

## CHAPTER 6: OCCUPANCY STANDARDS

### 6.1 OVERVIEW

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

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

### 6.2 OCCUPANCY STANDARDS

#### 6.2.1 Determining Family Unit (Voucher) Size

24 CFR 982.402

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

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

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

The following requirements apply when HANO determines family unit size:

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

- Persons of the same gender of different generations may be allocated separate bedrooms. A generation is defined as 10 years.
- Adults and children of the same gender (except for in the case of a parental or legal guardianship relationship) with an age gap of at least 25 years will be allocated separate bedrooms.
- Parents and/or legal guardians will be required to share a bedroom with a child until the child is 5 years of age. Once a child reaches age five, the parent and/or legal guardian will be allocated a separate bedroom.
- Two children of the same gender share a bedroom.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- Single-person families will be allocated one bedroom.
- Live-in aides will be allocated a separate bedroom.
- No additional bedrooms shall be allocated for the family of a live-in aide.
- A family that consists of a pregnant person will count the pregnant person as at least two people for determining the family unit size and will take into account the unborn child or children.

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### 6.2.2 Exceptions to Occupancy Standards

24 CFR 982.402(b)(8)

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

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

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

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

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

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

### 6.2.3 Occupancy Standards - Project-Based Voucher (PBV) Units

HANO applies the subsidy standards as outlined in this chapter for PBV units. The occupancy standards shall be applied consistently for all families of like size and composition; however, HANO may allow reasonable exceptions if justified by age, sex, health or disability. Such exceptions must be documented in the tenant's file. HANO also may allow reasonable exceptions for a PBV unit if the exception is justified by lack of eligible families to lease four

percent of the units assisted will be rated higher than projects with more than the greatest of 25 units or 25 percent of the units assisted. In the case of projects for occupancy by the elderly, people with disabilities, VASH families, or families needing other services, HANO will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

Within 10 business days of HANO making the selection, HANO will notify the selected owner in writing of the owner's selection for the PBV program. HANO will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

#### **22.4.1 HANO Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program**

HANO may award PBV assistance to owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

In addition to, or in place of, advertising, HANO may also directly contact specific owners that have already been selected for federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

HANO may evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers HANO's goal of deconcentrating poverty and expanding housing and economic opportunities;
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, HOME program activities, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community; and
- Other factors that further the mission and goals of HANO.

#### **22.4.2 HANO Selection of HANO-Owned Housing Proposals**

CFR [983.51\(e\)](#), [983.5957](#)

HANO's project-based voucher program will comply with HUD and HANO regulations and policies. If HANO-owned units are selected for project-based voucher assistance, HANO will, in accordance with HUD guidelines, submit its proposal to an independent third party and/or the local HUD field office to review HANO's proposal and selection process. HANO will obtain HUD approval of the process, and any third-party entity used, prior to selecting the proposal for HANO-owned housing.

A HANO-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HANO-owned units were appropriately selected based on the selection procedures specified in HANO administrative plan. If HANO selects a proposal for housing that it owns or controls, HANO will identify the entity that will review HANO proposal selection process and perform specific functions with respect to rent determinations, the establishment of contract terms and any renewals, and inspections.

In the case of HANO-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity. The independent entity must provide notices to the family, HANO, and/or the owner regarding rent determinations and inspections.

The independent entity that performs these program services may be the unit of general local government for HANO jurisdiction (unless HANO is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HANO may only compensate the independent entity and appraiser from HANO ongoing administrative fee income (including amounts credited to the administrative fee reserve). HANO may not use other program receipts to compensate the independent entity and appraiser for their services. HANO, independent entity, and appraiser may not charge the

family any fee for the appraisal or the services provided by the independent entity.  
See the definition of PHA-owned housing for details on what qualifies as a HANO-owned unit in the Glossary of Public Housing Terms.

**22.4.3 ~~Attaching PBVs to Certain PHA-Owned Projects without Following a Competitive Process~~ Exceptions to a Competitive Selection Process**

24 CFR 983.51(b), PIH Notice 2017-21

HANO may attach PBV assistance to units in a (1) Public Housing Improvement, Development and Replacement Initiatives.

If HANO is engaged in an initiative to improve, develop, or replace a public housing property or site, it may select for PBV assistance an existing, newly constructed, or rehabilitated project in which HANO has an ownership interest or over which HANO has control of without following a competitive process.

(i) With respect to replacement housing, HANO does not have to replace the housing on the same site as the original public housing, but the number of contract units in the replacement project may not exceed the number of units in the original public housing project by more than a de minimis amount for this exception to apply.

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(ii) The public housing properties or sites may be in the public housing inventory at the time of project selection or they may have been removed from the public housing inventory through any available legal removal tool within five years of the project selection date.

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(2) Replacement for Non-HANO Owned or Controlled Public Housing.

HANO may select for future PBV assistance a project currently under the public housing program, or a project that is replacing the public housing project, in which HANO has no ownership interest, or which HANO has no control over, without following a competitive process, provided:

(i) The public housing project is either still in the public housing inventory or had been removed from the public housing inventory through any available legal removal tool within five years of the project selection date;

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(ii) The PHA that owned or owns the public housing project does not administer the HCV program;

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(iii) The project selected for PBV assistance was specifically identified as replacement housing for the impacted public housing residents as part of the public housing demolition/disposition application, voluntary conversion application, or any other application process submitted to and approved by HUD to remove the public housing project from the public housing inventory; and

(iv) With respect to replacement housing, the PHA does not have to replace the housing on the same site as the original public housing, but the number of contract units in the replacement project may not exceed the number of units in the original public housing project by more than a de minimis amount for this exception to apply.

(3) HANO-Owned Units.

HANO may select for PBV assistance a project consisting of "HANO-owned units" as defined herein without following a competitive process provided HANO also complies with Section 22.4.2 of this Plan.

(i) The project units must continue to meet the definition of HANO-owned for the initial two years of the HAP contract unless there is a transfer of ownership approved by HUD.

(ii) HANO must meet any conditions with respect to selection for PBV assistance of a project consisting of PHA-owned units without following a competitive process as may be established by HUD through publication in the Federal Register notice after providing opportunity for public comment.

(4) Enhanced Voucher Events. HANO may select for PBV assistance a project that underwent an eligibility event within five years of the project selection date, in which a family (or families) qualifies for enhanced voucher assistance under Section 8(t) of the Act and provides informed consent to relinquish its enhanced voucher for PBV assistance, without following a competitive process.

(5) Changes in Law. HANO may select a project for PBV assistance noncompetitively if a change in law, regulation, or HUD guidance occurs after the publication of this Administrative Plan that authorizes such non-competitive selection.

24 CFR 983.51(b), PIH Notice 2017-21

HANO may attach PBV assistance to units in a project in which HANO has an ownership interest or has control of without following a competitive process. An ownership interest means that HANO or its officers, employees, or agents are in an entity that holds any direct or indirect interest in the project in which the units are located, including but not limited to an interest as: titleholder; lessee; stockholder; member, or general or limited partner; or member of a limited liability corporation. For purposes of this authority, HANO ownership interest also includes a scenario in which HANO is the lessor of the ground lease for the land upon which the PBV project to improve, develop, or replace the public housing property is located or will be constructed.

In order to qualify for this non-competitive selection, the following conditions must be met:

- HANO must be engaged in an initiative to improve, develop, or replace public housing properties or sites, which may be in the inventory or have been removed from the inventory within 5 years of the date on which HANO entered into the AHAP or HAP;
- If HANO plans rehabilitation or new construction, a minimum threshold of \$25,000 in hard costs per unit is required;
- If HANO plans to replace public housing by attaching PBV to existing housing in which HANO has an ownership interest or control of, then the \$25,000 threshold does not apply as long as the existing housing substantially complies with HQS, as defined in the Glossary of Subsidized Housing Terms; and
- If HANO opts to use this option, the agency must explain its work plan and how many PBV units it intends to add at a property in this Administrative Plan.

#### **22.4.4 HUD Waiver of PBV Regulatory Selection Requirements**

Notwithstanding the provisions of 983.51(a), for certain developments associated with the Choice Neighborhoods Implementation grant, HANO may implement alternative non-competitive selection methods in accordance with the HUD waiver granted to HANO by letter dated March 6, 2012.

HANO may also allow non-competitive selection of one or more PBV projects where all units in the project(s) are made exclusively available to HUD-VASH families on the site of a VA facility according to Federal Register notice of August 13, 2024.

#### **22.4.5 HANO Notice of Owner Selection**

24 CFR 983.51(d)

HANO will give prompt written notice to the party that submitted a selected proposal and will also give prompt public notice of such selection. Public notice procedures will include means designed and implemented to provide broad public notice.

### **22.5 HOUSING TYPE**

24 CFR 983.52

HANO may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing. A housing unit is considered an “existing unit” for purposes of the PBV program if, at the time of notice of HANO selection, the unit substantially complied with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

HANO will determine what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. HANO’s choice of housing type must be reflected in its solicitation for proposals.

#### **22.5.1 Assistance for Certain Unit Types**

24 CFR 983.53

HANO may not attach or pay PBV assistance to properties that include nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (including assisted living facilities); units that