accommodation request may also seek the allowance of retroactive relief (e.g., reinstatement of an individual with a disability to the waiting list where he or she did not respond to an update notice for reasons related to the disability.)

The Reasonable Accommodation Procedures (RAP) outlined herein apply to HANO applicants and residents who are qualified "individuals with a disability"¹ as set forth below. HANO may require reliable documentation or verification of the disability detailing that the individual needs the accommodation, and that the accommodation is likely to provide assistance to the individual. HANO will thoroughly and promptly consider any request for a reasonable accommodation, and will explain the basis for any denial to the requester if applicable. In the course of evaluating and responding to a reasonable accommodation request, HANO will seek to engage in a process of dialogue and joint problem solving with applicants and residents.

A request for a reasonable accommodation shall be granted when the following three requirements are met: (1) the subject of the request is a qualified "individual with a disability;" (2) the requested accommodation is necessary, because of the disability, to provide an equal opportunity to use and enjoy the housing, and (3) the requested accommodation is reasonable. A request shall be considered "reasonable" if it does not create an undue financial and administrative burden or constitute a fundamental alteration in the nature of the housing program.

The determination of whether a requested accommodation constitutes an undue financial and administrative burden or a fundamental alteration in the housing program shall be made on an individual case basis, taking into consideration the circumstances and resources available at the time of the decision. The fact that granting an accommodation for one person could set a precedent that other requesters might follow shall not constitute a sufficient basis for determining that a particular accommodation constitutes an undue financial and administrative burden or fundamental alteration in the program.

HANO must establish that any alternative accommodation it proposes, if the original proposed accommodation cannot be approved, is effective in removing the barriers to a disabled person's equal housing opportunity. If there are several different accommodations that would be effective in meeting the need of the disabled person, HANO may select the accommodation which is most convenient and cost effective for HANO, provided that there is no significant detrimental impact on the disabled person which directly relates to their disability.

If a requested accommodation is unlikely to provide the disabled individual with an equal opportunity to use and enjoy the housing, HANO need not grant that accommodation.

¹ For purposes of these Reasonable Accommodation in Housing Procedures and the policy guidelines, the preferred term "disability" includes with its scope the term "handicap."

POLICY GUIDELINES

The following policy guidelines shall be in effect for assessing requests for reasonable accommodation by HANO applicants and residents with disabilities. The guidelines are not intended to be an exhaustive compilation of rules or policies governing assessment by HANO. If any conflicts exist or arise between these guidelines and guidance issued by the U.S. Department of Housing and Urban Development, or existing or future statutes, regulations, or other legal requirements, HANO shall follow the other requirements. The term "applicant" as used in these guidelines only refers to the individual requesting a reasonable accommodation, whether the person is applying for residency or is already a resident.

I. GENERAL PRINCIPLES

- A. HANO will assume as an initial matter that the information the person provides regarding their own needs is accurate and the method proposed for accommodating those needs is the most appropriate one to pursue. HANO may seek documentation and/or other verification of the effect of the disability on the person and the method(s) proposed to accommodate it. HANO may also seek expert advice from medical or other professionals as to the needs of the person in question and alternative methods of accommodating those needs.
- B. Procedures for evaluating requests for reasonable accommodation and responding to those requests should take place in the context of a cooperative relationship between HANO and the applicant. The process is not an adversarial one.
- C. Reasonable accommodation shall be focused on the individual and designed to address each person's situation.

II. PROCEDURES

- A. HANO has developed and implemented procedures through which individuals may request a reasonable accommodation. The process for making such requests shall be accessible to all people.
- B. Notice of the option to request a reasonable accommodation shall be made available to all applicants and residents.
- C. Any meetings that must be held concerning an applicant's request for a reasonable accommodation shall be held in a location accessible to the applicant.
- D. Decisions on requests for reasonable accommodation shall be made within thirty (30) days after the date on which the application is complete. If HANO requests that an applicant supply additional information that is necessary to make a decision, the applicant should provide the requested information or otherwise respond to HANO's request within a reasonable time period.
- E. If HANO denies a request for a reasonable accommodation, it must explain to the applicant, in writing, the basis for its decision.
- F. HANO shall keep written records in resident or applicant files of its decisions to grant or deny any request for reasonable accommodation for a period of no less than three (3) years from the date of the request.
- G. HANO shall, consistent with applicable laws, develop procedures for keeping information supplied by the applicant related to the applicant's disability confidential and available only to people within HANO who are directly involved in decisions regarding the request.

III. ASSESSMENT OF REQUESTS

- A. In assessing requests for reasonable accommodation HANO shall consider the factors set forth below in making its determination of whether or not to grant the request. If at any stage in the assessment process HANO determines that it requires additional information from the applicant, HANO shall so inform the

applicant in writing. HANO may include in its written communication to the applicant notice of a reasonable deadline for submission of the information. Under no circumstances shall HANO deny a request for reasonable accommodation based on a lack of sufficient information without first informing the applicant of its need for additional information and affording the applicant a reasonable opportunity to provide it.

B. Determinative Factors:

- Whether the applicant is a qualified “individual with a disability;”
- Whether the requested accommodation is related to the disability;
- Whether the requested accommodation is “reasonable.” A request for an accommodation shall be considered to be “reasonable” as long as it does not create an undue financial hardship and administrative burden or constitute a fundamental alteration in a housing program;
- The determination of whether an accommodation constitutes an undue financial and administrative burden shall be made on a case by case basis, taking into account the circumstances and resources available at the time of the decision;
- If granting the requested accommodation would create an undue financial and administrative burden, HANO shall comply with the request to the extent it can do so without undergoing undue burden(s) as described above;
- If granting the requested accommodation would constitute a fundamental alteration in the housing program, HANO may deny the request; or
- If there are a number of different accommodations that would satisfy the needs of the person with the disability, HANO may select the option which is most convenient and cost effective.

I. COMMUNICATIONS WITH DISABLED APPLICANTS OR RESIDENTS

- A. HANO shall take appropriate steps to ensure effective communication with applicants and residents who are disabled. If an applicant or resident requests a reasonable extension of any deadline because of a delay in providing effective communication, such a request shall be granted.
- B. HANO shall prepare documents in clear and simple language, to the extent possible, to assist people with learning and cognitive disabilities. If requested, HANO staff will explain written material verbally, and possibly more than once, and if necessary assist the individuals or obtain assistance for them in filling out any necessary forms.
- C. HANO will take appropriate steps to ensure that all people with a disability who are eligible for a housing program are provided with the information necessary to participate in the program.
- D. If an applicant or resident with a disability so requests, HANO will permit an advocate, friend or service provider to assist the person at any meetings, conferences or interviews. Upon request of an applicant or resident with a disability, HANO will arrange to send a copy of any HANO notice to an authorized third party representative as well as to the applicant or resident.

II. NOTICE TO HANO EMPLOYEES AND TRAINING

- A. All current HANO employees shall be advised of HANO's Reasonable Accommodation Procedures and their responsibilities there-under. New employees shall be similarly advised at the commencement of their employment.
- B. All employees in management positions and all persons working in the HCVP Department, Admissions, Portability, and Asset Management shall receive a full copy of the RAP and shall sign an acknowledgment form within 14 days of receipt.
- C. HANO shall provide a training program on the RAP for HANO management and staff of the HCVP Department, Asset Management, Portability and Admissions, and any other HANO employees responsible for implementing the RAP, which focuses on identifying, determining, and implementing appropriate reasonable accommodations for individuals with disabilities, within six months of adoption and implementation by HANO of the RAP. Each employee shall sign in at each session acknowledging his or her participation. New HANO employees in the offices listed above and any other employees who will have implementation responsibility under the RAP shall also be required to undertake the training, within 3 months of the commencement of employment.
- D. HANO's Human Resources Department will maintain records of all HANO employees who have participated in the RAP training program.
- E. The staff identified above in subsection C shall attend annual fair housing training, which shall include training on the RAP. The training shall be arranged through the United States Department of Housing and Urban Development, New Orleans Office. Such training will consist of a two-hour session facilitated by senior staff members of HUD's Fair Housing and Equal Opportunity Division.

REASONABLE ACCOMMODATION REQUEST PROCEDURES

HOUSING AUTHORITY OF NEW ORLEANS (HANO)

I. APPLICANTS

- A. All prospective applicants for housing shall be informed at the Applicant Eligibility Screening Interview of their right to request a reasonable accommodation for a disability from HANO.
- B. Upon request made to the HCVP Department, any applicant shall be provided with a Request for Reasonable Accommodation form.
- C. If an applicant requires assistance in filling out the Request, he or she shall contact the HANO 504 Coordinator or their designee, and arrangements will be made to assist the applicant.

II. RESIDENTS

- A. Upon request made, any resident shall be provided with the Request for Reasonable Accommodation form. It is the responsibility of the resident to request a reasonable accommodation; however, HANO must inform the resident of their right to request a reasonable accommodation in any appointment letter or notification of adverse action by HANO.
- B. A resident may request reasonable accommodation for disability at any point during their tenancy. In addition, there is no limit on the number of reasonable accommodation requests a resident may make or that HANO may be required to provide.
- C. If a resident requires assistance in filling out the Request form, they shall contact the Housing Supervisor and arrangements will be made to assist the resident.

III. ASSESSMENT OF A REASONABLE ACCOMMODATION REQUEST

- A. When the request for Reasonable Accommodation is received by the HCVP Department, it shall be promptly forwarded to the 504 Coordinator's designee for review and entered in the Reasonable Accommodation log. Once the requested information and/or verification is obtained and reviewed, the 504 Coordinator shall make his or her recommendation on denial or approval of the request.
- B. Where the 504 Coordinator believes that a meeting with an applicant requesting reasonable accommodation would be useful in evaluating the request, they shall inform the applicant in writing as soon as practicable and identify the issue(s) involved.
- C. The 504 Coordinator may request in writing that an applicant provide documentation from a medical or rehabilitation professional or expert, or non-medical service agency whose function is to provide services to the disabled, which verifies that the applicant has a qualifying disability and that the accommodation requested is necessary because of that disability. The 504 Coordinator shall include a reasonable deadline for submission of that verification but not less than 20 days from the date of the letter. This information may be provided either directly by the verification source to HANO or through the applicant to HANO. If the information is provided through the applicant to HANO, the 504 Coordinator will contact the knowledgeable professional directly to confirm the information provided. The verification source shall be a person with appropriate credentials and current knowledge of the applicant's disability who is able to make an informed judgment based on that knowledge.
- D. All information submitted to HANO concerning the request shall be kept confidential and used solely to make a determination on the reasonable accommodation request.

IV. DECISION ON AN APPLICANT'S REASONABLE ACCOMMODATION REQUEST

- A. The decision on an applicant's request for Reasonable Accommodation shall be made by the 504 Coordinator within 30 days after the date upon which the request is submitted, or if applicable within 30

days after the date upon which any additional information or verification reasonably necessary for his or her decision is provided.

- B. Any denial of an applicant's request for reasonable accommodation shall explain to the applicant in writing the basis for the decision and shall inform any resident of his or her right to file a fair housing complaint with the Department of Housing and Urban Development (HUD).
- C. Any approval or conditioned approval of an applicant's request for reasonable accommodation shall be communicated in writing to the applicant. It shall describe the accommodation that will be provided, including any terms, conditions and performance expectations that would be subject to the applicant's agreement, and shall indicate the date for implementation, which shall be as soon as practicable.

V. EFFECT OF GRANTING REASONABLE ACCOMMODATION REQUEST

- A. Persons receiving a reasonable accommodation may self-certify that the reasonable accommodation remains necessary by means of a signed declaration pursuant to Section 9.9 of the Administrative Plan.
- B. The 504 Coordinator will inform persons receiving a reasonable accommodation on the basis of a permanent disability that they may re-certify the need for the accommodation by signing a declaration.
- C. Persons whose signed declaration of a continuing need for reasonable accommodation constitutes fraud may be subject to the termination of assistance pursuant to Section 18.5 of the Administrative Plan.
- D. HANO will not change or discontinue a particular method of providing a reasonable accommodation without giving notice, hearing, and other rights as provided in Section 18.5 of the Administrative Plan.
- E. Before changing or discontinuing a reasonable accommodation, HANO will determine whether the applicant's file suggests a valid, alternative basis for the accommodation.

VI. THIRD PARTY REPRESENTATIVES

- A. Any individual with a disability who makes a reasonable accommodation request may authorize a third party representative to act on his or her behalf in dealing with HANO or with verification services on the request.
- B. Upon presentation of appropriate authorization, a third party representative may fill out and sign the Request for Reasonable Accommodation form for an individual with a disability.

ELIGIBILITY APPENDIX: VIOLENCE AGAINST WOMEN ACT PROTECTIONS

Violence Against Women Reauthorization Act of 2013

The definitions applicable to VAWA 2013 are the following:

DOMESTIC VIOLENCE: The term domestic violence includes felony or misdemeanor crimes of violence committed by an affiliated individual under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

DATING VIOLENCE: The term dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the persons involved in the relationship.

SEXUAL ASSAULT: Means, any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

STALKING: Means:

- To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
- To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
- In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to:
 1. That person;
 2. A member of the immediate family of that person; or
 3. The spouse or intimate partner of that person.

AFFILIATED INDIVIDUAL: Means, with respect to a person:

1. A spouse;
2. Parent;
3. Brother or sister;
4. Child of that person;
5. Individual to whom that person stands in the position or place of a parent or guardian; or
6. Any individual, tenant, or lawful occupant living in that person's household.

SATISFACTORY IMMIGRATION STATUS: Means, an immigration status which does not make the individual ineligible for financial assistance.

VAWA SELF-PETITIONER: Means, a person who claims to be a victim of "battery or extreme cruelty."

PROHIBITION AGAINST DENIAL OR TERMINATION OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING.

Applicants who otherwise qualify for assistance or admission will not be denied admission on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. VAWA 2013 does not limit HANO's authority to deny assistance to an individual or family that is not otherwise qualified or eligible for assistance.

Criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, engaged in by an affiliated individual will not be the basis for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, sexual assault or stalking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

Notwithstanding the foregoing, HANO may exercise its authority to terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Further, HANO retains its authority to terminate the tenancy of any tenant if HANO concludes that there is an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not terminated from assistance. VAWA 2013 does not limit HANO's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

HANO CONFIDENTIALITY REQUIREMENTS – VAWA 2013

All information provided to HANO regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure is:

- Requested or consented to by the individual in writing;
- Required for use in an eviction or termination proceeding; or
- Otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HANO will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER VAWA 2013

HANO will provide applicants and tenants with the notifications described in this section of their protections and rights under VAWA.

HANO will include in all notices of denial a statement explaining the protection against denial provided by VAWA.

HANO will include in all lease termination notices a statement explaining the protection against termination provided by VAWA.

HANO acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (i.e., a poor credit history, non-payment of rent, a record of previous damage to an apartment/Public Housing unit, a prior/current arrest record) that would warrant denial or termination under HANO's policies.

Therefore, if HANO makes a determination to deny admission to an applicant family or terminate assistance to a resident family, HANO will include in its notice of denial/termination:

- A statement of the protection against denial provided by VAWA 2013;
- A description of HANO confidentiality requirements; and
- A request that an applicant/head of household wishing to claim this protection submit to HANO documentation meeting the specifications outlined in this Administrative Plan with a request for an informal review or hearing, whichever is applicable.

VICTIM DOCUMENTATION – DENIALS AND TERMINATIONS

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking must provide the following documentation:

- Demonstrating the connection between the abuse and the unfavorable history; and
- Naming the perpetrator of the abuse on the HUD 50066 only if the name of the perpetrator is safe to provide and is known to the victim.

When a family is facing assistance termination because of the actions of an affiliated individual and a participant or immediate family member of the tenant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault, or stalking, HANO will require the individual to submit documentation affirming that claim including one of three methods for certification of a claim:

- A completed HUD form 50066; and/or
- A Federal, State, tribal or territorial or local police or court record; and/or
- Documentation signed and attested to by a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, sexual assault, or stalking has signed or attested to the documentation.

Individuals or families claiming that they are a victim of domestic violence, dating violence, sexual assault, or stalking may obtain a HUD form 50066 from designated HANO locations.

TIME FRAME FOR SUBMITTING DOCUMENTATION

APPLICANT

The applicant must submit the required documentation with her or his request for an informal review within fourteen (14) business days of HANO's notification of denial of admission or must request an extension in writing at that time. If the applicant so requests, HANO will grant an extension of fourteen (14) business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant HANO determines that the family is eligible for assistance, no informal review will be scheduled and HANO will proceed with admission of the applicant family.

TENANT

The tenant must submit the required certification and supporting documentation to HANO within 14 business days after HANO issues the Notice of Termination. The 14-day deadline may be extended at HANO's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or within the approved extension period, HANO may proceed with denial or termination of assistance.

If HANO can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, HANO will bypass the standard process and proceed with the immediate termination of the family's assistance.

PERPETRATOR DOCUMENTATION

If the perpetrator of the abuse is an affiliated individual, the applicant/Head of Household must provide additional documentation consisting of one of the following:

- (i). A signed statement requesting that the perpetrator be removed from the application or household and certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit; or
- (ii). Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider

or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Perpetrator documentation must be submitted to HANO within the same timeframe as victim documentation.

TERMINATING TENANCY OF A DOMESTIC VIOLENCE OFFENDER

This section does not provide protection for perpetrators of domestic violence, dating violence, sexual assault, or stalking. HANO may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. This authority supersedes any local, State, or other Federal law to the contrary. However, if HANO chooses to exercise this authority, HANO will follow any procedures prescribed by HUD or by applicable local, State, or Federal law regarding termination of assistance.

When the actions of a participant or other family member result in a decision to terminate the family's assistance and another family member claims that the actions involve criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, HANO will request that the victim submit the required certification and supporting documentation in accordance with the stated timeframe. If the certification and supporting documentation are submitted within the required timeframe, or any approved extension period, HANO will terminate the offender's assistance. If the victim does not provide the certification and supporting documentation, as required, HANO will proceed with termination of the family's assistance.

If HANO can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, HANO will bypass the standard process and proceed with the immediate termination of the family's assistance.

TRANSFERS AND PORTABILITY UNDER VAWA

In its reasonable discretion, HANO may provide a Voucher and allow a family to move in violation of its lease if the family has complied with all other obligations of the Voucher program and has moved out of the assisted unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believes that he or she is imminently threatened by harm from further violence if he or she remains in the assisted unit.

**ELIGIBILITY APPENDIX: DETAILED DEFINITIONS RELATED TO
DISABILITIES**
(24 CFR 5.403)

PERSON WITH DISABILITIES

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
- Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*
- In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) In General:

The term *developmental disability* means a severe, chronic disability of an individual that:

- i. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- ii. Is manifested before the individual attains age 22;
- iii. Is likely to continue indefinitely; and
- iv. Results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - I. Self-care;
 - II. Receptive and expressive language;
 - III. Learning;
 - IV. Mobility;
 - V. Self-direction;
 - VI. Capacity for independent living;
 - VII. Economic self-sufficiency; and
- v. Reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for people with disabilities, the term person with disabilities refers to an individual with handicaps.

INDIVIDUAL WITH HANDICAPS

[24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

- (1) Physical or mental impairment includes:
 - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
 - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) Major life activities means:
 - (a) Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means:
 - (a) Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) Is regarded as having an impairment means:
 - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
 - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
 - (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

ELIGIBILITY APPENDIX: DEFINITION OF INSTITUTION OF HIGHER EDUCATION

[20 U.S.C. 1001 and 1002]

ELIGIBILITY OF STUDENTS FOR ASSISTED HOUSING UNDER SECTION 8 OF THE U.S. HOUSING ACT OF 1937; SUPPLEMENTARY GUIDANCE NOTICE [FEDERAL REGISTER, APRIL 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of “Institution of Higher Education” From 20 U.S.C. 1001

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that:
 - (1) Admits as regular students only people having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
 - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
 - (3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
 - (4) Is a public or other nonprofit institution; and
 - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre- accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes:
 - (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
 - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students people who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

DEFINITION OF “INSTITUTION OF HIGHER EDUCATION” FROM 20 U.S.C. 1002

- (a) Definition of institution of higher education for purposes of student assistance programs;
 - (1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title:

- (A) A proprietary institution of higher education (as defined in subsection (b) of this section);
- (B) A postsecondary vocational institution (as defined in subsection (c) of this section); and
- (C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless:

(i) In the case of a graduate medical school located outside the United States:

(I) (aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not people described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall:

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition

of an institution of higher education in paragraph (1) if such institution:

- (A) Offers more than 50 percent of such institution’s courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;
 - (B) Enrolls 50 percent or more of the institution’s students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;
 - (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree, or an associate’s degree or a postsecondary diploma, respectively; or
 - (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree or an associate’s degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if:
- (A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution’s management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or
 - (B) The institution, the institution’s owner, or the institution’s chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
- (5) Certification. The Secretary shall certify an institution’s qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
- (6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.
- (b) Proprietary institution of higher education
- (1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that:
 - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
 - (B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;
 - (C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;
 - (D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary

pursuant to part G of subchapter IV of this chapter;

- (E) Has been in existence for at least 2 years; and
 - (F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.
- (2) Additional institutions. The term "proprietary institution of higher education" also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students people who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) Postsecondary vocational institution.
- (1) Principal criteria. For the purpose of this section, the term "postsecondary vocational institution" means a school that—
 - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
 - (B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
 - (C) Has been in existence for at least 2 years.
 - (2) Additional institutions. The term "postsecondary vocational institution" also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students people who are beyond the age of compulsory school attendance in the State in which the institution is located.