DRAFT

HOUSING ACCESS VOUCHER PROGRAM PILOT

Administrative Plan

Version 2025-1

August 28, 2025

TABLE OF CONTENTS

1. INTRODUCTION: ABOUT THIS ADMINISTRATIVE PLAN

The authority for this Administrative Plan is derived from the 2025 New York State Budget Appropriations Bill, Part CCC. This budget bill, which will be called "the Act" for the remainder of this Administrative Plan, amended the Public Housing Law by adding Article 14-A, which is the Housing Access Voucher Pilot Program ("HAVPP").[1] HAVPP is a temporary, four-year pilot program which is intended to provide housing assistance to individuals and families who are homeless or at imminent risk of becoming homeless. New York State Homes and Community Renewal ("HCR") is designated to administer HAVPP funds, working through the Housing Trust Fund Corp ("HTFC"). HCR is utilizing Local Administrators ("LAs") to deliver the program on a regional basis. All applicants for HAVPP must be referred by the County, or local, Department of Social Services or by another designated entity. The entity making the referral will assign a Point of Contact ("POC") to assist the LA and the family in applying for assistance.

This Administrative Plan applies only to HAVPP vouchers administered by HTFC and its LAs. It does not apply to vouchers suballocated to and administered by the New York City Dept. Of Housing Preservation and Development.

2. SELECTION AND ELIGIBILITY

2.1 INTRODUCTION

HCR shall contract with LAs. The rules articulated here will, in many ways, mirror HCR's existing Administrative Plan for federal Housing Choice Voucher ("HCV") assistance. However, certain rules have been modified because either: 1. The Act requires components that deviate from the federal program; or 2. HCR is seeking to expedite or streamline a process to ensure that applicants meet eligibility requirements and access assistance in a timely manner.

To that end, HCR shall execute a Memorandum of Understanding ("MOU") with the New York State Office of Temporary and Disability Assistance ("OTDA") to identify Points of Contact at County, or local, Departments of Social Services, federally designated Continuums of Care, and other state and local agencies, for the purposes of generating qualified referrals and providing the amounts of available public assistance to determine a family's initial eligibility for assistance from HAVPP.

HCR shall also execute an MOU with the New York State Dept. of Labor to share data for the purposes of verifying a family's income.

2.2 ESTABLISHING AND MAINTAINING THE REFERRAL LIST

Unlike the HCV program, potential applicants to HAVPP must be referred by the county Department of Social Services ("DSS") in the county where the applicant resides or is

[1] The text of this law is available at https://www.nysenate.gov/legislation/laws/PBG/A14-A.

most commonly, currently sheltering. The referring entity shall designate a Point of Contact ("POC"), who shall enter a Referral and Initial Eligibility Form ("RIEF") using the designated on-line Referral Portal during the specified referral period only. No RIEFs will be accepted unless entered by the POC or other designated entity unless otherwise stipulated by HCR.

HCR shall inform the LA via written guidance as to when the referral period will commence and close for each County. HCR reserves the right to open the referral list either for each preference category individually, or for two or all three preferences simultaneously (for preference categories. Once the referral period closes, the LA shall not accept RIEFs unless instructed by HCR to re-open the referral list. No paper applications will be accepted; all RIEFs shall be entered in the HCR Referral Portal.

It is anticipated that the referral list will be opened at least twice during the four-year pilot, for four weeks at a time. However, HCR may authorize the LA, in consultation with OTDA, to open the referral list more often, extend the open period, or to leave the portal open on an ongoing basis where insufficient referrals exist to fully utilize the voucher allocated for that county. The LA shall notify the POC in writing whenever the referral list is being opened or closed.

If the LA does not receive sufficient RIEFs from the POC, then HCR may designate other entities serving that County to provide referrals. These other entities may include the local Continuum of Care, or another government or nonprofit entity recommended by either the LA, HCR or OTDA.

The job of the POC in completing the RIEF shall be to:

1. Provide the name and age of the head of household and each household member who will reside within the unit once a voucher is issued;
2. Obtain a release form from the head of household to share data with HCR and its LA for the exclusive purpose of qualifying for HAVPP assistance;
3. Certify that the household is homeless or at imminent risk of being homeless;
4. Certify that the household meets the statutory income limit;
5. Provide the public assistance budget printout, inclusive of the total gross income and public assistance for the household and for each household member for the initial certification, eligibility determination and subsidy calculation;
6. Assist the LA in collecting any other relevant documents needed to qualify for assistance and issue a voucher; and
7. Provide contact information of head of household and a backup contact in the event the LA cannot reach the head of household

2.2.1 Reporting Changes in Family Circumstances

While the family is on the referral list, the family or the POC must immediately (within 10 business days) inform the LA of changes in contact information, including current residence, mailing address, email address, and phone number. The changes must be submitted either through the designated online process or in writing to the LA.

2.2.2 Updating the Referral List

All referral lists will be updated at least annually to ensure that all applicants and applicant information is current and timely.

To update the referral list, the LA will send an update request via email and text message to each family on the referral list and to the POC to determine whether the family continues to be interested in, and qualifies for, the program. T. While the family is on the referral list, the family/POC must log onto the online portal and update within 15 business days of changes in contact information, including current residence, mailing address, email address, and phone number. The changes must be submitted either through the designated online portal or in writing to the LA.

If an email address is “returned to sender” or phone number is disconnected, a second update request will be sent to the address on file via U.S. mail. This update request will provide a new deadline by which the family must respond and will state that failure to log onto the online portal and update their information will result in the applicant’s name being removed from the referral list. If the notice is returned by the post office with no forwarding address, the applicant will be removed from the referral 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. The family will have 15 business days to respond from the date the letter was re-sent.

If the family or the POC fails to respond by the stated deadline, the family will be removed from the referral list without further notice. If a family is removed from the referral list for failure to respond, the LA may reinstate the family if it is determined that the lack of response was due to LA error, or to circumstances beyond the family’s control.

If a family requires assistance in updating application information, the family may contact the LA in person, by phone, by mail, or by email, and request assistance. The LA will then update the family’s application based on information provided by the family.

2.2.3 Removal from the Referral list

If at any time an applicant family is on the referral list, the LA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the referral list.

If a family is removed from the referral list because the LA has determined the family is not eligible for assistance, a notice will be sent to the family’s address of record as well as to any alternate address provided on the initial application, as well as to the POC. The notice will state the reasons the family was removed from the referral list and will inform the family how to request an informal review regarding the LA’s decision.

2.2.4 Maintenance of the Referral list

The LA shall maintain a referral list for each county it serves. LAs will not merge the HAVPP referral lists among counties or with the referral list for any other program HCR operates.

2.3 Selection From the Referral List

The POC will determine initial eligibility by certifying that the family referred meets the following criteria:

Qualify as homeless or at risk of imminent loss of housing; and

Have an income of no more than 50% of the area median income as defined by the United States Department of Housing and Urban Development.

A final determination of eligibility will be made by the LA when the family is selected from the referral list.

HAVPP shall be accepted and prioritized according to the following categories of preferences:

- Preference 1: Families who are currently homeless as defined in the HAVPP Act.
- Preference 2: Families who are facing imminent loss of housing due to the anticipated loss of federal, Section 8 rental assistance due to lack of available, federal funding within the next 12 months. (This preference shall not apply to families who are terminated from federal assistance for reasons other than lack of funding.)
- Preference 3: Families who are facing imminent loss of housing due to other factors listed in the State Statute.

Once the referral period closes and the LA has received a sufficient number of eligible referral applications for the selected preference category or categories, the LA shall conduct a random lottery. Where a family is determined to be ineligible, either for preference category they applied for or for the program, the LA will send written notification of the ineligibility determination within 10 business days of that determination to both the family and the POC. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so.

2.3.1 Notification of Selection

The LA will notify the family and the POC who made the referral by phone and email or first-class mail when selected from the referral list. The notice will inform the family and the POC of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;
- Who is required to attend the interview; and

- All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

If a notification letter is rejected or returned to the LA as invalid or with no forwarding address, the LA shall contact the backup contact and the POC and attempt to contact the applicant. If the LA and the POC are unable to contact the applicant within 14 calendar days, the family will be removed from the referral list. A notice of denial (see Section 3.4) will be sent to the family's address of record and to the POC.

If a family fails to qualify for any criteria that affected the order in which it was selected from the referral list (e.g. claimed preferences, extremely low-income), the family will be returned to its original position on the referral list. The LA will notify the family and the POC in writing that it has been returned to the referral list and will specify the reasons for it.

2.4 Application and Briefing Process

2.4.1 Notification of Interview and Briefing Process

For HAVPP, HCR is combining the applicant interview and the voucher briefing.

Families and their respective POC will be notified of their eligibility for assistance at the time they are invited to the application interview. The notice will be sent by first class mail and will also be sent by email and text if the family has provided a valid email address and phone number.

If the notice is returned by the post office with no forwarding address, the LA shall contact the POC and backup contact. If the LA and the POC are unable to contact the applicant within 14 calendar days, the applicant will be denied, and their name will not be placed back on the referral list. If the notice is returned by the post office with a forwarding address, the notice will be resent to the address indicated.

2.4.2 The Interview

Families selected from the referral list are required to participate in an interview which may take place in person, virtually, or via telephone conference.

The purpose of the interview is to:

1. Verify the data provided via the RIEF;
2. Obtain any other information or documentation necessary to clarify the family's income and assets; and
3. Explain the housing search process and assist the family in identifying and evaluating potential housing options upon receiving a voucher.

If a family requests a reasonable accommodation to participate in the eligibility interview in a format different than that scheduled by the LA, the LA shall work with the family to conduct the interview via a means that meets the family's needs. Where the family lacks access to transportation or technology, this may require LA staff to travel to meet the

family at an off-site location, including but not limited to a homeless shelter, the office for the county, or local, DSS or other nonprofit, homeless services provider, the home of a family relative, or any other safe, reasonable location within that County. LAs shall be prepared to travel within the County being served to meet applicants in person as necessary, regardless of the work location of the LA's staff or office.

Any additional, required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family or the POC 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 (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For limited English proficiency (LEP) applicants, the LA will provide interpretation and translation services in accordance with the New York State Language Access Law.

If the family is unable to attend a scheduled interview, the family or POC shall contact the LA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the LA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without LA approval 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 Section 2.5.3.

2.5 SCREENING OF APPLICANTS

The LA shall review the following as part of the interview process to determine the eligibility of the family:

2.5.1 Criminal Background Screening

The LA shall conduct the following screenings:

1. Check the Dru Sjodin National Sex Offender database to conduct a search of each adult household member.
2. Conduct a criminal background check to determine if any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

LAs must offer the family the opportunity remove a family member's name from the application if that individual is subject to a state lifetime sex offender registration or a methamphetamine production conviction. If the family is unwilling to remove the individual from the household, the LA must deny admission to the family. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit. After admission to the

program, the family must present evidence of the former family member's current address upon LA request.

2.5.2 Income Determination

The LA shall also conduct a preliminary calculation of the Family's income prior to the interview. Instructions for calculating income are included in this Administrative Plan in Chapters 3-6.

The LA may accept any of the following when determining the family's final, adjusted income for initial certification and voucher issuance:

- The income reported by the POC on RIEF;
- The income documentation provided by the family or the POC; or
- The income reported by the New York State Department of Labor.

The interview may be used to clarify discrepancies in calculating the adjusted income using two or more of the above three sources.

2.5.3 Reasons for Denial of Assistance

LAs will deny assistance in the following cases either prior to or after the interview:

1. Household is deemed over income for the HAVPP.
2. Households with ownership in a real estate residence.
3. Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
4. Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
5. A family member has engaged in or threatened violent or abusive behavior toward HCR/LA personnel and other entities involved in administering the program. This may include:
   a. Verbal as well as physical abuse or violence.
   b. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate.
   c. Oral or written threats or physical gestures that communicate intent to abuse or commit violence.

2.5.4 Reasonable Accommodations

The LA will comply with all applicable federal and state non-discrimination legal requirements. As part of this obligation, the LA will consider and review denials of assistance due to circumstances that the family indicates were related to the disability. If related to the disability, upon the family's request, the LA will determine whether admitting the family as a reasonable accommodation is appropriate. The LA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

2.6 VOUCHER ISSUANCE

Vouchers will be issued to eligible applicants immediately following the application interview. If the LA or HCR determines that there is insufficient funding after a voucher has been issued, the LA may rescind the voucher and place the affected family back on the referral list.

2.6.1 Voucher Term and Extensions

The initial voucher term will be 90 days. The LA shall check in with the family by phone, email or text after approximately 60 days to verify progress if no request for tenancy is received by then.

2.6.1.1 Extensions of Voucher Term

The LA will approve 30-day extensions upon written request from the family or the POC, up to a total voucher term of 180 calendar days. Requests for extension must be in writing and must be accompanied by the completed housing search log issued to the family in the briefing/upon voucher extension.

The LA will 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 the LA. Following is a list of extenuating circumstances that the LA 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;
  - Obstacles due to employment;
  - Whether the family has already submitted requests for tenancy approval that were not approved by the LA;
  - Whether family size or other special circumstances make it difficult to find a suitable unit;
  - Domestic Violence;
  - Potential housing discrimination by local landlords;
  - Lack of available, affordable rental housing within that county;
  - Lack of access to transportation to visit apartments; or
  - Language barriers in meeting with landlords.

Where there are obstacles, the LA shall assist the family (in collaboration with the POC where applicable) to identify potential alternatives for completing the housing search. This may include providing translation services, identifying service providers who can assist with transportation, assisting with the completion of on-line rental applications, etc. Any request for an additional extension must include the reason(s) an additional extension is necessary. The LA may require the family to provide documentation to support the request or obtain verification from a qualified third party. Requests for

extensions to the voucher term may be made in writing y and submitted to the LA prior to the expiration date of the voucher (or extended term of the voucher).

The LA will decide whether to approve or deny an extension request within 10 business days of the date the request is received and will immediately provide the family written notice of its decision.

2.6.1.2 Expiration of Voucher Term

If an applicant family's voucher term or extension expires before the LA has approved a tenancy, the LA will require the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the LA will notify the family and the POC in writing that the voucher term has expired and that the family's referral must be received again when the referral list is open in order to be placed on the referral list.

2.7 SUBSIDY STANDARDS

The LA will issue a voucher for a specific bedroom size, taking into consideration the family size and family composition, in determining the family's level of assistance. The subsidy standard provides for the smallest number of bedrooms needed without overcrowding and must be applied consistently for all families of like size and composition. One bedroom will be assigned for every two persons in the household. The LA will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	Persons in Household (Minimum – Maximum)
1 Bedroom	1-2
2 Bedrooms	3-5
3 Bedrooms	5-7
4 Bedrooms	7-9
5 Bedrooms	9-11

The following guidelines will be used to determine each family's unit size:

- The LA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom/sleeping room on the voucher.
- The voucher size remains the same as long as the family composition remains the same, regardless of the actual unit size rented.
- There are exceptions to the guidelines in determining voucher size:
    - Foster children will be included in determining unit size only if they will be in the unit for more than one month;
    - If the NYS Office of Children and Family Services (or its agent) has determined that an additional room is needed to accommodate the family composition (including foster children);
    - If a live-in aide is approved, a separate bedroom must be provided for them. The live-in aide will not be required to share a bedroom with another

family member of the household. No additional bedrooms will be provided for the live-in aide's family members;
    - Space will be provided for a family member who is away at school but who lives with the family during school recesses;
    - Space will be provided for a child who has been removed but considered "temporarily" absent, even if the child is not considered a family member during the time they are absent as long as the family is able to provide documentation from the Office of Children and Family Services or a court order indicating the intention is to reunite the child with the family, at least every six months. There will be no reduction in voucher size;
    - Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is stationed away in the military; and
    - A single pregnant individual with no other family members must be treated as a two-person family.
- Occasional, intermittent, multiple, or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. For this reason, LAs should not approve an additional bedroom under these circumstances. However, a family's composition or circumstances may justify having an additional bedroom to allow disability-related overnight care and allow the family equal use and enjoyment of their unit.

2.7.1 Exceptions to Unit Size

The LA will consider, on a case-by-case basis, granting an exception to subsidy standard.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger 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 need for accommodation is readily apparent or otherwise known. The family’s continued need for an additional bedroom must be re-verified at each annual reexamination. The LA may deny a reasonable accommodations request, including an exception subsidy standard request, if doing so would cause an undue administrative or financial burden to HCR. The LA shall heavily weigh a shortfall in favor of determining that a request would cause a financial burden; if HCR is in shortfall, the family’s request should be denied unless there are extreme extenuating circumstances or if denial would cause overcrowding.

2.7.2 Rent Reasonableness Determinations

The LA will conduct a rent reasonable test to determine that the rent for the proposed unit is reasonable. A HAP contract cannot be approved until the LA 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 HAVPP program.

When determining whether rent is reasonable, the LA will compare the unit to at least two similar units in the area. Similarity is determined by the following characteristics, including but not limited to:

- Square footage
- Amenities
- Included utilities
- Age of building
- Type of building (e.g., duplex vs single-family dwelling vs. apartment complex)

If the proposed unit's rent is higher than similar units, then the rent is not reasonable. If the proposed unit's rent is the same or lower than similar units, then the rent is reasonable.

3. INCOME CALCULATIONS

3.1 RULES FOR CALCULATIONS

Annual income means all amounts, monetary or not, which:

- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Which are not specifically excluded.

Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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 cohead 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 cohead)	Employment income above $480/year is excluded. All other sources of income, except those specifically excluded by the regulations, are included.

3.2 ANTICIPATING ANNUAL INCOME

3.2.1 Known Changes in Income

If the LA verifies an upcoming increase or decrease in income, annual income will 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 will begin to receive $15.50/hour in the eighth week after the effective date of the reexamination. In such a case the LA would calculate annual income as follows: ($15.50/hour × 40 hours × 7 weeks) + ($15.50 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the LA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the LA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within 60 days of the agency's request.

When the LA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the LA will 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 will be documented in the file. In all such cases, the family may present information and documentation to the LA to show why the historic pattern does not represent the family's anticipated income.

3.2.2 Annualizing Anticipated Annual Income

3.2.2.1 When Income is Not Expected to Change

Convert periodic wages to annual income using the following:

- Multiply hourly wages by the number of hours worked per year (2080 hours for full-time employment with a 40-hour work week and no overtime).
- Multiply weekly wages by 52.
- Multiply bi-weekly wages (paid every other week) by 26.
- Multiply semi-monthly wages (paid twice each month) by 24.
- Multiply monthly wages by 12.
- Self-Employment – Use the higher of the member's self-certification statement or the net annual income reflected on the member's tax statement.

- 10 Month School Employees –Multiply the weekly gross income by 4.33 weeks for 10 months.

3.2.2.2 When Income is Expected to Change but Continue

A change might be anticipated for a reason such as the following:

- An employer indicates that a family member's hours will be reduced from 40 hours per week to 30 hours per week effective July 1.
- The Social Security Administration announces that Social Security benefits will increase by 2 percent effective January 1.

3.2.2.3 Predictable Seasonal Income

Seasonal income is income that lasts only for a portion of the year. Income from agricultural work, for instance, may be seasonal, and so may the income from other types of work, such as teaching.

When calculating predictable seasonal income, you can multiply the applicant or participant's actual monthly income for the months they work and then multiply that number by the number of months worked.

3.2.2.4 Fixed Income

For initial occupancy or interim reexaminations, LAs must estimate the income of the family for the upcoming 12-month period.

3.2.3 Earned Income

3.2.3.1 Wages and Related Compensation

For persons who regularly receive bonuses or commissions, the LA will verify, and then average, amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the LA will use the prior year amounts. In either case the family may provide, and the LA will 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, the LA will count only the amount estimated by the employer. The file will be documented appropriately.

All regular pay, special pay, and allowances of a member of the Armed Forces are counted as earned income, but special pay to a family member serving in the Armed Forces who is exposed to hostile fire is not counted as earned income.

3.2.3.2 Temporary, Nonrecurring, or Sporadic Income

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.

3.2.3.3 Children's Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. Income from investments, including trusts, does not count as earned income.

3.2.3.4 Income of a Live-in Aide

Income earned by a live-in aide is not included in annual income.

3.2.3.5 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 the LA 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 HCR's governing board. No resident may receive more than one such stipend during the same period of time.

3.2.3.6 State and Local Employment Training Programs

The LA 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.

The LA 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.

In calculating the incremental difference, the LA will 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 family profile.

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

3.2.3.7 Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991, are excluded from annual income. 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.

3.2.4 Business Income

Annual income includes the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

3.2.4.1 Business Expenses

Net income is gross income less business expenses.

To determine business expenses that may be deducted from gross income, the LA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535]. The cost of any business expansion or capital indebtedness cannot be included in the calculation of business expenses.

3.2.4.2 Negative Business Income

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

3.2.4.3 Withdrawal of Cash or Assets from a Business

Withdrawal of cash or assets from the business is included in annual income 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, the LA will 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.

3.2.4.4 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.

3.3 ASSETS

There is no asset limitation for participation in HAVPP. However, annual income includes the anticipated interest, dividends, and other net income of any kind from real or personal property. For most types of assets, the LA must determine the value of the asset in order to compute income from the asset.

3.3.1 Income from Assets

The LA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the LA to show why the asset income determination does not represent the family's anticipated asset income.

3.3.2 Valuing Assets

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

3.3.3 Lump-Sum Receipts

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).

3.3.4 Imputing Income from Assets

When net family assets are $5,000 or less, the LA will 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, the LA will 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 an average passbook savings rate as determined by HCR.

The passbook rate will be set annually to be within 0.75 of the national rate established by the Federal Deposit Insurance Corporation (FDIC).

3.3.5 Determining Actual Anticipated Income from Assets

When the value is required to compute the anticipated income from an asset, the market value of the asset is used.

3.3.6 Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family.

3.3.7 Jointly Owned Assets

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the LA will count the full value of the asset. A family member has unrestricted access to an asset when they 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, the LA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the LA will prorate the asset evenly among all owners.

3.3.8 Assets Disposed of for Less than Fair Market Rent

The LA shall 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.

3.3.8.1 Minimum Threshold

The LA will 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 recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable 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.

3.3.8.2 Separation of Divorce

All assets disposed of as part of a separation or divorce settlement will 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.

3.3.8.3 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.

3.3.8.4 Family Declaration

Families must sign a declaration form at initial certification and each annual recertification 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. The LA may verify the value of the assets disposed of if other information available to the LA does not appear to agree with the information reported by the family.

3.3.9 Types of Assets

3.3.9.1 Checking and Savings Accounts

In determining the value of checking account and savings accounts, the LA will use the current balance.

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

3.3.9.2 Investment Accounts Such as Stocks, Bonds, Savings Certificates, and Money Market Funds

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

How anticipated income from an investment account will 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 will 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), the LA will calculate asset income based on the earnings for the most recent reporting period.

3.3.9.3 Trusts

For an irrevocable or revocable trust which is outside the control of the family or household and is excluded from the definition of net family assets, there are two income exclusions:

- Distributions from the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay for the health and medical care expenses for a minor.

3.3.9.4 Retirement Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the LA must 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.

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

3.3.9.5 Personal Property

In determining the value of personal property held as an investment, the LA will use the family's estimate of the value. The LA 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 of. 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.

3.3.9.6 Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included 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.

3.3.10 Periodic Payments

Periodic payments are forms of income received on a regular basis. As specified below, certain periodic payments are and are not included in annual income.

3.3.10.1 Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family.
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum.

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

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.

When a delayed-start payment is received and reported during the period in which the LA is processing an annual reexamination, the LA will adjust the family share and LA 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 the LA.

Any service-connected disability benefits awarded to a veteran will be excluded from the calculation of the veteran's annual income.

3.3.10.3 Treatment of Overpayment Deductions from Social Security Benefits

The LA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will 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, the LA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

3.3.10.4 Applying SSA COLA to Current Annual and Interim Reexaminations

Effective the day after SSA has announced the COLA, LAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1st or later of the upcoming year.

3.3.10.5 Periodic Payments Excluded from Annual Income

The LA will exclude the following payments from Annual Income:

- 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.
- 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.
- Amounts received under the Low-Income Home Energy Assistance Program.
- Amounts received under the Child Care and Development Block Grant Act of 1990.
- Earned Income Tax Credit (EITC) refund payments.
- Lump-sums received as a result of delays in processing Social Security and SSI payments.
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA).

3.3.11 Payments in Lieu of Earnings

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income 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.

3.3.12 Welfare Assistance

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) 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.

3.3.13 Periodic and Determinable Allowances

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.

3.3.13.1 Alimony and Child Support

The LA will count court-awarded amounts for alimony and child support unless the LA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

3.3.14 Regular Contributions or Gifts

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

3.3.15 Student Financial Assistance

Some student financial assistance is included and excluded in Annual Income, as specified below.

3.3.15.1 Student Financial Assistance Included in Annual Income

The inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions: 1) They are enrolled in an institution of higher education,

as defined under the Higher Education Act (HEA) of 1965, 2) They are seeking or receiving rental assistance on their own—that is, apart from their parents, and 3) 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 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, the LA will use the definitions of dependent child, institution of higher education, and parents, as defined in this Administrative Plan, along with the following definitions:

> 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 assisted unit.
> Tuition and fees are defined in the same manner in which the Department of Education defines tuition and fees.

3.3.15.2 Student Financial Assistance Excluded from Annual Income

Student financial assistance not included in Annual Income include any financial assistance received by:

- Students residing with parents who are seeking or receiving rental 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 years of age and have at least one dependent child

Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

3.3.16 Additional Exclusions from Annual Income

- The value of the allotment provided to an eligible household under the Food Stamp Act of 1977
- Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
- Payments to volunteers under the Domestic Volunteer Services Act of 1973
- Payments received under the Alaska Native Claims Settlement Act
- Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes

- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program
- Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998
- Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- Income derived from the disposition of funds to the Grand River Band of Ottawa Indians
- Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990
- A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al., for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- The first $2,000 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 $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands
- Benefits under the Indian Veterans Housing Opportunity Act of 2010
- Payments received from programs funded under Title V of the Older Americans Act of 1985
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- Payments received under the Maine Indian Claims Settlement Act of 1980
- 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
- Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- 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
- 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
- Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance

4. ADJUSTED INCOME

In determining adjusted income, the LA must deduct the following amounts from annual income:

(1) $480 for each dependent; and
(2) $400 for any elderly family or disabled family.

4.1 DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent.

4.2 ELDERLY OR DISABLED FAMILY DEDUCTION

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

5. CALCULATING FAMILY SHARE AND LA SUBSIDY

The total tenant payment (TTP) is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income;
- 10 percent of the family's monthly gross income;
- The welfare rent; or
- The minimum rent ($50).

5.1 FAMILY SHARE

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the LA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the LA 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 days before the family's voucher was issued.

5.2 LA Subsidy

The LA will 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.

5.3 Utility Reimbursement

When the LA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. The LA may pay the reimbursement to the family. Utility reimbursements will be issued monthly.

5.4 Applying Payment Standards

Payment standard is defined as the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

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 the LA's subsidy standards, or (2) the payment standard for the size of the dwelling unit rented by the family.

The LA is required to 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.

5.4.1 Decreases in Payment Standards

If HCR changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the LA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

5.4.2 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 no later than the earliest of:

- The effective date of an increase in the gross rent that would result in an increase in the family share;
- The family's first regular or interim reexamination; or
- One year following the effective date of the increase in the payment standard amount.

5.4.3 Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family 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 at the family's first regular reexamination following the change in family unit size.

5.5 Utility Allowances

A utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using the subsidy standards, whichever is lower.

5.5.1 Reasonable Accommodations

When requesting a reasonable accommodation pertaining to exceptional utility costs, the family must request the higher allowance and provide the LA with information about the amount of additional allowance required.

In determining the amount of the reasonable accommodation, the LA will allow a reasonable measure of additional usage as necessary to allow the person with the disability equal enjoyment and use of the unit as those without disabilities. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, provide other commercially available usage estimates for comparable equipment, or other evidence as approved by HTFC.

Information on reasonable accommodation will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet.

At its discretion, the LA may reevaluate the need for the increased utility allowance at any regular reexamination.

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

6. Verification for Interim and Annual Recertifications

For subsequent certification following the initial certification and voucher issuance, the LA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The LA must not pass on the cost of verification to the family.

6.1 General Verification Requirements

6.1.1 Family Consent to Release of Information

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the LA request. The documents must not be damaged, altered or in any way illegible.

Printouts from webpages are considered original documents.

The LA staff member who views the original document must make a photocopy.

Any family self-certifications must be made in a format acceptable to the LA and must be signed by the family member whose information or status is being verified.

The LA 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 adjusted income

6.1.2 Third-Party Written and Oral Verification

Third-party documents provided by the family must be dated within 60 days of the LA request date.

If the LA determines that third-party documents provided by the family are not acceptable, the LA will explain the reason to the family and request additional documentation.

As verification of earned income, the LA will require the family to provide paystubs to cover the most recent four-week period:

- Weekly: the four most current, consecutive paystubs
- Bi-weekly or semi-monthly: two most current, consecutive paystubs

At the LA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the LA may request additional paystubs or a payroll record.

6.1.2.1 Written Third-Party Verification

The LA will send third-party verification forms directly to the third party.

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

6.1.2.2 Oral Third-Party Verification

In collecting third-party oral verification, LA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the LA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

6.1.2.3 When Third-Party Verification is Not Required

If the family cannot provide original documents, the LA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain family information, documents, or third-party verification of income, assets, and expenses is not an unreasonable cost.

6.1.2.4 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.

6.1.2.5 Imputed Assets

The LA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

6.1.2.6 Value of Assets and Asset Income

The LA will always use third-party documentation for assets.

6.1.3 Self-Certification

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the LA.

The LA 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 the LA and must be signed by the family member whose information or status is being verified.

6.2 VERIFYING FAMILY INFORMATION

The LA will require families to furnish verification of legal identity for each household member. The LA shall accept any one of the following:

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
• Certification by the POC • Certificate of birth or naturalization papers	• Certification by the POC • Certificate of birth • Adoption papers • Custody agreement

• Current, valid driver's license or Department of Motor Vehicles identification card • Picture identification issued by state or local government in New York • U.S. military discharge (DD 214) • Passport • Current government employer identification card with picture	• Health and Human Services ID • School records • Passport • Printout with family composition from DSS

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

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the LA has reason to doubt the identity of a person representing themselves to be a participant.

6.2.1 Documentation of Age

Official record of birth or self-certification.

6.2.2 Family Relationships

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.

6.2.2.1 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 the LA so requests.

6.2.2.2 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.

6.2.3 Verification of Student Status

The LA 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 cohead.
- The family includes a student enrolled in an institution of higher education.

6.3 VERIFYING INCOME AND ASSETS

The LA shall use data provided by the New York State Department of Labor ("DOL") to verify applicant/participant income for both the initial certification and any future interim or annual certification. It is anticipated that this data will be made accessible to the LA online or by an electronic format by HCR.

6.3.1 Earned Income

For the initial certification, the LA may accept an attestation of income eligibility provided by the POC from the County DSS or from another designated referral entity provided that: 1. That POC certifies that the referring entity conducted an income determination for the family within the past six months; 2. That determination substantially reflects the requirements for HAVPP; and- 3. Based on that determination, the family meets the income requirements for HAVPP. For annual recertifications, the LA may also accept the POC attestation provided that the referring entity conducted the income determination within the past three months.

In the event that an acceptable attestation is received, the LA shall not require the applicant to provide any of the other documentation listed below in Section 6.3, provided that the data obtained from DOL also indicates that the family is income eligible.

6.3.1.1 Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

6.3.1.2 Wages

For wages other than tips, the family must provide original paystubs to cover the most recent four-week period:

- Weekly: the four most current, consecutive paystubs
- Bi-weekly or semi-monthly: two most current, consecutive paystubs

At the LA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the LA may request additional paystubs or a payroll record. If paystubs are not available, the applicant may rely on DOL data to verify wages along with a self-certification by the family that such data is accurate.

6.3.2 Business and Self-Employment Income

Business owners and self-employed persons will be required to provide all of the following:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify to its accuracy.

- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The LA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the LA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the LA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the LA will require the family to provide documentation of income and expenses for this period and use that information to project income.

6.3.3 Periodic Payments and Payments in Lieu of Earnings

The LA must ask applicants/participants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 60 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the LA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The LA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

6.3.4 Alimony or Child Support

The methods the LA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be obtained in the following order of priority:

1) Copies of the receipts and/or payment stubs for the 60 days prior to LA request;
2) Third-party verification form from the state or local child support enforcement agency;
3) Third-party verification form from the person paying the support; and
4) Family's self-certification of amount received.

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

6.3.5 Assets and Income From Assets

The LA will verify the value of assets disposed of only if:

- The LA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the LA verified this amount. Now the person reports that she has given this $10,000 to her son. The LA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the LA will verify the value of this asset.

6.3.6 Retirement Accounts

The LA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the LA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the LA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the LA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

6.3.7 Income from Excluded Sources

The LA will accept the family's self-certification as verification of fully excluded income. The LA may request additional documentation if necessary to document the income source.

6.3.8 Zero Annual Income Status

The LA will request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

6.3.9 Student Financial Assistance

For a student subject to having a portion of their student financial assistance included in annual income in accordance with this Administrative Plan, the LA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the LA will request written verification of the student's tuition, fees, and other required charges.

If the LA is unable to obtain third-party written verification of the requested information, the LA will pursue other forms of verification.

7. REEXAMINATIONS

7.1 ANNUAL REEXAMINATIONS

LAs must conduct a reexamination of family income and composition at least annually to verify that the family remains income eligible, and to recalculate the appropriate subsidy. 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. At that time the LA shall consider one of the following:

1. The income documentation provided by the family.
2. The income reported by the NYS DOL or OTDA.

7.1.1 Streamlined Annual Reexaminations

LAs may streamline the income determination process for family members with fixed sources of income. Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources. If doing so, LAs shall use third-party verification of all income sources of all family members.

7.1.2 Scheduling Annual Reexaminations

The LA will begin the annual reexamination process 90-120 days in advance of its scheduled effective date. Generally, the LA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the LA will perform a new annual reexamination.

The LA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

7.1.3 Notification of and Participation in the Annual Reexamination Process

LAs may conduct annual reexaminations utilizing one of the below options:

- Families may be required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. This interview may be conducted in-person, virtually, or by telephone. If participation in a scheduled interview poses a hardship because of a family member's disability, the family should contact the LA to request a reasonable accommodation.
    - Notification of annual reexamination interviews will be sent by first-class mail and/or email and will contain the date, time, and location of the interview. If the interview is being conducted virtually or by telephone, the call-in information will be provided. The notice will also inform the family of the information and documentation that must be brought to the interview or provided to the LA. If a virtual interview is scheduled, the LA will ensure that all remote requirements are followed:
        - The LA must survey the family to identify and resolve any technology barriers prior to conducting the interview remotely. Should a barrier exist (i.e., no access to internet, phone, community services) that the LA or family cannot reasonably resolve then any scheduled interview should be postponed, or an in-person alternative provided. The LA must provide the family the option to request an alternative option as a reasonable accommodation.
        - The LA is responsible for safeguarding each remote session to minimize exposure or misuse of the data collected, used and shared prior to and during the remote interview.
    - If the family is unable to attend a scheduled interview, the family should contact the LA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the LA will send a second notification with a new interview date and appointment time.
- Alternatively, families may be notified by phone, text, email or mail to complete the annual reexamination in the participant portal. In this case, notice will be sent to the family, and will provide the family with forms that must be completed, inform the family of the information and documentation that must be provided, and provide a deadline by which all documentation must be received by the LA.

- If a family does not return the required paperwork by the stated deadline, the LA will send a second notification with a new deadline.
- If a family fails to attend two scheduled interviews without LA approval, or fails to meet the second reexamination by mail deadline, or if a mailed 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.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the LA must execute a certification attesting to the role and the assistance provided by any such third party.

7.1.4 Conducting Annual Reexaminations

Families will be asked to provide all required information (as described in the reexamination notice) to the LA. The required information will include a LA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or by the deadline must be provided within 10 business days. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination.

At the annual reexamination, the LA will both:

1. Ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state, and
2. Use the Dru Sjodin National Sex Offender database to conduct a search of each adult household member.

Unless the family reports a change, or the LA 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. These include:

- Age
- A person's disability status

7.1.5 Determining Ongoing Eligibility of Certain Students

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be

income eligible for the student to continue to receive HAVPP assistance. If, however, a student in these circumstances is determined independent from their parents or is considered a vulnerable youth in accordance with HCR Policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

During the annual reexamination process, the LA will determine the ongoing eligibility of each student who is subject to the student 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 their parents or is considered a vulnerable youth, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their parents, the student's assistance will be terminated in accordance with the policies in this Administrative Plan.

If the student continues to be income eligible based on their own income and the income of their parents (if applicable), the LA will process a reexamination in accordance with the policies in this chapter.

7.1.6 Effective Dates

In general, an increase in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 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 a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the LA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the LA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, increases in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

In general, a decrease in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the LA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the LA.

If the family causes a delay in processing the annual 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.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the LA by the date specified, and this delay prevents the LA from completing the reexamination as scheduled.

7.2 INTERIM REEXAMINATIONS

The LA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

The family shall report any change in income within 30 days. At that time, the LA shall recalculate subsidy level and consider one of the following:

1. The income documentation provided by the family.
2. The income reported by NYS DOL or OTDA.

7.2.1 Addition of a Family or Household Member

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require LA approval. However, the family is required to promptly notify the LA of the addition within 10 business days.

Families must request LA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days or 60 cumulative days within a 12-month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the LA prior to the individual moving into the unit.

The LA will not approve the addition of a new family or household member unless the individual meets HCR’s eligibility criteria and documentation requirements. The LA will not approve the addition of a foster child or foster adult if it will cause a violation of subsidy standards, as described in Section 2.7.

If the LA determines an individual meets the LA’s eligibility criteria and documentation requirements, the LA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to NSPIRE standards (as described in Chapter 9), the approval letter will explain that the family will be issued a voucher and will be required to move.

If the LA determines that an individual does not meet the LA’s eligibility criteria or documentation requirements, the LA 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.

The LA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

7.2.1.1 Departure of a Family or Household Member

If a household member ceases to reside in the unit, the family must inform the LA 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.

7.2.2 Changes Affecting Income or Expenses

7.2.2.1 LA-Initiated Interim Reexaminations

The LA will conduct interim reexaminations in each of the following instances:

- If the family has reported zero income, the LA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income. As part of this reexamination, families are required to complete a “Zero Income Worksheet” provided by the LA.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the LA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the LA will conduct an interim reexamination.
- The LA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

7.2.2.2 Family-Initiated Interim Reexaminations

The family must be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination.

7.2.2.2.1 Required Reporting

Families are required to report all increases in income within 10 business days of the date the change takes effect.

The LA will only conduct interim reexaminations for new sources of income. “New sources” of income includes previous sources of income, such as returning to work for a previous employer or the resumption of previously suspended or terminated benefits.

In all other cases, the LA will note the information in the tenant file but will not conduct an interim reexamination.

7.2.3 Processing the Interim Reexamination

The family may notify the LA of changes either orally or in writing. If the family provides oral notice, the LA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the LA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the LA 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 the LA. This time frame may be extended for good cause with LA approval. The LA will accept required documentation by mail, by email, by fax, or in person.

7.2.3.1 Effective Dates

If the family share of the rent is to **increase**:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, 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 and may be offered a repayment agreement.

If the family share of the rent is to **decrease**:

The decrease 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, the change will be made retroactively.

7.3 Recalculating Family Share and Subsidy Amount

After gathering and verifying required information for an annual or interim reexamination, the LA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes.

7.3.1 Changes in Payment Standards and Utility Allowances

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the LA's calculations.

7.3.1.1 Payment Standards

When LA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the LA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

  - - If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.
  - - If the payment standard amount has decreased, during the term of a HAP contract, the LA is not required to reduce the payment standard as the HAP contract remains in effect.
- 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.

7.3.1.2 Subsidy Standards

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the LA's subsidy standards, the new family unit size must be used to determine the payment standard amount for the family at the family's first annual reexamination following the change in family unit size.

7.3.1.3 Utility Allowances

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

7.3.2 Notification of Family Share and HAP Amount

The notice must 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
- The amount and effective date of the new tenant rent to owner

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to an informal hearing. The notice will include the procedures for requesting an informal hearing.

7.3.3 Discrepancies

During an annual or interim reexamination, the LA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the LA may discover errors made by the LA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with this Administrative Plan.

8. RENT REASONABLENESS DETERMINATIONS

The LA will conduct a rent reasonable test to determine that the rent for the proposed unit is reasonable. A HAP contract cannot be approved until the LA 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 HAVPP program.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. If a property has more than four units, the LA may request owners to provide information about the rents charged for other units on the premises. In evaluating the proposed rents in comparison to other units on the premises, the LA will consider unit size and length of tenancy in the other units.

The LA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rent adjustments will be effective the first of the month following 60 days after the LA's receipt of the owner's request or on the date specified by the owner, whichever is later.

In addition to the instances described above, the LA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the LA determines that the initial rent reasonableness determination was in error or (2) the LA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

9. UNIT INSPECTION STANDARDS

HAVPP will follow the National Standards for the Physical Inspection of Real Estate (NSPIRE).

Under NSPIRE, there are three inspectable areas: in the unit, inside the building, and outside the building. "Unit" includes interior components of an individual dwelling where the resident lives. "Inside" includes common areas and building systems that are inside the building but not inside the unit. "Outside" includes the building site, building exterior components, and any building systems located outside the building or unit.

NSPIRE standards apply only to units occupied or to be occupied by HAVPP participants and the common areas and exterior areas which either service or are associated with the unit.

Each standard identifies the inspectable area(s) where the standard is located. NSPIRE standards are available online at https://www.hud.gov/program_offices/public_indian_housing/reac/nspire/standards

Health and Safety Determinations

There are four health and safety determinations, in order of most to least severe: (1) life-threatening; (2) severe; (3) moderate; and (4) low.

The “Life-Threatening” (“LT”) category includes deficiencies which, if evident in the home or on the property, present a high risk of death to a resident. These must be corrected within 24 hours upon discovery.

The “Severe” category includes deficiencies which, if evident in the home or on the property, present a high risk of permanent disability, serious injury, or illness to a resident, or seriously compromise the physical security and safety of a resident or their property. These must be corrected within 30 days.

“Moderate” deficiencies include those which, if evident on the home or on the property, present a moderate risk of an adverse medical event requiring a healthcare visit; cause temporary harm; or if left untreated, cause or worsen a chronic condition that may have long-lasting adverse health effects; or that the physical security or safety of a resident or their property would be compromised. These must be corrected within 30 days.

The “Low” category includes deficiencies which are critical to habitability but do not present a substantive health or safety risk to the resident. These are considered a “pass” and do not have a timeframe for correction.

If a deficiency is not corrected within the required timeframe, the LA must initiate HAP Contract enforcement, which can include withholding or abatement of assistance payments, terminations, or relocations.

All units are required to conform to local (e.g., city, town, village, etc.) building and maintenance code requirements in addition to NSPIRE requirements.

9.1 LIFE-THREATENING CONDITIONS

LAs shall notify the owner or the family (whichever is responsible) of the corrections required if a life-threatening condition is found. The responsible party must correct life-threatening conditions within 24 hours of LA notification. The following are considered life-threatening conditions:

- Failure to meet New York State’s Uniform Fire Prevention Building Code (sections 915 and 1103 of the 2018 International Fire Code (IFC)), which includes but is not limited to:
    - Carbon Monoxide (CO) alarms must be installed in all new and existing one- and two-family dwellings, multifamily dwellings, and rentals with a fuel-burning appliance or system or attached garage.
    - Carbon Monoxide detectors are required to be located within 15 feet of all sleeping rooms and within 15 feet of the fuel-burning source.

- Smoke detectors are required in every sleeping room, within 21 feet of sleeping rooms and on every level of the dwelling unit, including the basement.
- Inoperable or missing smoke detectors
- Missing or inoperable carbon monoxide detector (where required)
- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled
- Any electrical problem or condition that could result in shock or fire
- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
- A light fixture is hanging by its wires
- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit
- A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed
- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
- Exposed bare wires or electrical connections
- Any condition that results in openings in electrical panels or electrical control device enclosures
- Water leaking or ponding near any electrical device
- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Any components that affect the function of the fire escape are missing or damaged
- Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency

  - The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency
  - Absence of a functioning toilet in the unit
  - Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)
  - Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
  - The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
  - A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
  - A fuel-fired space heater is not properly vented or lacks available combustion air
  - A non-vented space heater is present
  - Safety devices on a fuel-fired space heater are missing or damaged
  - The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
  - Inoperable self-closing door
- Buildings consisting of 3 or more units are required to be equipped with self-closing doors pursuant to section 28-315.10 of the City of New York, and adopted by NYS HCR for statewide application, or any other applicable law, to keep and maintain such doors in good repair.
- Deteriorating paint in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit.

If an owner fails to correct life-threatening conditions as required by the LA, the LA will enforce NSPIRE. If a family fails to correct a family-caused life-threatening condition as required by the LA, the LA will enforce the family obligations.

The owner will be required to repair an inoperable smoke detector unless the LA 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.

9.2 Owner and Family Responsibilities

9.2.1 Family Responsibilities

The family is responsible for correcting the following NSPIRE deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family

- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the NSPIRE. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

9.2.2 Owner Responsibilities

The owner is responsible for all NSPIRE violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

9.3 Special Requirements for Children with Elevated Blood Lead Level

If an LA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HAVPP-assisted unit has been identified as having an elevated blood lead level, the LA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the LA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of NSPIRE and the LA will take action in accordance with NSPIRE requirements.

9.3.1 Data Collection and Record Keeping

At least quarterly, the LA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an elevated blood lead level.

If the LA obtains names and addresses of elevated blood lead level children from the public health department(s), the LA must match this information with the names and addresses of families receiving HAVPP assistance, unless the public health department performs such a procedure. If a match occurs, the LA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the LA must also report an updated list of the addresses of units receiving assistance under the HAVPP program to the same public health

department(s), unless the public health department(s) states that it does not wish to receive such a report.

Unless the LA-area public health department(s) has stated they do not wish to receive a report of an updated list of the addresses of units receiving assistance under the HAVPP, the LA will provide the report to the LA-area public health department on a quarterly basis.

9.4 Violation of Subsidy Standards

A dwelling unit must:

- Provide adequate space and security for the family according to local fire, housing maintenance and/or other governmental occupancy laws or codes
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these subsidy standards is defined as overcrowded.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the LA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the LA must issue the family a new voucher, and the family and LA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the LA must terminate the HAP contract for the original unit in accordance with its terms.

9.5 The Inspection Process

LAs conduct the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- Initial Inspections
  - LAs are required to inspect units before they become a part of HAVPP
  - Each unit is inspected prior to execution of the assisted lease and HAP contract
  - Initial inspections should be conducted within 15 days of the inspection request
  - After the initial inspection, the LA notifies the family and the owner of the results of the initial inspection
    - If the unit meets NSPIRE-V standards, the LA continues the unit and owner approval process.
    - If the unit fails, the owner and family are notified, and deficiencies must be corrected prior to the unit being approved
- Annual Inspections

- All units are inspected at least once every 12 months
- LAs must still conduct complaint inspections

- Special Inspections
  - Special inspections occur as needed to determine that units meet NSPIRE requirements.
- Quality Control Inspections.
  - A sample of units must be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the NSPIRE requirements as described in Chapter 9.

9.5.1 Inspection Costs

The LA may not charge the family or owner for unit inspections or reinspections. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection. LAs will not conduct any remote video inspections.

9.5.2 Notice and Scheduling

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 not less than 48 hours. Inspections may be scheduled between 7:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the LA will give as much notice as possible, given the nature of the emergency.

When a family occupies the unit at the time of inspection an authorized adult (18 and older) 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, the LA will inspect the unit in the presence of the owner or owner’s representative, or another individual authorized by the owner. The presence of a family representative is permitted but is not required.

9.5.3 Initial Inspection

The unit must pass the inspection on or before the effective date of the HAP contract.

LAs will not rely on alternative inspections for initial inspections.

The LA will complete the initial inspection, determine whether the unit satisfies the requirements, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA). If any violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them.

If utility service is not available for testing at the time of the initial inspection, the LA will allow the utilities to be placed in service after the unit has met all other NSPIRE requirements. The LA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the LA.

If the family is responsible for supplying the stove and/or refrigerator, the LA will allow the stove and refrigerator to be placed in the unit after the unit has met all other NSPIRE requirements. The required appliances must be in place before the HAP contract is executed by the LA. The LA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

9.5.4 Annual NSPIRE Inspections

Each unit under HAP contract must be inspected annually, no later than 12 months from the last full NSPIRE inspection. Example: Annual inspection takes place August 15, 2025. The next annual inspection must be completed no later than August 14, 2026.

If an adult cannot be present on the scheduled date, the family should request that the LA reschedule the inspection. The LA and family will agree on a new inspection date that generally should take place within five business days of the originally scheduled date. The LA may schedule an inspection more than five business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the LA will automatically schedule a second inspection. If the family misses two scheduled inspections without LA approval, the LA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance.

9.5.5 Special Inspections

During a special inspection, the LA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional NSPIRE deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection is due within 120 days of the date the special inspection is scheduled the LA may elect to conduct a full annual inspection.

9.5.6 Quality Control Inspections

An LA supervisor or other qualified person is required to 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 NSPIRE. The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

9.5.7 Inspection Results and Reinspections for Units under HAP Contract

When life-threatening conditions are identified, the LA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the LA's notice.

When failures that are not life-threatening are identified, the LA will send the owner and the family a written notification of the inspection results within five business days of 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.

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 (or any LA-approved extension, if applicable) the family's assistance will be terminated in accordance with LA policy.

Extensions will be granted in cases where the LA has determined that the owner has made a good faith effort to correct the deficiencies and is 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.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 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.

LAs will verify that deficiencies have been corrected through one of the following methods:

(1) The LA will conduct a reinspection immediately following the end of the corrective period, or on the date previously notified, or any LA approved extension.
   (a) The family and owner will be given reasonable notice of the reinspection appointment.
(2) The LA will accept documentation that the deficiency has been corrected (for low and moderate deficiencies only) in the form of an affidavit signed by both the owner and the family HOH or cohead.
(3) The LA may accept photographic evidence.

If option 2 or 3 above is not completed before the mandated deadline, but the deficiency has been corrected, the LA shall reinspect the unit to verify that the defect has been corrected.

If the deficiencies have not been corrected by the time of the reinspection, or the necessary documentation has not been received by the stated deadline, the LA will, in the case of family caused violations, send a notice of termination to the family, in accordance with LA policies.

If the LA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the LA will consider the family to have violated its obligation to make the unit available for inspection.

9.5.8 Enforcing Owner Compliance

When a unit is not in compliance with NSPIRE, and the defects are not caused by the tenant family, the LA should enforce NSPIRE requirements. If necessary, HAP payments may be abated and/or terminated.

A unit is not in compliance with NSPIRE requirements if the LA or other inspector authorized by the State or local government determines that the unit has deficiencies based upon an inspection. The agency or inspector will notify the owner in writing of the NSPIRE deficiencies.

The steps below should be followed if the defects which cause the unit to not be in compliance with NSPIRE are found in an inspection that is not an initial inspection.

1. The unit fails an NSPIRE inspection (other than an initial inspection) due to a defect that is not caused by the tenant family. This is the first step in the NSPIRE enforcement process.
2. The owner works to cure the defect which caused the unit to not be in compliance with NSPIRE. The family must allow the owner access to the unit to cure defects.
    (a) The owner has 30 days to cure defects which are not life-threatening.
    (b) The owner has 24 hours to cure defects which are life-threatening.
3. At the end of the applicable cure period, the LA verifies whether the defect has been cured.
    (a) The LA may use a physical inspection, photographic or video evidence, or other approved reliable verification methods to verify whether the defect has been cured.
4. If the defect has been cured by the end of the cure period, the LA will not move on to abatement.
5. If the defect has not been cured and the defect is not life-threatening, the LA may grant one extension to the owner for a reasonable time.
    (a) If the defect is life-threatening, the LA moves on to step 10.
6. At the end of the extended cure period, the LA verifies whether the defect has been cured. The LA shall use the same verification methods allowed in step 3.
    (a) If the defect has not been cured by the end of the extension, move on to step 7.
7. The LA now starts the HAP abatement process. The LA sends a Notice of Abatement to the owner and the tenant family.
    (a) The LA shall send the Notice of Abatement to the owner via a method with which the LA can confirm the day that the owner received the Notice of Abatement.

(b) From the first day of the month following the date the LA sends the Notice of Abatement, the owner has 60 calendar days to cure the defect. This 60-day time period is the “abatement period.”

8. When the family receives the Notice of Abatement, they then have until the end of the 60-day abatement period to decide whether they want to terminate. When the LA sends the Notice of Abatement, it shall include a statement that the HAP contract will be terminated at the end of the abatement period. This will serve as notice that the HAP contract will be terminated at the end of the abatement period unless: (1) the owner cures the defect; or (2) the family chooses to terminate before the end of the abatement period.
    (a) The family must continue to pay rent to the owner during the abatement period. The owner may not terminate the tenancy of any family due to the abatement of assistance.
    (b) If the family chooses not to terminate before the end of the 60-day abatement period, move on to step 9.
    (c) If the family chooses to terminate before the end of the 60-day abatement period, move on to step 11. The family must provide their decision to both the LA and the owner in writing.
9. At the end of the 60-day abatement period, the LA verifies whether the defect has been cured. The LA shall use the same verification methods allowed in step 3.
    (a) If the defect has been cured, move on to step 10.
    (b) If the defect has not been cured, move on to step 12.
10. If the defect has been cured by the end of the 60-day abatement period, the LA shall resume HAP payments. Any abated payments shall not be disbursed to the owner.
11. If the family chooses to terminate the tenancy as described in step 8(c), the HAP contract shall terminate on the effective date of the tenancy termination or the date the family leaves the unit, whichever is earlier.
    (a) If the family chooses to terminate, the LA must issue the family its new voucher to move out at least 30 days prior to the termination date of the HAP contract. If the family chooses to terminate within 30 days prior to the termination date, the LA shall issue a voucher immediately.
12. If the family does not choose to terminate the tenancy during the 60-day abatement period, or the defect is not cured within the 60-day abatement period, the LA must terminate the HAP contract and issue a new voucher to the family; the family will have 60 days, plus any extensions for a reasonable time, to find a new unit once the voucher is issued.

HAP abatements have an initial duration of 60 days and may be extended to a maximum of 120 days. Reasonable notice of HAP contract termination by the LA is 30 days.

Families are responsible for correcting any NSPIRE violations that they cause. If the family fails to correct a violation within the period allowed, the LAs will terminate the family's assistance. If the 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.

10. General Leasing Policies

10.1 Tenant Screening

The LA will not screen applicants for family behavior or suitability for tenancy.

The LA will not provide additional screening information to the owner.

10.2 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 LA to approve the assisted tenancy in the selected unit.

The RFTA must be signed by both the family and the owner.

The owner may submit the RFTA on behalf of the family.

Completed RFTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, online, by mail, by email, or by fax.

The family may not submit, and the LA will not process, more than one (1) RFTA at a time.

When the family submits the RFTA, the LA will review the RFTA for completeness.

If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, the LA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, online, by email, or by fax. The LA will not accept missing information over the phone.

When the family submits the RFTA and proposed lease, the LA will also review the terms of the RFTA for consistency with the terms of the proposed lease.

If the terms of the RFTA are not consistent with the terms of the proposed lease, the LA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RFTA and/or the proposed lease will only be accepted as hard copies, in-person, online, by mail, by email, or by fax. The LA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the LA will attempt to communicate with the owner and family by phone, fax, online or email. The LA will use mail when the parties cannot be reached by phone, fax, online or email.

10.3 OWNER PARTICIPATION

The LA does not formally approve an owner to participate in the HAVPP program. However, there are a number of criteria where the LA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the LA must disapprove an owner.

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

10.3.1 Lease and Tenancy Addendum

The LA will not approve an initial lease term of less than one (1) year.

The LA will allow the owner to collect any security deposit amount the owner determines is appropriate in accordance with state law. Therefore, no modifications to the HAP contract will be necessary.

10.3.1.1 Separate Non-Lease Agreements between Owner and Tenant

The LA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

10.3.1.2 LA Review of Lease

If the dwelling lease is incomplete or incorrect, the LA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, online, by email, or by fax. The LA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the LA will attempt to communicate with the owner and family by phone, fax, online or email. The LA will use mail when the parties can't be reached by phone, fax, online or email.

The LA will not review the owner's lease for compliance with state/local law.

10.4 Tenancy Approval

The LA will complete its determination within 10 business days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with the LA, the LA will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

Corrections to the RFTA/proposed lease will only be accepted as hard copies, in-person, by mail, by email, online, or by fax. The LA will not accept corrections over the phone.

If the LA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The LA will instruct the owner and family of the steps that are necessary to obtain approval of 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 or rent reasonableness, the LA will attempt to negotiate the rent with the owner. If a new, approvable 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.

10.5 HAP Contract Execution

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the LA. The LA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the LA will execute the HAP contract. The LA will not execute the HAP contract until the owner has submitted IRS form W-9. The LA will require the owner submit a rental permit prior to execution of the HAP contract only where the local governing body (i.e., local/county codes enforcement agency) require one. The LA will ensure that the owner receives a copy of the executed HAP contract.

10.6 Changes in Lease or Rent

Where the owner is requesting a rent increase, the LA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies the LA of the rent change or on the date specified by the owner, whichever is later.

Although the LA does not monitor or enforce owner notice to families, owners should be advised that the New York State's Housing Stability and Tenant Protection Act of 2019, states if the owner intends to raise the rent more than 5% above the current rent or intends not to renew the tenancy, the following applies:

(a) If the tenant has occupied the unit for more than one year but less than two years or has a lease term of at least one year but less than two years, the landlord shall provide at least sixty (60) days' notice.

(b) If the tenant has occupied the unit for more than two years or has a lease term of at least two years, the landlord shall provide at least ninety (90) days' notice.

Rent increases that do not fall into the above categories require a minimum of 30 days' notice unless otherwise specified under federal policy, statute or regulation.

11. Moving with Continued Assistance

11.1 Allowable Moves

There are six conditions under which an assisted family is allowed to move to a new unit with continued assistance. There are restrictions set forth in Section 11.2.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has been given a notice of termination to the owner in accordance with the lease.
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family. If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the LA 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. The family must give the LA a copy of any owner eviction notice.

- 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. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the LA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further evidence if they remained in the unit.
  - 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, the LA will request that the resident request an emergency transfer, and the LA will request supporting documentation.
  - The LA 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, the LA will document the waiver in the family's file.
  - The LA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.
- The LA has terminated the HAP contract for the family's unit for the owner's breach.
- The LA determines that the family's current unit does not meet the subsidy standards because of an increase in family size or a change in family composition. In such cases, the LA must 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 the family, the LA 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 the LA gives notice to the owner.

11.2 Restrictions on Moves with Continued Assistance

A family's right to move and continue assistance is generally contingent on the family's compliance with program requirements. There are two conditions under which a LA may deny a family permission to move with continued assistance, and two ways in which a LA may restrict these moves by a family.

11.2.1 Denial of Moves

LAs may deny a family permission to move with continued assistance if there is insufficient funding or if the LA has grounds to deny or terminate the family's assistance.

11.2.1.1 Insufficient Funding

The LA will deny a family permission to move on grounds that the LA does not have sufficient funding for continued assistance if:

(a) The move is initiated by the family, not the owner or LA;
(b) The LA can demonstrate that the move will, in fact, result in higher subsidy costs;
(c) The LA can demonstrate, in accordance with the HAVPP Administrative Plan, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and

If the LA does not have sufficient funding for continued assistance, but the family must move from their unit, the family may move to a higher cost unit if the move is within the LA's jurisdiction. The LA, however, will not allow the family to transfer to another LA in this situation if the family wishes to move to a higher cost area.

For moves within the LA's jurisdiction, the LA will not deny a move due to insufficient funding if the LA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit.

The LA will create a list of families whose move has been denied due to insufficient funding. The LA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the referral list. The LA 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 referral list.

The LA 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.

11.2.1.2 Ground for Denial or Termination of Assistance

If the LA has grounds for denying or terminating a family's assistance, the LA will act on those grounds in accordance with the regulations and policies set forth in the HAVPP Administrative Plan. In general, the LA will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

11.2.2 Restrictions on Elective Moves

For the first 12 months after program admission, the LA will deny a family permission to make an elective move during the family's initial lease term other than when the owner and the family mutually agree to terminate the lease to allow the family to move to a unit within the same LA area.

Families who have participated in the HAVPP for at least 12 months may make an elective move during the family's initial lease term if the owner and the family mutually agree to terminate the lease regardless of where the family intends to move. These families may make more than one elective move during any 12-month period if the owner and the family agree to terminate the lease.

This policy applies to moves within the entire jurisdiction of the HAVPP.

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the LA a copy of the termination agreement.

The LA 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, the LA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

11.3 MOVING PROCESS

Upon receipt of a family's notification that it wishes to move, the LA will determine whether the move is approvable in accordance with the regulations and policies set forth in the HAVPP Administrative Plan. The LA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

For families approved to move to a new unit within the jurisdiction of the LA, the LA will perform a new annual reexamination. In this circumstance, the LA will issue a new voucher within 10 business days of the LA's written approval to move. No briefing is required for these families. The LA will follow the policies set forth in the HAVPP Administrative Plan 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 the LA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the LA's jurisdiction under transferability, the LA will follow the policies set forth in Part 1 of this chapter.

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the LA will not enter into a HAP contract on behalf of the family for the new unit.

11.4 TRANSFERABILITY

The HAVPP is only available within New York State, but families receiving assistance through the HAVPP may transfer their voucher to any LA that administers the HAVPP. A family becomes eligible to transfer to another jurisdiction after completing one year of residency in the initial unit. The process by which a family obtains a voucher from one LA and uses it to lease a unit in the jurisdiction of another LA is known as transferability. The LA that issues the voucher is called the *initial LA.* The LA that has jurisdiction in the area to which the family wants to move is called the *receiving LA*.

11.4.1 Initial LA Role

A family may move with voucher assistance only to an area where there is at least one LA administering the HAVPP. Applicant families that have been issued vouchers as

well as participant families may qualify to lease a unit outside the initial LA's jurisdiction under transferability. HCR Policy determines whether a family qualifies.

11.4.1.1 Determining Income Eligibility

11.4.1.1.1 Applicant Families

An applicant family may lease a unit in a particular area under transferability only if the family is income eligible for admission to the HAVPP program in that area. The family must specify the area to which the family wants to move. The initial LA is responsible for determining whether the family is income eligible in the area to which the family wants to move. If the applicant family is not income eligible in that area, the LA must inform the family that it may not move there and receive HAVPP assistance.

11.4.1.1.2 Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under transferability.

11.4.1.2 Briefing

The initial LA will provide the family with the same oral and written explanation of transferability that it provides to applicant families selected for admission to the program. The receiving LA will provide the family with a briefing packet and will orally inform the family about the receiving LA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

The initial LA will provide the name, address, and phone of the contact for the LA in the jurisdiction to which they wish to move.

The LA will advise the family that they will be under the receiving LA's policies and procedures, including screening, voucher extension policies, and payment standards.

11.4.1.3 Voucher Issuance and Term

For participating families approved to move under transferability, the initial LA will issue a new voucher within 10 business days of the initial LA's written approval to move. The initial term of the voucher will be 60 days.

11.4.1.3.1 Voucher Extensions and Expiration

The initial LA will approve no extensions to a voucher issued to an applicant or participant family transferring out of the initial LA's jurisdiction except under the following circumstances:

a) The initial term of the voucher will expire before the transferable family will be issued a voucher by the receiving LA,
b) The family decides to return to the initial LA's jurisdiction and search for a unit there, or
c) The family decides to search for a unit in a third LA's jurisdiction.

In such cases, the policies on voucher extensions set forth in this Administrative Plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial LA's voucher program, a family that moves to another LA's jurisdiction under transferability must be under HAP contract in the receiving LA's jurisdiction within 90 days following the expiration date of the initial LA's voucher term (including any extensions).

11.4.1.4 Initial Notification to the Receiving LA

Because the transferability process is time-sensitive, the initial LA will notify the receiving LA by phone, fax, or email to expect the family. The initial LA will also ask the receiving LA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with incoming transferring families and procedures related to appointments for voucher issuance. The initial LA will pass this information along to the family.

11.4.1.5 Sending Documentation to the Receiving LA

The initial LA is required to send the receiving LA the following documents:

- Family Transferability Information Form with Part I filled out
- A copy of the family's voucher
- A copy of the family's most recent Family Report, or, if necessary, in the case of an applicant family, family and income information in a format similar to the Family Report; and
- Copies of the income verifications backing up the Family Report

11.4.1.6 Denial or Termination of Assistance

At any time, either the initial LA or the receiving LA may make a determination to deny or terminate assistance with the family in accordance with this Administrative Plan.

11.4.2 Receiving LA Role

If a family has a right to lease a unit in the receiving LA's jurisdiction under transferability, the receiving LA must provide assistance for the family. Administration of the voucher must be in accordance with HCR policies.

11.4.2.1 Initial Contact with Family

When a family moves into the LA's jurisdiction under transferability, the family is responsible for promptly contacting the receiving LA and complying with the receiving LA's procedures for incoming transferable families. The family's failure to comply may result in denial or termination of the receiving LA's voucher.

If the voucher issued to the family by the initial LA has expired, the receiving LA must contact the initial LA to determine if it will extend the voucher. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving LA refuses to process or provide assistance to a family under the transferability procedures, the family must be given the opportunity for an informal review or hearing.

11.4.2.2 Income Eligibility and Reexamination

For any family moving into its jurisdiction under transferability, the receiving LA will conduct a new reexamination of family income and composition. However, the receiving LA will not delay issuing the family a voucher for this reason. Nor will the receiving LA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the receiving LA 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, the receiving LA will rely upon any verifications provided by the initial LA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

11.4.2.3 Voucher Issuance

When a family transfers into its jurisdiction, the receiving LA will issue the family a voucher based on the paperwork provided by the initial LA. Voucher Term

The receiving LA's voucher will expire 30 calendar days from the expiration date of the initial LA's voucher. If the initial LA extends the term of the voucher, the receiving LA's voucher will expire 30 calendar days from the new expiration of the initial LA's voucher.

11.4.2.3.1 Voucher Extensions

The receiving LA may extend the term of the voucher that it issues to an incoming transfer family.

If the family submits a request for tenancy approval during the term of the receiving LA's voucher, the receiving LA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for receiving LA approval of the tenancy until the date the receiving LA notifies the family in writing whether the request has been approved or denied.

11.4.2.4 Notifying the Initial LA

The receiving LA must promptly notify the initial LA 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 the receiving LA's voucher. The receiving LA is required to use Part II of the Family Transferability Information form for this purpose.

If an incoming transferable family ultimately decides not to lease in the jurisdiction of the receiving LA but instead wishes to return to the initial LA's jurisdiction or to search in another jurisdiction, the receiving LA may transfer to case to the LA jurisdiction the family has selected. Termination of Assistance and Tenancy

11.5 MANDATORY GROUNDS FOR TERMINATION OF ASSISTANCE

11.5.1 Family No Longer Requires Assistance

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the LA is reduced to zero, the family's assistance terminates automatically 365 days after the last HAP payment.

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the LA of the change and request an interim reexamination before the expiration of the 365-day period.

11.5.2 Family Chooses to Terminate Assistance

The family may request that the LA terminate housing assistance payments on behalf of the family at any time. The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family's assistance, the LA will follow standard notice requirements.

11.5.3 Eviction

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 a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the LA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures available. Upon consideration of factors, the LA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment 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 will be whether or not the reason for the eviction was the fault of the tenant or guests.

11.5.4 Failure to Provide Consent

The LA must terminate assistance if any family member fails to sign and submit any consent form, they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

11.5.5 Methamphetamine Manufacture or Production

The LA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine.

11.5.6 Lifetime Registered Sex Offenders

Should a LA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the LA must immediately terminate assistance for the household member.

In this situation, the LA must offer 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, the LA must terminate assistance for the household.

11.5.7 Failure of Students to Meet Ongoing Eligibility Requirements

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with their parents in an HAVPP assisted household, the LA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

11.5.8 Death of a Sole Family Member

The LA must immediately terminate program assistance for deceased single member households.

11.5.9 Other Mandatory Reasons for Termination of Assistance

The LA will terminate a family's assistance if:

1. The action of a family member actively endangers the safety of other tenants, neighbors or family members (the LA may permit the head of household to remove that family member)
2. The family has failed to comply with any family obligations under the program.
3. The family has not reimbursed any LA for amounts the LA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
4. The family has breached the terms of a repayment agreement entered into with the LA.
5. A family member has engaged in or threatened violent or abusive behavior toward HCR/LA personnel, other entities involved in administering the program or the owner. This behavior may include:
    a. Verbal as well as physical abuse or violence.
    b. Use of language, written or oral, that is customarily used to intimidate.
    c. Oral or written threats or physical gestures that communicate intent to abuse or commit violence.

Upon consideration of such alternatives and factors, the LA may, on a case-by-case basis, choose not to terminate assistance.

11.5.10 Family Absence from Unit

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination shall follow normal notice procedures.

The LA may determine whether a family is absent using methods such as letters to the family at the unit, phone calls, visits, or questions to the landlord or neighbors.

Families that are terminated for being absent for 180 consecutive calendar days are not entitled to resumption of assistance but may apply for resumption in limited circumstances. Families may apply in writing for resumption of assistance if they are terminated for being absent. In order for the LA to resume assistance to a family which has been absent for more than 180 consecutive calendar days, all of the following requirements must be fulfilled:

- The family has presented evidence which shows:
    - The family was absent from the unit to escape domestic violence, dating violence, sexual assault, or stalking;
    - The family was absent due to active military service;
    - The family was absent due to imprisonment for a crime which would not disqualify the family from participation in the HAVPP program; ***or***
    - The family was absent due to hospitalization, institutionalization, or other extenuating circumstances beyond the family's control.
- Upon consideration of all related circumstances, including but not limited to the family's circumstances and the availability of funding, the LA has determined by substantial evidence that resumption of assistance is appropriate; ***and***
- The LA has received approval from HCR to resume assistance.

Families must notify the LA in advance before being absent from the unit for more than 30 days. If the family fails to notify the LA in accordance with their family obligations, the family may still seek resumption of assistance after being terminated due to being absent from the unit. However, the LA will weigh this failure to comply with family obligations when determining whether to resume assistance.

11.5.11 Insufficient Funding

HCR will determine whether there is sufficient funding to pay for currently assisted families. If the HCR or the LA determines there is a shortage of funding, prior to terminating any HAP contracts, HCR will determine if any other actions can be taken to reduce program costs.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HCR or the LA will terminate HAP contracts as a last resort. The LA will terminate the minimum number needed in order to reduce HAP costs to a level within the LA's annual budget authority.

If the LA must terminate HAP contracts due to insufficient funding, the LA will do so in accordance with the following criteria and instructions:

- Families who have been assisted in the HAVPP program for the least amount of time will be the first to be terminated, excluding families that include elderly or disabled family members.

11.6 Approach to Termination of Assistance

LAs are required to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the LA has the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the LA may choose to take when it has discretion and outlines the criteria the LA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the LA's intent to terminate assistance.

11.6.1 Method of Termination

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under transferability procedures.

11.6.2 Alternatives to Termination of Assistance

11.6.2.1 Change in Household Composition

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 LA request.

11.6.2.2 Repayment of Family Debts

If a family owes amounts to the LA, as a condition of continued assistance, the LA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the LA of the amount owed.

11.6.3 Criteria for Deciding to Terminate Assistance

11.6.3.1 Evidence

The LA will use the concept of the 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, credible 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.

11.6.3.2 Reasonable Accommodations

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the LA will determine whether the behavior is related to the disability. If so, upon the family's request, the LA will determine whether alternative measures are appropriate as a reasonable accommodation. The LA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

11.7 TERMINATION NOTICE

Whenever a family's assistance will be terminated, the LA will send a written notice of termination to the family and to the owner. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made, if the circumstances surrounding the termination require.

When the LA notifies an owner that a family's assistance will be terminated, the LA will, if appropriate, advise the owner of their right to offer the family a separate, unassisted lease.

If a criminal record is the basis of a family's termination, the LA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record.

11.8 TERMINATION OF TENANCY BY THE OWNER

Termination of an assisted tenancy is a matter between the owner and the family; the LA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

11.8.1 Grounds for Termination by the Owner

11.8.1.1 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 2013 (see Section 17.8). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the LA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

11.8.1.2 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.

11.8.1.3 Criminal Activity

The landlord may terminate tenancy if the family has committed a crime that poses a threat to the health and safety of the residents and/or management and administrative staff.

11.8.1.4 Other Good Cause

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. In addition, the owner must comply with all applicable state and local landlord-tenant laws. 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
- A business or economic reason for termination of the tenancy (such as sale of the property, failure to pay tenants share of the rent, renovation of the unit,
- After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease and applicable state and local laws.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate.

11.8.1.5 Eviction

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.

If the eviction action is finalized in court, the owner must provide the LA 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.

11.8.1.6 Deciding Whether to Terminate Tenancy

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;
- Whether the person responsible for the behavior/activity is no longer in the household;
- If drug or alcohol abuse is involved, whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

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.

11.8.2 Effect of Tenancy Termination on the Family's Assistance

If a termination is not due to a serious or repeated violation of the lease, and if the LA has no other grounds for termination of assistance, the LA may issue a new voucher so that the family can move with continued assistance.

12. OWNERS

12.1 OUTREACH

The LA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The LA will actively recruit property owners with property located outside areas of poverty and minority concentration. These 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;
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HAVPP program; and
- Outreach strategies will be monitored for effectiveness and adapted accordingly.

12.2 RETENTION

Owners that wish to indicate their willingness to lease a unit to an eligible HAVPP family or to help the HAVPP family find a unit must notify the LA. The LA will maintain a listing of such owners and provide this listing to the HAVPP family as part of the informational briefing packet.

12.3 BASIC PROGRAM REQUIREMENTS

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The LA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the LA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease.

The owner must be qualified to participate in the program. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest.

The selected unit must be of a type that is eligible for the program. The selected unit must meet NSPIRE standards. The LA will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet NSPIRE requirements.

The LA must determine that the proposed rent for the unit is reasonable. 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.

12.4 OWNER QUALIFICATIONS

The LA must not approve the assisted tenancy if the LA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation. HCR may direct the LA 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 or state nondiscrimination lawyer if such an action is pending.

The LA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The LA 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 applies at the time that the family receives assistance under the HAVPP 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.

In considering whether to request a conflict of interest waiver from HCR, the LA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

The LA will refuse to approve a request for tenancy if the LA becomes aware that any of the following are true:

- The owner has violated obligations under a housing assistance payment (HAP) contract;
- 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 NSPIRE for units leased under HAVPP.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under HAVPP 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 HCR or the LA, 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; or
  - Is 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 assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the LA 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, health and safety of participating families, among others. Upon consideration of such circumstances, the LA may, on a case-by-case basis, choose to approve an owner.

The LA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

13. OBLIGATIONS

13.1 FAMILY OBLIGATIONS

The family obligations under HAVPP are as follows:

- The family must supply any information that the HCR or the LA determines to be necessary.
- The family must supply any information requested by the LA or HCR for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must 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 breach of NSPIRE caused by the family's failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
  - Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must allow the LA to inspect the unit at reasonable times and after reasonable notice.
- The family must not commit any serious or repeated violation of the lease.
  - The LA 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, police

reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.
    - 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 or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim.
- The family must notify the LA 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 the LA at the same time the owner is notified.
- The family must promptly give the LA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the LA. The family must promptly notify the LA in writing of the birth, adoption, or court-awarded custody of a child. The family must request LA 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.
- The family must promptly notify the LA in writing if any family member no longer lives in the unit.
- If the LA has given approval, a foster child or a live-in aide may reside in the unit. The LA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when LA consent may be given or denied.
- 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 the LA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the LA when the family is absent from the unit.
    - Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the LA at 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).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.
- Family members must 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.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
- An assisted family or member of the family must not receive HAVPP 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 HAVPP program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the LA 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.

13.2 Owner Obligations

The basic owner responsibilities in the HAVPP program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease
- Performing 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
- Maintaining the unit in accordance with NSPIRE standards, including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the LA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person

- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HAVPP tenants or terminating the tenancy of an HAVPP family
- Owners shall comply with HCR's mandate to use direct deposit for receipt of any funds.

14. HAP CONTRACT

During the term of the HAP contract, and subject to the provisions of the HAP contract, the LA must make monthly HAP payments to the owner on behalf of the family at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the LA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the LA is not responsible for payment of the family share of rent.

14.1.1 Owner Certification of Compliance

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 accepting the monthly direct deposit from the LA, 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 NSPIRE; that the contract unit is leased to the tenant family and, 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 that 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 term.

14.1.2 Late HAP Payments

The LA 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 late penalties if the LA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to

charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The LA is not required to pay a late payment penalty if HCR determines that the payment is late for reasons beyond the LA's control. In addition, late payment penalties are not required if the LA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract.

14.1.3 Termination of HAP Payments

The LA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

14.2 Breach of HAP Contract

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with NSPIRE
- If the owner has violated any obligation under any other HAP contract under either HCV or HAVPP programs
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

Before the LA invokes a remedy against an owner, the LA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the LA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the LA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

14.3 HAP Contract Term and Terminations

The term of the HAP contract runs concurrently with the term of the dwelling lease, beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The LA 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 size requirements due to change in family composition
- The unit does not meet NSPIRE standards
- The family breaks up
- The owner breaches the HAP contract

Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the LA gives written notice to the owner.

The LA cannot make any HAP payment for any month after the month the family vacates the unit.

The owner is not entitled to any housing assistance payment after this period and must return to the LA any housing assistance payment received after this period.

14.4 Change in Ownership/Assignment of the HAP Contract

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HAVPP program according to the policies in Section 12.4 of this Plan.

The LA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the LA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the LA 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;
- A copy of the approved rental permit, only in jurisdictions where required by the local governing body (i.e., local/county codes enforcement agency);
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the LA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the LA will process the leasing in accordance with the policies in Chapter 10.

The agreement between the new owner and the former owner must be in writing and in a form that the LA finds acceptable. The new owner must provide the LA with a copy of the executed agreement. Alternatively, the new owner can execute a new HAP contract containing the original terms with LA.

The new owner must provide evidence of property ownership to the LA prior to new HAP being executed. If the LA does not receive proof of ownership by the new owner within that timeframe, the HAP Contract will be terminated, and the voucher family will be provided a voucher to locate a new unit.

All changes to landlord payee bank accounts must be verified by the LA through a direct phone call to the landlord using the phone number on file and not one that may be included in the email or paper request. This is in addition to the standard verification procedures, which include obtaining a W9, completed direct deposit form, and a cancelled check or certified bank letter. Verification should be documented in the files to ensure a clear record of the process. This process will ensure that HCR and LAs maintain integrity of operations and protect the HAVPP program from potential fraud. LAs must call the owner and collect all documents before changing the owner in HCR's internal system.

Improper assignment or transfer of ownership constitutes violation of the HAP contract, and HCR may seek penalties for improper assignment as described in the HAP contract.

14.5 FORECLOSURE

If a property is in foreclosure, the LA will make all reasonable efforts to determine the status of the foreclosure and ownership or responsibility for rent collection of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

The LA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification 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 law.

The LA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that the LA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to NSPIRE), or due to an inability to identify the new owner, the LA will either use the funds to pay:

- The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the LA shall notify the owner within a reasonable time after making the utility payment; or
- For the family's reasonable moving costs, including security deposit costs.

The LA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

15. FAIR HOUSING

New York State Human Rights Law any other applicable state law bars discrimination based on specific protected classes, including an individual's age, race/color, creed, national origin, citizenship or immigration status, sexual orientation, sex, disability, predisposing genetic characteristics, familial status, marital status, status as a victim of domestic violence, lawful source of income, military status, gender identity or expression, pregnancy-related condition and prior arrest or convictions resolved in complainants favor.

Familial status includes children under the age of eighteen (18) living with parents or legal custodians, pregnant women, and people securing custody of children under the age of eighteen (18).

Pursuant to NYS Human Rights Law, HCR and the LAs will not use any of the protected class characteristics above to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the HAVPP program;
- Provide housing that is different from that provided to others;
- Subject anyone to segregation or disparate treatment;
- Subject anyone to sexual harassment;
- 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
- Make, print, circulate, publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.
- Refuse to provide reasonable modification or accommodation a person with a disability.
  Interfere, coerce, intimidate, or retaliate against those seeking to exercise their rights.

15.1 Discrimination Complaints

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the LA either orally or in writing.

Within 10 business days of receiving the complaint, the LA will provide a written notice to those alleged to have violated the rule, and to HCR.

The LA will attempt to remedy discrimination complaints made against the LA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of the LA's investigation, the LA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The LA and HCR will keep a record of all complaints, investigations, notices, and corrective actions.

Nothing in the section precludes applicants and participants from also filing discrimination complaints and/or reports to the New York State Division of Human Rights or other state or local agency or organization that handles fair housing complaints.

15.2 Policies Related to Persons with Disabilities

LAs will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the LA, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact [INSERT LA NAME HERE]."

A specific name, email address, and phone number of designated staff will be provided to process requests for accommodation.

LA will display fair housing posters and other housing information and signage in locations throughout the LA's office in such a manner as to be easily readable from a wheelchair.

The LA will grant a reasonable accommodation to procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail;
- Conducting home visits;
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit; and/or
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with LA staff.

The LA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the LA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

An accommodation request will be considered not reasonable if it would impose an undue financial and administrative burden or fundamentally alter the nature of the HCR or the LA's operations.

15.2.1 Verification of Disability

Before providing an accommodation, the LA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the LA's programs and services.

The New York Human Rights Law defines a disability as:

- A physical, mental, or medical impairment resulting from anatomical, physiological, genetic, or neurological conditions which prevents the exercise of a normal bodily function or is demonstrated by medically accepted clinical or laboratory diagnostic techniques; or
- A record of such impairment; or
- A condition regarded by others as having such an impairment.

If a person's disability is obvious or otherwise known to the LA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required. If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the LA, the LA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

1. 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.
2. The LA must request only information that is necessary to evaluate the disability-related need for the accommodation. The LA will not inquire about the nature or extent of any disability and will not require the specific diagnosis.
3. Medical records will not be accepted or retained in the participant file.
4. In the event that the LA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the LA will dispose of it. In place of the information, the LA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

15.2.2 Approval/Denial of Requested Reasonable Accommodations

After a request for a reasonable accommodation is presented, the LA will respond in writing within 10 business days.

When the LA receives a request for a reasonable accommodation, the LA will engage in an interactive process with the requester. The purpose of the interactive process is to discuss the request, to obtain, if necessary, medical or other documentation to support the requested accommodation, to discuss the disability-related need for the requested accommodation, and to discuss alternatives, if any, to the requested accommodation.

If the LA denies a request for a reasonable accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice of denial after the interactive process will inform the family of the right to appeal the LA's decision through an informal review (if applicable) or informal hearing.

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

If the LA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the LA will notify the family in writing of its determination within 10 business days from the date of the most recent discussion or communication with the family.

15.2.3 Program Accessibility for Persons with Hearing or Vision Impairments

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with LA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative, or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

15.3 LIMITED ENGLISH PROFICIENCY

LA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency ("LEP").

15.3.1 Oral Interpretation

LA shall use a language line for telephone interpreter services.

When exercising the option to conduct remote briefings, informal reviews, or hearings, however, the LA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the LA. The LA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the LA will not rely on the minor to serve as the interpreter.

HCR will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), the LA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other LAs, and will standardize documents.

15.3.2 Written Translation

In order to comply with written-translation obligations, the LA will take the following steps:

The LA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the LA does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

15.3.3 Implementation Plan

If it is determined that an LA serves very few LEP persons, and the LA has very limited resources, the LA will not develop a written LEP plan but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the LA determines it is appropriate to develop a written LEP plan, the following five steps will be taken:

1. Identifying LEP individuals who need language assistance;
2. Identifying language assistance measures;
3. Training staff;
4. Providing notice to LEP persons; and
5. Monitoring and updating the LEP plan.

16. PROGRAM INTEGRITY

16.1 PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

To ensure that the HAVPP program is administered according to the highest ethical and legal standards, the LAs will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The LA will discuss program compliance and integrity issues during the voucher briefing.

The LA will provide each applicant and participant with a copy of a pamphlet focused on fraud prevention, which explains the types of actions a family must avoid and the penalties for program abuse.

The LA will place a warning statement about the penalties for fraud on key forms and form letters that request information from a family or owner.

LA staff will be required to review and explain the contents of all HCR/LA-required forms prior to requesting family member signatures.

At every regular reexamination, LA staff will explain any changes in HCR policy that affect program participants.

The LA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The LA will provide each LA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

16.1.1 Detecting Errors and Program Abuse

16.1.1.1 Quality Control and Analysis of Data

The LA will employ a variety of methods to detect errors and program abuse. The LA routinely will use sources of up-front income verification. This includes private or public databases available.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The LA will compare family-reported income and expenditures to detect possible unreported income.

16.1.1.2 Independent Audits and Monitoring

The LA will use the results reported in any independent audit report to identify potential program abuses as well as to assess the effectiveness of the LA's error detection and abuse prevention efforts.

16.1.1.3 Individual Reporting of Possible Errors and Program Abuse

The LA will encourage staff, program participants, and the public to report possible program abuse.

16.1.2 Investigating Errors and Program Abuse

16.1.2.1 What the LA Will Investigate

The LA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the LA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The LA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

16.1.2.2 Consent to Release of Information

The LA may investigate possible instances of error or abuse using all available LA and public records. If necessary, the LA will require HAVPP families to sign consent forms for the release of additional information.

16.1.2.3 Analysis and Findings

The LA will base its evaluation on a preponderance of the evidence collected during its investigation.

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, credible evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the LA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the LA, and (3) what corrective measures or penalties will be assessed.

16.1.2.4 Consideration of Remedies

In the case of family-caused errors or program abuse, the LA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) 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, the LA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

16.1.2.5 Notice and Appeals

The LA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the LA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable.

16.2 Corrective Measures and Penalties

16.2.1 Subsidy Underpayments or Overpayments

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Increases in the family share will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Whether the family or owner is required to reimburse the LA or the LA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse.

16.2.2 Family-Caused Errors and Program Abuse

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The LA may, but is not required to, offer the family a repayment agreement. If the family fails to repay the excess subsidy, the LA will terminate the family's assistance.

The LA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the LA for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the employees, contractors, or other HCR/LA 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 the LA 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 (e.g. income, family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income); or
- Admission of program abuse by an adult family member.

The LA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

16.2.2.1 Penalties for Program Abuse

- The LA may require the family to repay excess subsidy amounts paid by the LA, as described earlier in this section.
- The LA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- The LA may deny or terminate the family's assistance following the policies set forth in this Administrative Plan.

- The LA may refer the family for criminal prosecution.

16.3 Owner-Caused Error or Program Abuse

In cases where the owner has received excess subsidy, the LA will require the owner to repay the amount owed.

16.3.1 Prohibited Owner Actions

An owner participating in the HAVPP must not:

- Make any false statement to the LA or HCR
- Commit fraud, bribery, or any other corrupt or criminal act in connection with HAVPP, including:
    - Charging the family rent above or below the amount specified by the LA;
    - 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 the HCR Board of Commissioners, employees, contractors, or other HCR/LA representatives;
    - Offering payments or other incentives to an HAVPP family as an inducement for the family to make false or misleading statements to the LA;
    - Residing in the unit with an assisted family;
    - Committing sexual or other harassment, either quid pro quo or hostile environment, based on protected classes;
    - Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on protected classes.

16.3.2 Remedies and Penalties

When the LA determines that the owner has committed program abuse, the LA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section.
- Terminate the HAP contract.
- Bar the owner from future participation in any HAVPP programs.
- Refer the case for criminal prosecution.

16.4 LA-Caused Errors or Program Abuse

LA-caused incorrect subsidy determinations include (1) failing to correctly apply HAVPP rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) 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 LA staff.

The LA must 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. Funds for this reimbursement must come from the LA's administrative fee reserves.

Any of the following will be considered evidence of program abuse by HCR/LA staff:

- Failing to comply with any HAVPP program requirements for personal gain,
- Failing to comply with any HAVPP 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 persons who provide services or materials to HCR/LA,
- Disclosing confidential or proprietary information to outside parties,
- Gaining profit as a result of insider knowledge of HCR/LA activities, policies, or practices,
- Misappropriating or misusing HAVPP funds,
- Destroying, concealing, removing, or inappropriately using any records related to the HAVPP program, and
- Committing any other corrupt or criminal act in connection with any federal housing program.

16.5 Criminal Prosecution

When HCR or the LA determines that program abuse by an owner, family, or HCR/LA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, HCR or the LA will refer the matter to the appropriate entity for prosecution.

16.6 Fraud and Program Abuse Recoveries

The LA may retain a portion of program fraud losses that the LA recovers from a family or owner through litigation, court order, or a repayment agreement. The LA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. LAs may retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or

- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing.

17. PROGRAM ADMINISTRATION

17.1 SETTING PROGRAM STANDARDS AND SCHEDULES

Copies of the payment standard and utility allowance schedules are available for review in the LA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The LA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

17.1.1 Updating Payment Standards

HCR and the LA will review the appropriateness of the payment standards on an annual basis when the new fair market rents (FMR) are published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" the LA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The budget may be reviewed to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. This may include comparing the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the LA or HCR will consider increasing the payment standard. The evaluation will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The LA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: The LA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The LA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The LA may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

17.1.1.1 Unit-by-Unit Exceptions

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 HCR, the LA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

17.2 Informal Reviews and Hearings

The LA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the LA referral list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under transferability procedures.

17.2.1 Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to the LA by the close of the business day, no later than 10 business days from the date of the LA’s denial of assistance.

The LA must schedule and send written notice of the informal review within 10 business days of the family’s request.

If the informal review will be conducted remotely, at the time the LA notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the LA will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the LA and the LA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

17.2.2 Informal Review Procedures

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the LA.

17.2.3 Remote Informal Reviews

The LA has the sole discretion to require that informal reviews be conducted remotely.

In addition, the LA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. The LA will consider other reasonable requests for a remote informal review on a case-by-case basis.

17.2.4 Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. LAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

LAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the LA may not hold against the individual their inability to participate in the remote informal review, and the LA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

17.2.5 Conducting Remote Informal Reviews

The LA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the LA. The LA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, the LA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The LA must ensure that the applicant has the right to hear and be heard.

At the LA's discretion, the LA may conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling any remote review, the LA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the review and request the family notify the LA of any known barriers. The LA will resolve any barriers such as offering the family the opportunity to attend an in-person review.

If the informal review is to be conducted remotely, the LA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review. The LA will scan and email copies of these documents to the LA representative the same day.

Documents will be shared electronically whenever possible.

The LA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The LA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

17.2.6 Informal Review Decision

In rendering a decision, the LA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The LA will evaluate whether the facts presented prove the grounds for denial of assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the LA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.
- The LA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and their representative, if any.
- 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.

17.2.7 Informal Hearings for Participants

Circumstances for which the LA must give a participant 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 LA utility allowance schedule
- A determination of the family unit size under the HAVPP subsidy 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 HCR policy
- If the LA denies a request for reasonable accommodations

17.2.8 Remote Hearings

The LA has the sole discretion to require that informal hearings be conducted remotely.

In addition, the LA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The LA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

When conducting a remote informal hearing, the LA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the LA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the LA of any known barriers.

The LA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The LA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

17.2.9 Informal Hearing Procedures

17.2.9.1 Notice

When the LA makes a decision that is subject to informal hearing procedures, the LA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the LA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the HAVPP subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family

does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where the LA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the LA;
- A brief statement of the reasons for the decision, including the regulatory reference;
- The date the proposed action will take place;
- A statement of the family's right to an explanation of the basis for the LA's decision;
- 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;
- To whom the hearing request should be addressed;
- A copy of the LA's hearing procedures; and
- That the family may request a remote informal hearing.

17.2.9.2 Scheduling the Informal Hearing

A request for an informal hearing must be made in writing and delivered to the LA by the close of the business day, no later than 10 business days from the date of the LA's decision or notice to terminate assistance.

The LA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

If the LA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

- Regarding the processes involved in a remote informal hearing;
- That the LA will provide technical assistance prior to and during the informal hearing, if needed; and
- That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the LA and the LA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

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, the LA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the LA within 24 hours of the scheduled hearing date, excluding weekends and

holidays. The LA 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. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the LA's decision will stand.

17.2.9.3 Pre-Hearing Right to Discovery

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of LA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

If the hearing will be conducted remotely, the LA will compile a hearing packet, consisting of all documents the LA intends to produce at the informal hearing. The LA will mail copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of the LA representative and retained by the LA.

Documents will be shared electronically whenever possible.

For in-person hearings, the LA will not require pre-hearing discovery by the LA of family documents directly relevant to the hearing.

If the informal hearing is to be conducted remotely, the LA will require the family to provide any documents directly relevant to the informal hearing at least three business days before the scheduled hearing. The LA will scan and email copies of these documents to the hearing officer and the LA representative the same day.

17.2.9.4 Participant's Right to Bring Counsel

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

17.2.9.5 Informal Hearing Officer

Informal hearings will be conducted by a person or persons approved by the LA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

17.2.9.6 Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A LA representative(s) and any witnesses for the LA;
- The participant and any witnesses for the participant;
- The participant's counsel or other representative; or
- Any other person approved by the LA as a reasonable accommodation for a person with a disability.

17.2.9.7 Conduct at Hearings

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

17.2.9.8 Evidence

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the LA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If either the LA (or the family, if required in a remote hearing) fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

17.2.9.9 Procedures for Rehearing or Further 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 the LA will take effect, and another hearing will not be granted.

17.2.9.10 Hearing Officer's Decision

In rendering a decision, the hearing officer will consider the following matters:

LA Notice to the Family: The hearing officer will determine if the reasons for the LA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the LA and the family were given the opportunity to examine any relevant documents in accordance with LA policy.

Evidence to Support the LA Decision: The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the LA's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified HCR policies. If the grounds for termination are not specified in the regulations or in compliance with HCR policies, then the decision of the LA will be overturned.

The hearing officer will issue a written decision to the family and the LA no later than 10 business days after the hearing. The report will contain the following information:

- Hearing information:
- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the LA representative; and
- Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. 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.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the LA's decision.

Order: The hearing report will include a statement of whether the LA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the LA to change the decision in accordance with the hearing officer's determination. In the case of

termination of assistance, the hearing officer will instruct the LA to restore the participant's program status.

17.2.9.11 Issuance of Decision

The hearing officer will mail a "Notice of Hearing Decision" to the LA and to the participant on the same day. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Hearing Decision." A copy of the "Notice of Hearing Decision" will be maintained in the LA's file.

17.2.9.12 Effect of Final Decision

Only an individual in a managerial position at the LA has the authority to determine that the LA is not bound by the decision of the hearing officer because the LA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HCR regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the LA will mail a "Notice of Final Decision" to the LA and the participant on the same day. The "Notice of Final Decision" will be sent by first-class mail. A copy of this notice will be maintained in the LA's file.

17.3 Owner or Family Debts to LA

17.3.1 Overview

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the LA holds the owner or participant liable to return any overpayments to the LA.

The LA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

17.3.2 Repayment Policy

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the LA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

17.3.2.1 Owner Debts to the LA

Any amount due to the LA by an owner must be repaid by the owner within 30 days of the LA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the LA 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 the LA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the LA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the LA will ban the owner from future participation in the program and pursue other modes of collection.

When an owner refuses to repay monies owed to the LA, the LA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit

17.3.2.2 Family Debts to the LA

Any amount owed to the LA by an HAVPP family must be repaid by the family. If the family is unable to repay the debt within 30 days, the LA will offer to enter into a repayment agreement in accordance with the policies below.

17.3.2.3 Refusal to Enter into an Agreement

When a family refuses to repay monies owed to the LA, in addition to termination of program assistance, the LA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit

17.3.2.4 Repayment Agreement Guidelines for Families

The LA has established the following thresholds for repayment of debts:

- Amounts between $2,401 and the federal or state threshold for criminal prosecution must be repaid within 36 months;
- Amounts between $1,801 and $2,400 must be repaid within 24 months;
- Amounts between $1,201 and $1,800 must be repaid within 18 months;
- Amounts between $601 and $1,200 must be repaid within 12 months; and
- Amounts of $600 or less must be repaid within 6 months.

If a family can provide evidence satisfactory to the LA that the threshold applicable to the family's debt would impose an undue hardship, the LA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the LA will consider all relevant information, including the following:

- The amount owed by the family to the LA
- 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
- The family's history of meeting its financial responsibilities

17.3.2.5 Execution of the Agreement

Any repayment agreement between the LA and a family must be signed and dated by the LA and by the head of household and spouse/cohead (if applicable).

17.3.2.6 Due Dates

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

17.3.2.7 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 the LA, the LA will send written notification providing a 15-calendar day grace period before sending the family a delinquency notice. If payment is not received within the 15-calendar day grace period, the LA will send a delinquency notice giving the family 10 additional 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 the LA will terminate assistance in accordance with the policies in Chapter 12.

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 the LA will terminate assistance.

17.3.2.8 No Offer of Repayment Agreement

The LA 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.

17.3.2.9 Repayment Agreement Terms

All repayment agreements must be in writing, dated, signed by both the family and the LA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount.

- 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 the LA 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 the LA 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
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

17.3.2.10 Compensation for Executed Repayment Agreements

Monies recovered are returned to the LA's HAP account and collection fees are paid out of that same account. Our goal is to continue encouraging LAs to collect excess subsidy and enact a reasonable means of providing compensation for those efforts. To meet that goal, we have decoupled the recoupment of excess subsidy from this process for compensating LAs. Under this process, all repayments collected will remain in the HAP account.

LA compensation will be based on a per-agreement flat fee that will be paid to defray costs of establishing and monitoring each executed repayment agreement. The fee will be paid when all excess subsidy has been collected per the terms, a request for reimbursement is submitted within 90 days from the date of closure of the repayment agreement and formal authorization has been provided by HCR staff to make the specified fee adjustment. When HCR receives verification, the participant has completed payment due under the repayment agreement, fees to the LA will be paid according to the following schedule:

Repayment Agreement	**LA Fee**
$1,000 or less	50% amount collected
$1,001 - $2,000	Lesser of 50% amount collected or $750
$2,001 or more	Lesser of 40% amount collected of $5,000

17.4 QUALITY CONTROL

Quality Control ("QC") will be conducted by HCR Statewide staff. HCR will rate the LA's performance under each QC indicator in accordance with program requirements.

17.4.1 QC Indicators

The table below lists each of the QC indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

QC Indicators
Indicator 1: Selection from the waiting list Maximum Score: 10 • This indicator shows whether the LA follows policies in this Administrative Plan when selecting applicants from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with HCR's written policies, according to the LA's quality control samples.
Indicator 2: Rent reasonableness Maximum Score: 10 • This indicator shows whether the LA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.

QC Indicators
• Points are based on the percent of units for which the LA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the LA's quality control sample.
Indicator 3: Determination of adjusted income Maximum Score: 10 • This indicator measures whether the LA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to the LA's quality control sample.
Indicator 4: Utility allowance schedule Maximum Score: 5 • This indicator shows whether the LA maintains an up-to-date utility allowance schedule. • Points are based on whether the LA has reviewed the utility allowance schedule and adjusted it when required, according to the LA's certification.
Indicator 5: NSPIRE quality control inspections Maximum Score: 5 • This indicator shows whether an LA supervisor reinspects a sample of units under contract during the HCR fiscal year, which meets the minimum sample size requirements for quality control of NSPIRE inspections. • Points are based on whether the required quality control reinspection's were completed, according to the LA's certification.
Indicator 6: NSPIRE enforcement Maximum Score: 10 • This indicator shows whether, following each inspection of a unit under contract where the unit fails to meet HQS/NSPIRE, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any LA-approved extension. • Points are based on whether the LA corrects all NSPIRE deficiencies in accordance with required time frames, according to the LA's certification.
Indicator 7: Expanding housing opportunities Maximum Points: 5 • This indicator shows whether the LA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the LA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration. • Points are based on whether the LA has adopted and implemented written policies in accordance with QC requirements, according to the LA's certification.

QC Indicators
Indicator 8: FMR limit and payment standards Maximum Points: 5 points • This indicator shows whether the LA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the LA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR. • Points are based on whether the LA has appropriately adopted a payment standard schedule(s), according to the LA's certification.
Indicator 9: Annual reexaminations Maximum Points: 10 • This indicator shows whether the LA completes a reexamination for each participating family at least every 12 months. • Points are based on the percent of reexaminations that are less than two months overdue.
Indicator 10: Correct tenant rent calculations Maximum Points: 5 • This indicator shows whether the LA correctly calculates the family's share of the rent to owner. • Points are based on the percent of correct calculations of family share of the rent.
Indicator 11: Pre-contract NSPIRE inspections Maximum Points: 5 • This indicator shows whether newly leased units pass NSPIRE inspection on or before the effective date of the assisted lease and HAP contract. • Points are based on the percent of newly leased units that passed NSPIRE inspection on or before the effective date of the lease and HAP contract.
Indicator 12: Annual HQS/NSPIRE inspections Maximum Points: 10 • This indicator shows whether the LA inspects each unit under contract at least annually. • Points are based on the percent of annual NSPIRE inspections of units under contract that are more than 2 months overdue.
Indicator 13: Lease-up Maximum Points: 10 points • This indicator shows whether the LA enters HAP contracts for at least 98 percent of the number of the LA's baseline voucher units in the ACC for the calendar year ending on or before the HCR fiscal year, or whether the LA has expended at least 98 percent of its allocated budget authority for the same calendar year. • The LA can receive 10 points if 95 to 97 percent of vouchers are leased or budget authority is utilized. • Points are based on utilization of vouchers and HAP expenditures for the most recently completed calendar year.

17.5 RECORD KEEPING

During the term of each assisted lease, and for at least three years thereafter, the LA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the LA must 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;

- Unit inspection reports;
- Lead-based paint records.
- Accounts and other records supporting HCR or LA budget and financial statements for the program; and
- Records to document the basis for LA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract).

17.5.1 Records Management

All applicant and participant information will be kept in a secure location and access will be limited to authorized HCR/LA staff.

HCR/LA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

17.5.1.1 Criminal Records

The LA may only disclose the criminal conviction records which the LA receives from a law enforcement agency to officers or employees of the LA, or to authorized representatives of the LA who have a job-related need to have access to the information.

17.5.1.2 Medical/Disability Records

LAs are not permitted to inquire about the nature or extent of a person's disability. The LA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the LA receives a verification document that provides such information, the LA should not place this information in the tenant file. The LA should destroy the document.

17.6 BLOOD LEAD LEVEL

If HCR or an LA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or

medical health care provider, that a child of less than six years of age, living in an HAVPP-assisted unit has been identified as having an elevated blood lead level, the LA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of NSPIRE and the PHA will take action.

17.6.1 Reporting Requirements

Upon notification by the owner, the LA will notify HCR and will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

17.6.2 Data Collection and Record Keeping

Unless the LA-area public health department(s) has stated they do not wish to receive a report of an updated list of the addresses of units receiving assistance under the HAVPP, the LA will provide the report to the LA-area public health department on a quarterly basis.

17.7 Determination of Insufficient Funding

The LA 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 the LA's annual budget authority to the annual total HAP needs on a monthly basis. If the LA or HCR determines that there is insufficient funding after a voucher has been issued, the LA may rescind the voucher and place the affected family back on the referral list.

The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the LA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if the LA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the LA will be considered to have insufficient funding.

17.8 Protections and Rights for Victims of Domestic Violence and Related Conduct

HCR recognizes the importance of protecting victims of domestic violence, dating violence, sexual assault, and stalking ("domestic violence and related conduct"). As such, HCR is adopting the requirements of the Violence Against Women Act for applicants and participants of the HAVPP.

17.8.1 Protections for Victims of Domestic Violence and Related Conduct

The LA acknowledges that a victim of domestic violence and related conduct may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would normally warrant denial under the HCR's policies.

An applicant for assistance or tenant assisted under HAVPP may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. While the LA is not required to identify whether adverse factors that resulted in the applicant's denial or termination are a result of domestic violence and related conduct, the applicant may inform the LA that their status as a victim is directly related to the grounds for the denial. The LA will request that the applicant/participant provide enough information to the LA to allow the LA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The LA may terminate assistance to such member who engages in criminal activity directly relating to domestic violence, and related conduct against an affiliated individual or other individual without removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is part of the voucher household.

If the victim is requesting relief based on domestic violence and related conduct (for example, that the perpetrator be removed from the voucher household, or to transfer their voucher before lease expiration to another unit, or to justify extended absence) the applicant/participant must include in their request:

- 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 unless perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

The LA should make concerted efforts to enable victims of domestic violence and related conduct to be able to move to ensure their safety.

17.8.1.1 Documentation for Victims of Domestic Violence and Related Conduct

Any request for additional documentation, if LA determines it is necessary to verify the occurrence of domestic violence and related conduct beyond the information provided as part of the request, will be made by the LA in writing, will specify a deadline of 14 business days following receipt of the request, will describe the forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The LA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the LA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the LA will be in writing.

Once the victim provides documentation, the LA will acknowledge receipt of the documentation within 10 business days.

17.8.1.2 Documentation for Perpetrators of Domestic Violence and Related Conduct

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment 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 their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

17.8.2 Notification

17.8.2.1 Notification to Public

The LA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A copy of the LA's notice of occupancy rights under VAWA to applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking.
- A copy of the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation.
- A copy of the LA's Emergency Transfer Plan.
- A copy of the Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.
- NYS Domestic and Sexual Violence Hotline: Call 800-942-6906, Text 844-997-2121

- Contact information for local victim advocacy groups or service providers available here: https://opdv.ny.gov/domestic-and-sexual-violence-service-providers-county

17.8.2.2 Notification to Program Applicants and Participants

The LA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The LA will also include information about VAWA in all notices of denial of assistance.

The LA will provide all participants with information about VAWA at the time of admission and at annual reexamination. The LA will also include information about VAWA in notices of termination of assistance.

Whenever the LA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the LA may decide not to send mail regarding VAWA protections to the victim's unit if the LA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the LA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

The LA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

17.8.3 Documentation

An LA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse.

The individual may satisfy the LA's request by providing any one of the following three forms of documentation:

(1) A completed and signed certification form, which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.

(2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The LA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the LA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the LA will be in writing.

Once the victim provides documentation, the LA will acknowledge receipt of the documentation within 10 business days.

17.8.3.1 Conflicting Documentation

If presented with conflicting certification documents from members of the same household, the LA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation and by following any HCR guidance on how such determinations should be made.

When requesting third-party documents, the LA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the LA does not receive third-party documentation within the required timeframe (and any extensions) the LA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the LA will hold separate reviews/hearings for the applicants or tenants.

17.8.3.2 Discretion to Require No Formal Documentation

If the LA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or

stalking, the LA will document acceptance of the statement or evidence in the individual's file.

17.8.3.3 Failure to Provide Documentation

In order to deny relief for protection under VAWA, an LA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the LA may allow, the LA may deny relief for protection under VAWA.

17.8.4 Confidentiality

Any information provided by applicant/participant or a third party about the applicant/tenant (or a household member) being a victim of domestic violence or related conduct shall be kept strictly confidential. This information should be securely and separately kept from other files in the tenant/participant's files. This information can only be accessed by an employee/agent of the LA if (1) access is required for a specific reason, (2) the LA explicitly authorizes that person's access for that reason, and (3) the authorization complies with applicable law. This information shall not be given to anyone else or put in a database shared with anyone else, unless the LA (1) gets your written permission by HCR to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, or (3) is required to do so by law.

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

18. APPENDICES

18.1 GLOSSARY

Definitions under this Glossary are found in Public Housing Law 14-A, § 605.

18.1.1 Absences Due to Placement in Foster Care

If a child has been placed in foster care, the LA 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.

18.1.2 Absent Family Members

Generally, an individual who is or is expected to be absent from the assisted unit for 180 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 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

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 the LA indicating that the student has established a separate household or the family declares that the student has established a separate household.

If a child has been placed in foster care, the LA 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.

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member. Their income will sill be counted.

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

The LA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the LA will consider, any additional documentation or evidence.

The family must request LA approval for the return of any adult family members that the LA previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

18.1.3 Absent Head, Spouse, or Cohead

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

18.1.4 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 the LA indicating that the student has established a separate household or the family declares that the student has established a separate household.

18.1.5 Affiliated Individual

For purposes of protection of victims of domestic violence, dating violence, sexual assault, and stalking, the term *affiliated individual* means, with respect to a person:

- A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
- Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

18.1.6 Caretakers for a Child

The approval of a caretaker is at the owner and LA's discretion and subject to the owner and LA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HAVPP assistance, a caretaker is not considered a guest. Instead, the LA will 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 will 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 will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the LA will 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 will 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.

18.1.7 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.

18.1.8 Dependent

"Dependent" means any member of the family who is neither the head of household, nor the head of the household's spouse, and who is:

(a) Under the age of eighteen;
(b) A person with a disability; or
(c) A full-time student.

18.1.9 Disability

"Disability" means:

(a) The 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 twelve months;

(b) In the case of an individual who has attained the age of fifty-five and is blind, the inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which they have previously engaged with some regularity and over a substantial period of time; or

(c) A physical, mental, or emotional impairment which:
  (i) Is expected to be of long-continued and indefinite duration;
  (ii) Substantially impedes their ability to live independently; and
  (iii) Is of such a nature that such ability could be improved by more suitable housing conditions;

(d) A developmental disability that is 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 twenty-two;
  (iii) Is likely to continue indefinitely;
  (iv) Results in substantial functional limitations in three or more of the following areas of major life activity:
    (A) Self-care;
    (B) Receptive and expressive language;
    (C) Learning;
    (D) Mobility;
    (E) Self-direction;
    (F) Capacity for independent living; or
    (G) Economic self-sufficiency; or
  (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.

18.1.10 Domestic Violence

The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner 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 or intimate partner, 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.

18.1.11 Dwelling Unit

“Dwelling unit” means a single-family dwelling, including attached structures such as porches and stoops; or a single-family dwelling unit in a structure that contains more

than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

18.1.12 Elderly
"Elderly" means a person sixty-two years of age or older.

18.1.13 Fair Market Rent
"Fair market rent" means the fair market rent for each rental area as promulgated annually by the United States department of housing and urban development pursuant to 42 U.S.C. 1437f.

18.1.14 Family
“Family” means 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) or any remaining members of a tenant family.

18.1.15 Family Breakup
When a family on the referral list breaks up into two otherwise eligible families, only one of the new families may retain the original application date.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision or an agreement among the original family members, the LA will determine which family will retain their placement on the referral list or continue to receive assistance. In making its determination, the LA will take into consideration the following factors:

- The interest of any minor children, including custody arrangements;
- The interest of any ill, elderly, or disabled family members;
- 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;
- Any possible risks to family members as a result of criminal activity;
- Who was the head of household at the time of initial application and/or who is the current head of household;
- In the case of assisted families, which family members will be remaining in the assisted unit; and
- The recommendations of social service professionals.

At the LA’s discretion, the LA may require documentation supporting the family’s situation. Failure to provide the required documentation may result in denial or termination of assistance.

Live-in aides may not become a remaining family member if a participant family breaks up.

18.1.16 Family Members Permanently Confined for Medical Reasons

The LA 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.

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 cohead qualifies as an elderly person or a person with disabilities.

18.1.17 Foster Children and Foster Adults

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.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HAVPP's subsidy standards.

18.1.18 Guests

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent. A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 60 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, 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.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

18.1.19 Head of Household

The family may designate any qualified family member as the head of household. A "qualified family member" includes any member who is 18 years of age or older, or an emancipated minor.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household, and will be treated as an adult for program purposes.

18.1.20 Homeless

Under the Act, "homeless" means:

- Lacking a fixed, regular, and adequate nighttime residence;
- Having 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(n):
    - Car;
    - Park;
    - Abandoned building;
    - Bus or train station;
    - Airport;
    - Campground; or
    - Other place not meant for human habitation.
- Living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements;
    - This includes hotels and motels paid for by federal, state, or local government programs for low-income individuals or by charitable organizations, congregate shelters, or transitional housing.
- Exiting an institution where an individual or family has resided and lacking a regular fixed and adequate nighttime residence upon release or discharge;
- Individuals released or scheduled to be released form incarceration and lacking a regular fixed and adequate nighttime resident upon release or discharge;
- Being a homeless family with children or unaccompanied youth defined as homeless under 42 U.S.C. § 11302(a); or
- Having experienced a long-term period without living independently in permanent housing or having experience persistent instability as measured by frequent moved and being reasonably expected to continue in such status for an extended period of time because of:
    - chronic disabilities;
    - chronic physical health or mental health conditions;
    - substance addition;
    - histories of domestic violence or childhood abuse;
    - the presence of a child or youth with a disability;
    - multiple barriers to employment; or
    - other dangerous or life-threatening conditions, including conditions that relate to violence against an individual or family member.

18.1.21 Housing Access Voucher Local Administrator

Under the Act, “Housing Access Voucher Local Administrator” (“LA”) means “a public housing agency, as defined in subdivision three of this section, or HAVPP local administrator designated to administer the housing access voucher pilot program within a community, county or region, or statewide, on behalf of and under contract with the housing trust fund corporation. In the city of New York, the housing access voucher local administrator shall be the New York city department of housing preservation and development, or the New York city housing authority, or both.”

18.1.22 Imminent Loss of Housing

Under the Act, “imminent loss of housing” means:

- Having received a verified rent demand or a petition for eviction;
- Having received a court order resulting from an eviction action that notifies the individual or family that they must leave their housing;
- Facing loss of housing due to a court order to vacate the premises due to hazardous conditions, which may include but not be limited to asbestos, lead exposure, mold, and radon;
- Having a primary nighttime residence that is a room in a hotel or motel and lacking the resources necessary to stay;
- Facing loss of the primary nighttime residence, which may include living in the home of another household, where the owner or renter of the housing will not allow the individual or family to stay, provided further, that an assertion from an individual or family member alleging such loss of housing or homelessness shall be sufficient to establish eligibility; or
- Fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, human trafficking or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, provided further that an assertion from an individual or family member alleging such abuse and loss of housing shall be sufficient to establish eligibility.

18.1.23 Institution of Higher Education

The term "institution of higher education" means an educational institution in any State that-

- Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
- Is legally authorized within such State to provide a program of education beyond secondary education;
- 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, or awards a degree that is acceptable for admission

to a graduate or professional degree program, subject to review and approval by the Secretary;

- Is a public or other nonprofit institution; and
- Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation 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.

18.1.24 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 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 primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the LA will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

18.1.25 Lease

"Lease" means 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 an individual or family with housing assistance payments under a contract between the owner and the housing access voucher local administrator.

18.1.26 Live-in Aides

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-subject to LA verification-at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

A person who is a member of the assisted family who already resides in the unit may not become a live-in aide for any member of the household. Persons who are related to a family member may become a live-in aide if they are not a member of the assisted family who currently resides in the assisted unit.

The LA will not approve a particular person as a live-in aide, and may withdraw such approval if:

- 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; or
- The person currently owes rent or other amounts to the LA or HCR,

The LA will notify the family of its decision in writing within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request.

The selection requirements for a live-in aide are continuous. During each annual reexamination, the approval of any live-in aides for a family will be reassessed. This reassessment will follow the same requirements as initial approval of a live-in aide.

Live-in aides are not eligible to become a remaining family member if a family gets broken up.

18.1.27 Owner

“Owner” means any private person or any entity, including a cooperative, an agency of the federal government, or a public housing agency, having the legal right to lease or sublease dwelling units.

18.1.28 Parent

The term "parent" includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

18.1.29 Public Housing Agency

Under the Act, “public housing agency” or “LA” means “county, municipality, or other governmental entity or public body that is authorized to administer any public housing program (or an agency or instrumentality of such an entity), and any other public or private non-profit entity that administers any other public housing program or assistance.”

18.1.30 Reasonable Rent

"Reasonable rent" means rent not more than the rent charged on comparable units in the private unassisted market and rent charged for comparable unassisted units in the premises.

18.1.31 Sexual Assault

The term *sexual assault* means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent

18.1.32 Spouse, Cohead, and Other Adult

A family may have a spouse or cohead, but not both. *Spouse* means the marriage partner of the head of household. A *marriage partner* includes the partner in a "common

law" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners.

18.1.33 Stalking

The term *stalking* means to engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

18.1.34 Temporarily Absent Family Members

Generally, an individual who is or is expected to be absent from the assisted unit for 180 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 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

18.1.35 Voucher

"Voucher" means a document issued by the housing trust fund corporation pursuant to this article to an individual or family selected for admission to the housing access voucher pilot program, which describes such pilot program and the procedures for approval of a unit selected by the family and states the obligations of the individual or family under the pilot program.