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CHAPTER 1 Introduction

ONLINE RESOURCES

Additional resources and references for this course are available at <http://NMAreferences.com>. Click the Project-Based Voucher (PBV) Program link at the top of the web page to jump directly to the references. No login information is required.

LEARNING OUTCOMES

Based on HUD regulations and guidance, develop and master the skills needed to successfully select and manage project-based voucher (PBV) properties.

Upon completion of the Project-Based Voucher (PBV) Workshop, you should be able to:

- Identify the key basic program elements and requirements for project-based voucher properties
- Identify information related to project-based vouchers that must be included in the PHA's five-year plan, annual plan, and administrative plan
- Differentiate between the tenant-based voucher rules that apply to the PBV program and rules unique to the PBV program
- Recognize the regulations concerning owner selection for the PBV program
- Describe and explain the various project-based voucher contracts
- Discuss the general PBV requirements for eligibility, waiting list management, tenant screening and selection criteria, and ongoing PHA responsibilities related to occupancy
- Identify how the rental assistance demonstration (RAD) program affects the administration of the PBV program
- Develop a regular monitoring review process for PBV projects
- Discuss and understand reporting requirements for the PBV program

OVERVIEW

This course focuses on the concepts that you need to master in order to successfully select and manage project-based voucher properties. PHAs have a lot of flexibility in tailoring the PBV program to seize opportunities for long-term affordable housing and to meet local needs. While the PBV program is a component of the housing choice voucher program, many of its rules are different. Understanding the key programmatic differences and PBV rules provides a foundation for a successful program. On the other hand, not understanding and managing the program to comply with program rules can be very costly in terms of time, money, and consequences.

There are numerous examples of excellent local project-based voucher projects that provide families with high quality affordable housing. However, since 2006, HUD's Office of Inspector General (OIG) has issued audit findings against various public housing authorities for their administration of the project-based voucher program, even where PBV properties were a highlight in the community. HUD required many of the audited PHAs to reimburse funds for unsupported PBV expenditures, including HAP payments. We have learned lessons from these audits and will share them with you in this workshop.

CHAPTER 2 **Project-Based Voucher Basics**

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe what a “project-based voucher” property is
- Identify the key program elements and requirements for project-based voucher properties
- Describe the roles of the PHA, HUD, owners, and families

OVERVIEW

*24 CFR 982
24 CFR 983
FR Notices 10/13/05, 11/24/08,
7/9/10, 6/25/14, and 1/18/2017*

In Section 232 of the Fiscal Year 2001 Appropriations Act, Congress authorized the project-based voucher program (PBV). HUD provided initial guidance on the program in 2001, but old rules made the program administratively cumbersome. In November 2005, HUD issued a final rule, a comprehensive set of new regulations, to implement the project-based voucher program. These regulations are contained in 24 CFR 983. 24 CFR Part 982 applies to the PBV program with the exception of the sections that are not applicable as described in 24 CFR Part 983. Subsequently, in November 2008, HUD issued a notice regarding the applicability of provisions of the Housing and Economic Recovery Act (HERA) of 2008 to the project-based voucher program, including guidance on the provisions that were self-implementing. In June 2014, HUD issued a final rule fully implementing the HERA terms into the regulations at Part 983.

On January 18, 2017, HUD published a notice implementing certain provisions of the Housing Opportunity Through Modernization Act (HOTMA) of 2016 which were effective April 18, 2017. The rule implemented new statutory provisions affecting the project-based program at large. Technical corrections to the notice were published on July, 14, 2017. Subsequently, a PIH Notice providing guidance on the provisions (PIH 2017-21) was published October 30, 2017.

Section 1: Learning Outcomes and Overview

The purpose of the project-based voucher program is to provide PHAs with a flexible tool to increase housing opportunities for low-income families outside of areas with concentrated poverty. It is an optional program that PHAs may implement at their discretion to meet the affordable housing needs of the local community. Key advantages realized through the program include:

- Improving voucher utilization in tight markets. Families frequently have difficulty using their housing choice vouchers in such markets. Project-based vouchers guarantee availability of affordable units.
- Expanding the pool of supportive housing for persons with disabilities.
- Incorporating affordable housing units in new housing developments. Project-based contracts may facilitate mixed-income housing in neighborhoods undergoing revitalization.
- Providing additional housing opportunities for low and extremely low-income families. The PBV program is very effective when combined with affordable housing development programs (e.g., the Low Income Housing Tax Credit (LIHTC) and HOME programs) because it ensures affordability for low and extremely low-income families while providing an income stream to pay construction or rehabilitation loans.

Section 2 Project-Based Voucher Program Cap

The terms project and property are used synonymously in this workbook.

24 CFR 983.5

24 CFR 983.6

The project-based voucher (PBV) program is a discretionary component of a PHA's Housing Choice Voucher (HCV) program. There are no appropriations for this program and HUD does not allocate funding for project-based voucher assistance. Instead, funding for project-based vouchers comes from funds already obligated by HUD to a PHA under its HCV Annual Contributions Contract (ACC).

The PHA can use up to 20 percent of its housing choice voucher authorized units for project-based vouchers.

FR Notice 1/18/17;

FR Notice 7/14/17;

Notice PIH 2017-21

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. In order to be excepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP or selected the project, the unit either:
 - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), Rental Assistance Program (RAP), or Flexible Subsidy Program (Section 201); or
 - The unit was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), Housing for Persons with Disabilities (Section 811), or Flexible Subsidy Program (Section 201).

Units that have previously received either PBV or HCV assistance are not covered under the exception.

Section 2: Project-Based Voucher Program Cap

*FR Notice 1/18/17;
FR Notice 7/14/17
Notice PIH 2017-21*

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3 (See Notice PIH 2017-21).
- Are specifically made available to house families that are comprised of or include a veteran.
 - Veteran means an individual who has served in the United States Armed Forces.
 - PHAs may further define veteran in the administrative plan (e.g., to include an individual with “other than dishonorable” discharge status.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
 - See Notice PIH 2017-21 for details.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.
 - The project would continue to qualify for the length of the contract regardless of subsequent changes in the poverty rate for that census tract.

Exception categories only apply to PBV HAP contracts that were first executed on or after April 18, 2017. HAP contracts executed before this date are not eligible for the additional 10 percent exception.

FR Notice 1/24/22

The Fostering Stable Housing Opportunities (FSHO) amendments added an exception category for FUPY/FYI assistance if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance.

HUD issued a PBV Program Cap Worksheet for PHAs to use to calculate the program cap. The worksheet can be found at www.hud.gov.

The PHA sets the maximum percentage of authorized units for the PBV program in the administrative plan.

Section 2: Project-Based Voucher Program Cap

For flexibility, many PHAs indicate that they may use up to 20 percent of their authorized units for the PBV program, the statutory maximum. However, if a PHA specifies a lower percentage and then decides to increase it, it must change its administrative plan.

HOTMA allows the PHA to project-base an additional 10 percent of units in certain projects. The administrative plan must state if the PHA will project-base additional units. If these units are for supportive services, the PHA must include the types of services offered. If the units are for veterans, the PHA may define additional criteria.

Section 3 PBV Project Cap

DEFINITION OF A PROJECT

24 CFR 983.3

A *project* is defined as a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

Contiguous is defined as adjacent to or touching on a boundary or point. Single-family homes, duplexes, triplexes, and fourplexes may constitute a project.

There is no minimum project size. Scattered site housing is not eligible unless it is divided into multiple projects.

PROJECT CAP

PIH 2017-21

The project cap in the PBV program is the greater of 25 units or 25 percent of units in a project. (Note, prior to HOTMA the cap was 25 percent of units in a project).

Project Cap Example

ABC Project has a total of 40 units. The project cap for ABC Project is the greater of 25 units or 10 units (25 percent of 40 units). A total of 25 units may be project-based in ABC Project.

Exceptions are allowed and certain PBV units are not counted against the 25 percent or 25-unit per project cap. These are known as *excepted units*.

Exception categories differ depending on when the HAP contract was executed.

Under HOTMA:

- Contracts executed prior to 4/18/17 follow “old” statutory PBV requirements for excepted units.
- Projects where the HAP contract was executed on or after 4/18/17 follow the new requirements that were implemented as a result of HOTMA.

Section 3: PBV Project Cap

Under the “old” statutory regulations for HAP contracts executed prior to 4/18/17, the project cap does not apply to units for:

- Elderly and/or disabled families
- Families receiving supportive services
 - The family must have at least one member receiving at least one qualifying supportive service
 - The PHA may not require participation in medical or disability-related services other than drug and alcohol treatment

Under the new HOTMA provisions for HAP contracts executed on or after 4/18/17, units that are not subject to the project cap include:

- Units that are exclusively for elderly families.
- Units that are for households *eligible* for supportive services available to all families receiving PBV assistance in the project, although the family is not required to accept or receive such services.
 - The services do not need to be provided at the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or line in the community as independently as possible.

A PHA must include in its administrative plan the types of services offered to families for a project to qualify for the exception and the extent to which such services will be provided (e.g., length of time services will be provided to a family, frequency of services, and depth of services). Such supportive services need not be provided by the owner or on-site but must be reasonably available to the families receiving PBV assistance in the project.

Section 3: PBV Project Cap

A PHA must not require participation in the supportive services as a condition of living in an excepted unit. In accordance with 24 CFR §983.354, with the exception of an assisted living facility, the owner of a PBV project may not require the assisted family to pay charges for meals or supportive services, and nonpayment of such charges by the family is not grounds for termination of tenancy. In the case of an assisted living facility receiving PBV assistance, owners may charge families for meals or supportive services. These charges may not be included in the rent to owner or the calculation of reasonable rent.

For the purpose of this exception, supportive housing means a project that makes supportive services available for all of the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing. Such services may include (but are not limited to):

- Meal service adequate to meet nutritional need
- Housekeeping aid
- Personal assistance
- Transportation services
- Health-related services
- Case management
- Child care
- Educational and employment services
- Job training
- Counseling
- Other services designed to help the recipient live in the community as independently as possible.

The PHA may not rely solely on a supportive service program that would require the family to engage in the services once enrolled, such as FSS, for the unit to qualify for the supportive services exception.

- In other words, if the PHA offers FSS in excepted units, some other type of supportive service option must be offered.

Section 3: PBV Project Cap

Further, if a family chooses to participate in a supportive service and completes the objective, the unit continues to be eligible as long as the family lives there. However, if the family becomes ineligible for any reason other than successfully completing the supportive service objective, the unit will no longer be considered excepted.

- The family must be ineligible for all supportive services made available.
- For example, if a family signs up for FSS and later drops out, the unit would continue to be excepted if the family is eligible for any non-FSS supportive services.

Units where the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates. The cap is the greater of 25 units or 40 percent of the units in the project.

- HUD created a PBV lookup tool that establishes whether an address falls into a tract that has an average poverty level of 20 percent or less. It may be accessed at <https://www.huduser.gov/portal/maps/hcv/home.html>

The Fostering Stable Housing Opportunities (FSHO) amendments added an exception category for FUPY/FYI assistance if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance.

FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs.

Exceptions to the Project Cap: Example

ABC Project has a total of 40 units. 15 of the 40 units are PBV units specifically for elderly families. Units exclusively serving elderly families are excepted from the project cap. The project cap for ABC Project is 25 units (greater of 25 units or 10 units (25 percent of units in project)). A total of 40 units may be project-based in ABC Project (project cap of 25 plus the 15 excepted units).

Section 3: PBV Project Cap

HOTMA eliminated the exception for disabled families and modified the supportive services component to make it optional. However, projects under the “old” regulations would continue to use the former exceptions to the cap, unless the PHA and owner mutually agree to change the HAP contract. The change can only be made if it would not jeopardize an assisted family’s eligibility for continued assistance. For example, if excepted units in a project are for disabled individuals, removing the disabled unit designation would mean that those units are no longer eligible as excepted units unless the owner makes supportive services available to those residents.

The administrative plan must state whether your PHA will consider any exceptions to the project cap. The PHA must delineate any locally determined caps that might limit the percentage of assisted units per building or project.

There is no limit on the number of other units in the project receiving other governmental housing assistance or on the number of tenant-based voucher holders residing in the property.

Section 4 Eligible Housing Types

A PHA may provide project-based assistance for “existing” housing that does not need rehabilitation, as well as for newly constructed or rehabilitated housing.

24 CFR 983.52

Existing units are defined as units that already exist and “substantially comply” with HQS on the proposal selection date. PHAs may use their discretion in placing a dollar limit on the amount of rehabilitation work per unit in order for a property to qualify as existing housing. HUD is considering revisions to the definition of existing housing.

Units for which rehabilitation or new construction began after the owner’s proposal submission but prior to the execution of the AHAP do not subsequently qualify as existing housing. Additionally, units that were newly constructed or rehabilitated in violation of program requirements do not qualify as existing housing.

Newly constructed housing: Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the PHA and owner for use under the PBV program

Rehabilitated housing: Housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed, pursuant to an Agreement between the PHA and owner, for use under the PBV program.

Section 5 PHA-Owned Units

Congress established safeguards in the PBV program to protect PHAs from accusations of program abuse. As such, the United States Housing Act of 1937 requires that certain functions be performed by a unit of local government or a HUD-approved independent entity in units that are considered PHA-owned.

DEFINITION OF PHA-OWNED

FR Notice 1/18/17

A unit is now “owned by a public housing agency” only if the unit is in a project that is one of the following categories:

- Owned by a PHA
- Owned by an entity wholly controlled by the PHA
- Owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner (as defined in FR Notice 1/18/17 and amended in FR Notice 7/14/17)

In order to be considered PHA-owned, the PHA must have ownership interest in the building itself, not simply the land beneath the building. With the implementation of HOTMA, units in which PHAs have a different ownership interest are no longer considered to be owned by the PHA.

Notice PIH 2017-21

For units that were previously considered to be PHA-owned but are no longer PHA-owned due to this definitional change, the PHA must obtain an opinion from its legal counsel that the project in question falls outside the statutory definition.

For PBV projects where the PHA has an interest in the project, but such interest does not cause the project to be classified as PHA-owned housing, HUD may review the PHA’s rent determination for such projects, including the PHA’s methodology of determining rent comparability. HUD intends to issue additional guidance concerning HUD review and monitoring of rent determinations and rent adjustments for PBV projects, including cases in which the PHA has an interest in the PBV project.

INDEPENDENT ENTITY

If the PHA is the unit of general local government or an agency of such government, then the next level of general local government may be the IE without HUD approval.

Example, the PHA is the city or an agency of the city, then the county or state government may perform the functions without HUD approval

The PHA may pay fees to the independent entity or appraiser from its administrative fee, and the PHA may not charge the families any fees for any services provided by the independent entity.

INDEPENDENT ENTITY FUNCTIONS

If units are PHA-owned, a unit of state or local government or an independent entity must perform the following functions:

- Before a PHA-owned unit is assisted under the PBV program, the independent entity must review the selection process and determine that the PHA-owned units were appropriately selected in accordance with policies and procedures in the PHA administrative plan.
- Establish PBV contract rents - both initial rent to owner and redetermined rent to owner
- Determine rent reasonableness
 - Provide a copy to the PHA and HUD field office
 - Notify the PHA and the family of the determination
- Assist the family in negotiating rent with the owner
- Establish the initial and renewal terms of the HAP contract
- Perform inspections
 - Provide a copy of the inspection to the PHA and HUD field office
 - Communicate the results to the family and the PHA

Section 6 Project-Based Voucher Terminology

24 CFR 983.3

The PBV program frequently uses terminology that is not common to the Housing Choice Voucher program, its parent program. Therefore, before we start using them, we are providing brief definitions of such terms. Details concerning their application will be provided in subsequent chapters.

Activities of daily living: Eating, bathing, grooming, dressing, and home management activities. This definition is important for assisted living facilities.

Admission: The point when the family becomes a participant in the PHA's tenant-based or project-based voucher program (initial receipt of tenant-based or project-based assistance). After admission, and so long as the family is continuously assisted with tenant-based or project-based voucher assistance from the PHA, a shift from tenant-based or project-based assistance to the other form of voucher assistance is not a new admission.

Agreement to Enter into a Housing Assistance Payments Contract (AHAP): A PHA is required to enter into an agreement to enter into a housing assistance payments contract (AHAP) for each rehabilitation and new construction property selected for the PBV program. Existing developments do not require an AHAP. Under the AHAP, the owner agrees to develop units described by bedroom size and building in accordance with housing quality standards (HQS), the HUD physical condition standards. The PHA agrees that, upon timely completion of construction in accordance with the terms of the AHAP, the PHA will enter into a HAP contract with the owner of the newly constructed or rehabilitated units. The AHAP prescribes compliance requirements for Davis-Bacon and Section 3 Employment Opportunities during construction, specifies deadlines for completion of the housing, and defines evidence of completion.

Section 6: Project-Based Voucher Terminology

24 CFR 983.302(e)

Anniversary date: The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract. Even if contract units are placed under the HAP contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP contract.

Assisted living facility: An eligible PBV housing type that is a residential facility (including a facility located in a larger multifamily property) that meets all the following criteria: (1) The facility is licensed and regulated as an assisted living facility by the state, municipality, or other political subdivision; (2) The facility makes available supportive services to assist residents in carrying out activities of daily living. Supportive services may include home health care services such as nursing and therapy for residents of the housing; and (3) The facility provides separate dwelling units for residents and includes common rooms and other facilities appropriate and actually available to provide supportive services for the residents.

Comparable rental assistance: A subsidy or other means to enable a family to obtain decent housing in the PHA jurisdiction renting at a gross rent that is not more than 40 percent of the family's adjusted monthly gross income. This term is used in the context of relocation housing and providing housing options for families in wrong size units.

Contract unit: The housing units covered under a HAP contract. There is only one HAP contract for multiple units in a project.

Contract year: The contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

Section 6: Project-Based Voucher Terminology

Commencement of construction or rehabilitation: To be eligible as a new construction or rehabilitation property, construction or rehabilitation activities must not begin prior to the execution of an AHAP. For new construction housing, commencement includes activities such as excavation or site preparation (including clearing of the land). For rehabilitation housing, commencement begins with any physical work on the housing.

Davis-Bacon: A requirement that construction contractors receiving federal funds pay construction workers the local “prevailing wage.” The Davis-Bacon Act was enacted in 1931 to ensure contractors pay a fair wage.

Environmental review: The analysis of the positive and negative impacts a proposed project will have on the people and the natural environment within a designated area and the effect the material and social environment may have on a project. The analysis includes environmental, social, and economic aspects. Environmental reviews are required for all new construction and rehabilitation housing properties. They are also sometimes required for existing housing.

Existing housing: Housing with units that already exist on the proposal selection date and that substantially complies with housing quality standards (HQS), the minimum physical condition standards for the Housing Choice Voucher program as defined in 24 CFR 982.401 on that date. A PHA determines that the property/units substantially comply via a pre-selection of the property and units proposed for assistance. Prior to execution of a PBV housing assistance payments contract (HAP contract) between the owner and the PHA, units under contract for assistance must fully comply with HQS. Eligible tenants who reside at the property on the selection date have priority for PBV assistance in the development.

Section 6: Project-Based Voucher Terminology

Excepted units: In projects with HAP contracts that first became effective before April 18, 2017, units in a multifamily project that are not counted against the 25 percent per-project cap because they are designated for occupancy by elderly families and/or families with disabled persons and/or families receiving supportive services. For projects with HAP contracts that first became effective on or after April 18, 2017, assistance may not be provided in more than the greater of 25 units or 25 percent of units in a project unless the units are exclusively for elderly families, for households eligible for supportive services available to all families receiving PBV at the project, or the project is located in a census tract with a poverty rate of 20 percent or less.

24 CFR 92.1

HOME housing investments partnerships program

(HOME): Formula grants from HUD to states and localities that communities use, often in partnership with local nonprofit groups, to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership, or provide direct rental assistance to low-income people. The HOME program is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended. Program regulations are at 24 CFR Part 92.

Housing assistance payments contract: A contract between the PHA and an owner that identifies the units and buildings to receive assistance, utility responsibilities, services to be provided, and the obligations of both parties. All units must meet HQS prior to contract execution, unless the PHA adopts an alternative policy. The contracts must be in the format provided by HUD. HUD provides templates for existing housing and for new construction and rehabilitation housing.

*24 CFR 983.55
Notice PIH 2013-11
FR Notice 3/13/23*

Housing credit agency (HCA): A state housing finance agency, a state participating jurisdiction under HUD's HOME program (see CFR 24 part 92), or other state housing agency that meets the definition of "housing credit agency" as defined by section 42 of the Internal Revenue Code of 1986 for purposes of performing subsidy layering reviews in accordance with HUD requirements.

Section 6: Project-Based Voucher Terminology

In-place families (rehabilitation and existing housing only):

Families that are eligible to participate in the program as of the date the proposal is selected, and which reside in a unit that will be placed under a PBV contract. PHAs must add such families to the PHA's PBV waiting list and give them an "absolute preference" to continue to reside in the property with project-based assistance. The intent of this provision is to meet the objectives of HUD's policy to minimize displacement and to protect in-place tenants.

Labor standards: Regulations implementing the Davis-Bacon Act, Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), 29 CFR part 5, and other federal laws and regulations pertaining to labor standards applicable to development (including rehabilitation) of a project comprising nine or more assisted units.

LIHTC Basics /HUD Web site

Low Income Housing Tax Credits (LIHTC or tax credits):

The Internal Revenue Service (IRS) provides the tax credits to states, usually to the state housing finance agencies. The state housing finance agencies generally administer the program, and award the credits competitively to proposed properties. Many tax credit properties receive additional governmental assistance in the form of development cost payments, loans, and subsidies.

Multifamily building: A building with five or more dwelling units (assisted or unassisted). Note that a single-family building is defined as a building with at least one and up to four units.

New construction housing: Housing that does not exist as of the proposal submission date. Construction must not commence before execution of the agreement to enter into a housing assistance payments contract (AHAP). New construction housing must be completed in accordance with the AHAP.

Partially assisted project: A project in which there are fewer PBV contract units than residential units.

Premises: The project in which the contract unit is located, including common areas and grounds.

Section 6: Project-Based Voucher Terminology

PHA-owned unit: In order to be a PHA-owned unit, the PHA must have ownership interest in the building itself, not simply the land beneath the building. A unit is considered to be owned by the PHA if the unit is in a project that is owned by the PHA, owned by an entity wholly controlled by the PHA, or owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing or general partner. (Note: The definition of *controlling interest* was amended in the July 14, 2017 technical corrections to the HOTMA implementation guidance and is provided in Notice PIH 2017-21.)

Project: A single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. Contiguous in this definition includes “adjacent to”, as well as touching along a boundary or a point.

Proposal selection date: The date the PHA gives written notice of PBV proposal selection to an owner whose proposal is selected in accordance with the criteria established in the PHA’s administrative plan.

Rehabilitation Housing: Rehabilitation is the reconstruction to cure deferred maintenance; repair or replacement of major building systems or components in danger of failure; and renovation or alteration for the conversion of existing structures for housing use. To qualify as rehabilitation, there are no minimum costs for the proposed repairs and upgrades to the property. Cosmetic improvements alone do not qualify as rehabilitation housing. Rehabilitation must not begin before the agreement to enter into a housing assistance payments contract (AHAP) is executed. Rehabilitation must be completed in accordance with the AHAP.

Notice PIH 2013-7

Responsible entity: The unit of state, county, local, and tribal governments within which the project is located that exercises land use responsibility and that performs environmental reviews.

Single-family building: A building with no more than four dwelling units (assisted or unassisted).

Site: The grounds where the contract units are located, or will be located after development pursuant to the agreement.

Section 6: Project-Based Voucher Terminology

Subsidy-layering review (SLR): A review performed by HUD or a state or local housing credit agency authorized by HUD to conduct such reviews. The intent of the review is to ensure that a project does not use excess governmental subsidy when funded by multiple governmental sources.

Supportive housing: Supportive housing means that the project makes supportive services available for all of the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing. Such services may include (but are not limited to): meal service, housekeeping aid, personal assistance, transportation services, health-related services, educational and employment services or other services designed to help the recipient live in the community as independently as possible.

Wrong-size unit: A unit occupied by a family that does not conform to the PHA's subsidy standards for family size, by being too large or too small compared to the guidelines.

Section 7 Roles of HUD, the PHA, the Owner, and Families

HOUSING AND URBAN DEVELOPMENT

As charged by Congress, HUD is the department that administers subsidized housing programs. HUD Headquarters is located in Washington D.C. For the Section 8 Housing Choice Voucher program, HUD's Office of Public and Indian Housing has the primary role for:

- Developing regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress
- Allocating HCV program funds to PHAs
- Providing technical assistance to PHAs on interpreting and applying HCV program requirements
- Monitoring PHA compliance with HCV program requirements and PHA performance in program administration

Field offices are the local arm of HUD. Their primary role is the monitoring and guidance of program operations for PHAs who most often interact with their field offices rather than HUD Headquarters.

A listing of HUD's field offices may be found on HUD's website:

www.hud.gov/program_offices/field_policy_mgt/localoffices

PUBLIC HOUSING AUTHORITY (PHA)

HUD contracts with public housing authorities, as authorized by state legislation, to administer the housing choice voucher program. HUD provides funds to each PHA under the terms of an Annual Contribution Contracts (ACC). The PHA has responsibility for day-to-day oversight of program performance and compliance. The PHA establishes local policies, must comply with federal, state, and local laws as well as HUD regulations, and must affirmatively promote fair housing.

For the project-based voucher program, the PHA must specify local policies, competitive selection criteria, and the amount of funding set aside for project-based vouchers in its five-year plan or Moving to Work (MTW) plan, and administrative plan. The PHA contracts with property owners to project-base units. However, the PHA retains responsibility for determining family eligibility and reexamination of family income, maintaining the waiting list, calculating the family's share of the rent, and establishing utility allowances.

PHAs are responsible for executing, managing, renewing, and/or terminating the PBV contracts.

WHAT DOES THE PHA DO?

The PHA administers the HCV program under contract with HUD and under PBV rules has the following major responsibilities:

- Establish local policies
- Select properties and owners
- Notify HUD of the intent to project base vouchers
- Submit required documents to HUD or local entities for reviews and/or approval such as environmental reviews and subsidy-layering reviews
- Execute contracts with owners for specific units in properties
- Review applications from interested applicant families to determine whether applicants are eligible for the program
- Maintain waiting lists, place owner referrals on waiting lists, and qualify families for admission
- Inform families of program rules

Section 7: Roles of HUD, the PHA, the Owner, and Families

- Refer qualified families to owners
- Inspect assisted units and ensure compliance with HQS
- Make housing assistance payments to owners in a timely manner
- Ensure that families comply with program rules and continue to qualify under the program
- Monitor and ensure owners' compliance with the HAP contract
- If applicable, make vacancy payments per contract and administrative processing procedures
- Provide families and owners with prompt, professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state, and local laws

ROLES OF OWNERS

24 CFR 983.208

Owners are responsible for the day-to-day management and maintenance of the PBV properties and units. They must comply with equal opportunity requirements, enforce family obligations under the lease, pay for utilities and housing services as outlined in the PBV HAP contract, provide supportive services as specified in the HAP contract, and collect security deposits, rents, and any charges for tenant-caused damages. They must cooperate with the PHA for annual/biennial inspections and reexaminations, and provide information and access to records as required by the PHA and HUD.

Section 7: Roles of HUD, the PHA, the Owner, and Families

What does the owner do? The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters
 - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
 - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, and whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the housing assistance payments contract, executed with the PHA
- Comply with all applicable fair housing laws and discriminate against no one
- Maintain the housing unit by making necessary repairs in a timely manner
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease

ROLE OF FAMILIES

*Statement of Family
Responsibility
Form HUD-52578b*

Families are the principal component of the PBV program. Through the PBV program, PHAs seek to provide eligible participants with quality affordable housing in desirable neighborhoods. In return, they must:

- Supply any information required by the PHA or HUD, such as evidence citizenship or eligible immigration status, social security numbers, family income and composition at admission and reexaminations
- Supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit
- Promptly notify the PHA in writing when the family is away from the unit for an extended period in accordance with PHA policies

Section 7: Roles of HUD, the PHA, the Owner, and Families

- Allow the PHA to inspect the unit
- Notify the PHA and the owner in writing before moving out of the unit or terminating the lease
- Use the assisted unit as the only residence for all eligible family members. The unit must be the family's only residence
- Promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child
- Request PHA written approval to add any other family or household member prior to allowing such individuals to occupy the unit
- Promptly notify the PHA in writing if any family or household member no longer lives in the unit
- Give the PHA a copy of any owner eviction notice
- Pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease
- Have no ownership or interest in the unit and not live in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless it has been approved by the PHA as a reasonable accommodation
- Not commit any serious or repeated violation of the lease
- Not commit fraud, bribery or any other corrupt or criminal act in connection with the program
- Not engage in drug-related criminal activity, violent criminal activity, other criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises
- Not sublease or let the unit, assign the lease, or transfer the unit
- Not receive duplicate governmental housing assistance
- Not damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises

GOOD COLLABORATIVE WORKING RELATIONSHIPS

While not required by regulation, effective and efficient implementation of the PBV program is dependent on strong working relationships with a variety of partners, agencies, and groups. Your PHA's positive relationships help ensure a smooth, productive process without many bumps in the road.

Critical partners include the local HUD field office, the state's focusing finance agency, and local government entities responsible for planning, zoning, and management of affordable housing funds such as community development block grants, HOME, and the neighborhood stabilization program. Other essential partners include federal agencies such as the Department of Veterans Affairs, local and state governmental entities, local non-profit organizations, developers, property owners and managers, community groups, service providers, advocacy groups for low-income families, and representatives of the low-income population, among others.

Section 8 Key Project-Based Voucher Documents

PROGRAM REFERENCES

Successfully managing a PBV program requires a working knowledge of key regulatory and reference documents, HUD notices, and required contract templates. Mandatory references include 24 CFR, Federal Register notices, HUD PIH notices, forms, and current handbooks. Optional references include expired notices (unless superseded by a more recent notice), and expired handbooks (unless superseded by a more recent handbook). To ensure program compliance, you may reference such documents frequently. A list of PBV references is provided below.

- Section 8(o)(13) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)(13))
- 24 CFR 983, Project-Based Voucher (PBV) Program
- 24 CFR 982, Housing Choice Voucher Program
- *Key Federal Register Notices* (mandatory references)
 - Federal Register/Vol. 70, No. 197/Thursday, October 13, 2005/Notices, Project-Based Voucher Program Final Rule, pages 59892 to 59930
 - Federal Register/Vol. 73, No. 227/Monday, November 24, 2008/Notices, The Housing and Economic Recovery Act of 2008 Applicability to HUD Public Housing, Section 8 Tenant-Based Voucher and Section 8 Project-Based Voucher Programs, pages 71037 to 71040
 - Federal Register/Vol. 77, No. 94/Tuesday, May 15, 2012/ Proposed Rules, The Housing and Economic Recovery Act of 2008 (HERA): Changes to the Section 8 Tenant-Based Voucher and Section 8 Project-Based Voucher Programs Proposed Rule, pages 28742 to 28755
 - Federal Register/Vol. 79, No. 122/Tuesday, June 25, 2014/ 24 CFR Parts 5, 982, and 983, The Housing and Economic Recovery Act of 2008 (HERA): Changes to the Section 8 Tenant-Based Voucher and Section 8 Project-Based Voucher Programs; Final Rule

Section 8: Key Project-Based Voucher Documents

- Federal Register/Vol. 82 No. 11/Wednesday January 18, 2017/Proposed Rules, Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions, pages 5458 to 5473
- Federal Register/Vol. 88 No. 48/ Monday, March 13, 2023/ Administrative Guidelines: Subsidy Layering Review for Project-Based Vouchers
- Federal Register/Vol. 87 No. 15/ Monday, January 24, 2022/ Implementation of the Fostering Stable Housing Opportunities Amendments
- Key PIH Notices (mandatory while current)
 - Notice PIH 2001-04, Instructions for Submitting Public Housing Agency Plans
 - Notice PIH 2003-21, Deregulation for Small Public Housing Agencies (PHAs) and Submission Requirements for New Small PHA Streamlined Annual PHA Plans
 - Notice PIH 2007-101, Guidance on the Lead-Safe Housing Rule and Lead Disclosure Rule
 - Notice PIH 2009-11: Project-Basing HUD-VASH Vouchers
 - Notice PIH 2010-08, Renewal of Project-Based Certificate Housing Assistance Payments Contracts (with Addendum)
 - Notice PIH 2010-18, Revision to HUD Notice PIH 2009-51, PHA Determinations of Rent Reasonableness in the Housing Choice Voucher (HCV) Program-Comparable Unassisted Units in the Premises
 - Notice PIH 2013-11, Process for Requesting Subsidy Layering Reviews (with Attachment 1 and Attachment 2)
 - Notice 2013-27, Exchanging Enhanced Vouchers or Regular Housing Choice Vouchers for Project-Based Voucher Assistance in Housing Conversion Actions
 - Notice PIH 2017-21, Implementation Guidance: Housing Opportunity through Modernization Act of 2016 (HOTMA) - Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) Provisions

Section 8: Key Project-Based Voucher Documents

- Notice PIH 2020-30, Implementation of Section 290(b) of the Economic Growth, Regulatory relief, and Consumer Protection Act (Economic Growth Act)
- Discretionary references
 - The Housing Choice Voucher Guidebook, HUD 7420.10g

KEY DOCUMENTS

Several important documents discussed in this chapter govern a PHA's day-to-day operation of the PBV program.

- The Annual Contributions Contract (ACC) is the written contract between HUD and the PHA. Under the ACC, HUD agrees to provide funds for rental assistance (HAP funds) and administrative fees for the operation expenses related to the PHA's administration of the Housing Choice Voucher program, including that portion of the HCV program that the PHA opts to project-base. By executing the ACC, the PHA agrees to administer the program in accordance with HUD regulations and requirements. The HCV ACC governs the PBV program, as HUD does not provide additional baseline vouchers or budget authority to a PHA for the administration of a PBV program.
- The Five-Year Plan describes the PHA's mission, goals, objectives, policies, and strategies for addressing the low-income housing needs in its local jurisdiction over a five-year period. All PHAs must submit a five-year plan to HUD every fifth PHA fiscal year. The plan is subject to public comments, requires adoption by the PHA board of commissioners, and requires HUD approval, prior to implementation. PHAs must make the plan available for public review and audit.
- HUD also requires most PHAs to supplement the five-year plan with an Annual Plan that reports on progress in meeting the goals of the five-year plan, describes any changes to essential policies and procedures since the previous year, and provides the PHA's approach to development, management, and provision of services in the ensuing year. HUD exempts certain qualified small PHAs from the annual plan requirement.

Section 8: Key Project-Based Voucher Documents

- The Section 8 Housing Choice Voucher Administrative Plan (admin plan) includes the PHA's principal statement of the policies used in the administration of the project-based program. The purpose of the plan is to prevent misunderstandings between PHA staff and residents, to avoid lawsuits, and provide consistency of administration.

Form HUD 52578-B

While PHAs have a lot of flexibility in framing their PBV program, HUD provides certain PBV fundamental document templates that must be used. These include:

Forms HUD-52531a and b

- The **Project-Based Voucher Agreement to Enter into a Housing Assistance Payments Contract (AHAP)** is an agreement that a PHA-selected property owner and the PHA enter into for new construction and rehabilitation housing. It specifies the conditions that must be met and establishes timeframes before the PHA will enter into a PBV housing assistance payments contract with the owner. Construction or rehabilitation cannot begin before this agreement is executed.

Forms HUD-52530a1 a2, b1, and b2

- The **Project-Based Voucher Housing Assistance Payment Contract (PBV-HAP Contract)** is the contract between the PHA and the owners of PHA-assisted PBV projects. The HAP contract outlines the owner's responsibilities and establishes the legal relationship between the owner and the PHA.
- After the family is selected from the PHA waiting list and the PHA determines eligibility for participation in the PHA's PBV program, the family must sign form **HUD 52578-B, section 8 Project-Based Voucher Program Statement of Family Responsibility**, which functions much like the voucher in the tenant-based program in that it enumerates the family responsibilities on the PBV program.
- A new version of the PBV HAP contract was issued in July 2019 to bring it current with recent regulatory changes and guidance under HOTMA.

Section 8: Key Project-Based Voucher Documents

- The updated version must be used for all HAP contracts that have not already been executed as of July 2019. However, with owner consent, the PHA may but is not required to re-execute old HAP contracts using the new forms.
 - Any extension of the contract term is conditioned on using the new forms.

Form HUD-52530c

- The HUD-required **Tenancy Addendum for the Section 8 Project-based Voucher Program** has two parts. Part A has information on the tenant, contract unit, household members, term of the lease, rent to owner, initial HAP payment amount, and utility responsibilities for the unit. Part B includes requirements for the family and the owner under the program and is a required attachment to the lease.

Section 9 PHA Plan Process

*Notice PIH 2017-21; 24 CFR
983.57(b)(1)*

Project basing must be consistent with the statutory goals of deconcentrating poverty and expanding housing and economic opportunities. PHAs that are interested in developing and implementing a project-based voucher program must ensure that its activities are consistent with its agency plan, which consists of a five-year plan and annual updates, including the PHA's administrative plan.

FIVE-YEAR OR MOVING-TO-WORK PLAN/SUPPLEMENT

24 CFR 903.3

The Quality Housing and Work Responsibilities Act of 1998 (QHWRA) provided more flexibility to PHAs in using HUD funding for housing activities. To ensure public accountability, the act requires all PHAs to develop a five-year agency plan with public input. The plan's purpose is to provide the PHA's basic policies, rules, and requirements concerning its operations, programs, and services in one document. Relating to the plan, the act prescribes specific content, requires that it be consistent with the housing and community development plans of the local community, i.e., the consolidated plan, and specifies resident and public participation requirements. A PHA must submit the five-year plan to HUD and obtain HUD's approval. The PHA plan is due to HUD 75 days before the beginning of the PHA fiscal year. An annual plan supplements the agency plan.

PHAs under the Moving to Work (MTW) Demonstration program may have distinct requirements in lieu of the PHA plan, determined by their Moving to Work Demonstration agreement. PHAs operating block grants are exempt from the requirement to submit a five-year PHA plan but must submit an annual MTW plan and an annual MTW report. Additionally, under the 2016 MTW Expansion Statute, expansion MTW agencies must submit an MTW supplement annually.

To enable residents assisted by the PHA to provide advice on the plan, PHAs are required to establish one or more resident advisory boards (RAB). The RAB must represent a cross-section of residents served by the PHA and must be afforded opportunities to provide input on the plan development and any significant amendments or modifications to the plan. As an attachment to the plan submitted to HUD, PHAs must provide the RAB recommendations regarding the plan and the PHA's analyses and responses to these recommendations.

The plan must be available for public inspection for at least 45 days at the PHA's central office and each property office during normal business hours. PHAs are encouraged to include the plan on their websites.

Several other documents are required components of the PHA plan and also must be available for public review, but are not required to be submitted to HUD. These other documents give more detail about specific policies and procedures, for example:

- The administrative plan for the Housing Choice Voucher program
- Admissions and occupancy policy (ACOP) for public housing
- The community service requirement plan
- Grievance procedures
- Designated housing plans
- The Section 3 plan
- Pet policy

HUD may withhold funding to a PHA if the PHA does not submit the plan or HUD does not approve it. HUD may notify a PHA that the plan is approved or is deficient. However, if a PHA is not a troubled agency, the plan is automatically approved, if 75 days have elapsed since submission and HUD has not notified the PHA of deficiencies.

ANNUAL PLAN

HUD requires most PHAs to supplement the five-year plan with an annual plan that reports on current programs, the population of residents served, and progress in meeting the goals of the five-year plan. The annual plan must also report any changes to essential policies and procedures since the previous year and funding sources anticipated to be available for the ensuing year.

The plan also serves as the PHA's annual request for capital funds to support improvements to public housing buildings and management. The annual plan may be amended. However, all significant modifications to the plan require a public hearing process and board approval.

Qualified small PHAs are exempt from the annual plan requirements pursuant to the Housing and Economic Recovery Act (HERA), Title VII, Small Public Housing Authorities Paperwork Reduction Act. However, a qualified PHA must hold a public hearing annually if it proposes changes to goals, objectives, or policies. A qualified PHA is a PHA that:

- Has a combined unit total of 550 or fewer public housing units and section 8 vouchers; and
- Is not a troubled public housing agency during the prior 12 months under Public Housing Assessment System (PHAS); and
- Does not have a failing score under the Section 8 Management Assessment Program (SEMAP) during the prior 12 months.

PROJECT-BASED VOUCHER REQUIREMENTS FOR THE FIVE-YEAR AND ANNUAL PLAN

*Notices PIH 2001-4 and
2003-21*

PHAs that operate a PBV program must do so in accordance with their annual plan. In addition, the PBV program must support the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. If your PBV program will not meet these requirements, the law prohibits you from operating such a program.

A PHA must attach a statement to the five-year plan indicating the number of units to be project-based, their general location (e.g., census tracts or areas within census tracts), the reasons why project-basing units rather than providing tenant-based units is an appropriate option for the community, and how project-basing is consistent with the PHA's overall plan.

LANGUAGE FROM HUD'S PHA PLAN TEMPLATE

B.2 New Activities

Project-Based Vouchers. Describe any plans to use Housing Choice Vouchers (HCVs) for new project-based vouchers, which must comply with PBV goals, civil rights requirements, Housing Quality Standards (HQS) and deconcentration standards, as stated in 983.57(b)(1) and set forth in the PHA plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. If using project-based vouchers, provide the projected number of project-based units and general locations and describe how project-basing would be consistent with the PHA plan.

Form HUD-50075 - Annual Plan

Any changes to the PHA's plans for project-basing vouchers must be included in the annual plan.

THE PHA ADMINISTRATIVE PLAN

HUD requires each PHA administering an HCV program to adopt an administrative plan. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan and must be available for public review as required by 24 CFR Part 903.

Before a PHA implements a project-based voucher program, the board of commissioners must approve an administrative plan that defines the PHA's discretionary policies and procedures related to the PBV program. In addition, we recommend that the PHA outline mandatory HUD PBV requirements and regulations so that all program information is available for review in one document.

Developing implementation policies for inclusion in the administrative plan takes time and careful consideration of local needs. While it might seem self-evident, once the policies are adopted, the PHA must follow the policies until they are changed. Changing policies in the administrative plan cannot be done quickly as it must comply with rules for public input and board approval. One of the prevalent PBV audit findings by the Office of Inspector General is that PHAs did not follow their own policies and procedures or did not maintain sufficient documentation to demonstrate compliance with HUD rules and their administrative plan. As a result, PHAs were required to repay funds to HUD for unsupported expenditures, including HAP payments.

At a minimum, the administrative plan must address the topics in the sections that follow to implement the project-based voucher program.

Checklist for Administrative Plan Policies

Check last box if included in PHA plan

	Topic	✓
1.	Percentage of authorized units to be used for project-basing	
2.	Applicable tenant-based voucher policies	
3.	Housing types	
4.	Eligible housing types	
5.	Special housing types	
6.	Owner proposal selection process	
a.	Selection processes	
b.	Broad public notice	
c.	General evaluation and selection criteria for the proposals	
d.	Final selection notification	
e.	Exceptions to the project cap	
f.	Supportive services	
g.	Site selection standards	
7.	Execution of the agreement to enter into a HAP	
8.	Evidence of completion	
9.	Execution of the HAP contract	
10.	Term of HAP contract	
11.	Additional housing quality and design requirements	
12.	Remedies for HQS violations	

	Alternative inspections	
13.	Vacancy payments	
14.	Organization of the waiting list	
15.	Eligibility for PBV assistance	
16.	Preferences	
17.	Filling vacancies	
18.	Reduction in HAP contract units due to vacancies	
19.	Tenant screening	
20.	Overcrowded, under-occupied, and accessible units	

Section 10 Chapter 2 Post Test

1. The PBV program is a component of the Housing Choice Voucher program.
 - a. True
 - b. False
2. List two advantages realized by PHAs in using the PBV program:

3. The PBV program cap is 20 percent or up to 30 percent in certain cases, of the PHA's allocated HCV vouchers under their ACC.
 - a. True
 - b. False
4. The PBV project cap is:
 - a. The lesser of 25 units or 25 percent of total units at the project
 - b. The greater of 25 units or 25 percent of total units at the project
 - c. The greater of 25 units or 40 percent of total units at the project
 - d. None of the above
5. All of the following are mandatory references in the PBV and HCV programs, except:
 - a. 24 CFR regulations
 - b. Expired PIH notices
 - c. Current PIH notices
 - d. Current HUD handbooks
6. List two responsibilities of the PHA in the PBV program:

Section 10: Chapter 2 Post Test

7. List two responsibilities of the owner in the PBV program:

8. List two responsibilities of the family in the PBV program:

9. In its five-year plan, a PHA must provide the number of units and the exact locations for project-basing units.

- a. True
- b. False

10. In its annual plan, the PHA must provide which of the following types of PBV information?

- a. Information on its progress in project-basing vouchers
- b. Detailed information on the number of families occupying project-based units
- c. Any changes to the PHA's PBV program

11. If a PHA's PBV program will not support the goal of deconcentrating poverty and expanding housing and economic opportunities, the regulations prohibit the PHA from operating a PBV program.

- a. True
- b. False

12. HUD must approve the PHA's five-year plan, annual plan, and administrative plan before a PHA implements a PBV program.

- a. True
- b. False

13. PHA's are required to establish a resident advisory board (RAB).

- a. True
- b. False

CHAPTER 3 HCV and PBV Similarities and Differences

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Differentiate between the tenant-based voucher rules that apply to the PBV program and those that apply only to the PBV program

OVERVIEW

24 CFR 983.1 and 983.2

This chapter outlines the similarities and differences between the HCV program and its tributary, the PBV program.

Many of the provisions of the tenant-based voucher regulations (24 CFR 982) also apply to the project-based voucher program. The federal regulations governing the PBV program begin with a discussion of which tenant-based rules apply and do not apply. The PBV rules apply where expressly stated in 24 CFR Part 983. All tenant-based voucher rules apply, except in cases where the PBV regulations specifically state that they do not.

See FR Notices 11/24/08 and 7/9/10

In addition, self-implementing provisions of the Housing and Economic Recovery Act of 2008 (HERA) modify PBV rules in 24 CFR Part 983. Other HERA provisions will be implemented when HUD issues new rules.

Section 2 HCV and PBV: Similarities and Differences

HCV RULES THAT APPLY TO THE PBV PROGRAM

Many tenant-based regulations apply to the PBV program (e.g., denial of admission and utility reimbursements). A PHA is not required to implement the PBV program in absolutely the same way as their housing choice voucher program. However, a PHA must clearly describe PBV policies that vary from HCV policies in the administrative plan. It is also helpful to include an explanation for establishing the variation in policies. Equally important is that staff responsible for program implementation understand the programmatic differences and similarities. Otherwise, confusion will abound and possibly make the program more complex to administer.

- As an example, some PHAs perform reexaminations at PHA offices for tenant-based voucher holders based on the tenant's anniversary date of admission to the program. Yet for PBV properties, they may want the flexibility to perform reexaminations at the property sites during a specific month, week, or days in year. Another example is that some PHAs prefer to update utility allowances on the anniversary date of the PBV project. To do so, the PHA must state its policy for PBV reexaminations and utility allowance updates in its administrative plan.

The chart below outlines the provisions of the housing choice voucher program that apply to the project-based voucher program

HCV 24 CFR Rules that Apply to PBVs	Topic
24 CFR part 5 subpart B	Disclosure and verification of income information
24 CFR part 5 subpart D	Definition
24 CFR part 5 subpart F	Income and family payment, including definitions, annual income, adjusted income, total tenant payment, minimum rent, utility allowance, utility reimbursements Note that 24 CFR 5.661 deals with Section 8 project-based assistance programs: approval for police or other security personnel to live in project.
24 CFR part 5 subpart E	Noncitizens—Restrictions on assistance

Developing and Managing Project-Based Vouchers

HCV and PBV Similarities and Differences

Section 2: HCV and PBV: Similarities and Differences

HCV 24 CFR Rules that Apply to PBVs	Topic
24 CFR 5.100 24 CFR part 888 subpart A	Fair market rents
24 CFR part 5 subpart L	Protection for victims of domestic violence, dating violence, and stalking
982.201	Eligibility, including income limits, and targeting at least 75% of new admissions at or below 30% of median income
982.202	How applicants are selected, except for (b)(2) where a family will live, which is excluded from the PBV program
Subpart E: 982.204, 982.205, 982.206 and 982.207	Waiting list, except for 982.204 (d) family size. Family size is an important consideration in PBV properties. The owners occupancy standards, as provided in their Tenant Selection Plan, for each property take precedence.
982.310 Cross reference 983.257(a)	Owner termination of tenancy except for 982.310(d) (iii) and (d) (iv). The owner may not terminate to use the unit for personal or family use or for business and economic reasons.
982.312 Cross reference 983.256(g)	Absence from the unit, except that the owner's lease may specify a maximum period of tenant absence from the unit that may be shorter than the maximum period permitted by PHA policy. In addition, a PHA does not terminate the owner's HAP contract because of tenant absence.
982.316	Live-in aide
Subpart I, 982.401	Housing Quality Standards apply except for lead based paint requirements. There are different lead-based paint requirements for PBVs.
982.402	Subsidy standards except that a subsidy standard is not entered on the family's voucher. Also, provisions relating to maximum subsidy based on family size and family's ability to lease a larger or smaller unit than their voucher size do not apply.
982.405	HQS inspections except that a PHA is not required to inspect each unit annually/biennially
Subpart J	All sections regarding housing assistance payments apply to PBVs except that the PHA must remove the over-income family's unit from the PBV HAP contract 180 days following the last housing assistance payment on behalf of the family

Section 2: HCV and PBV: Similarities and Differences

HCV 24 CFR Rules that Apply to PBVs	Topic
982.503	Voucher tenancy: payment standards Determination of the payment standard amount and schedule for a Fair Market Rent (FMR) or Small Area FMR (SAFMR) area or for a designated part of an FMR/SAFMR area apply, except for exception rents as a reasonable accommodation
982.516	Family income and composition; regular and interim examinations
982.517	Utility allowances
Subpart M 982.602 to 982.605	Single room occupancy, except for section 982.603, regarding a separate lease and HAP contract for each person
982.606 to 982.609	Congregate housing except for section 982.607 regarding a separate lease and HAP contract
982.610 to 614	Group homes except for section 982.613(c) (2) regarding proration of the payment standard for rent determination purposes
982.619	Cooperative housing except that the housing assistance payment is determined differently
24 CFR 30.68	Civil money penalty, penalty for owner breach of HAP contract
CFR 5.105(c) 24 CFR part 24	Debarment, prohibition on use of debarred, suspended, or ineligible contractors
24 CFR part 792	Fraud, PHA retention of recovered funds
24 CFR part 791	Funds, HUD allocation of voucher funds
24 CFR 5.105(b) 24 CFR parts 8 and 9	Lobbying restriction, restrictions on use of funds for lobbying
24 CFR part 5, subpart H	Uniform financial reporting standards
24 CFR 5.110	Waiver of HUD rules

HCV RULES THAT DO NOT APPLY TO THE PBV PROGRAM

In addition to the exceptions to the housing choice voucher rules listed above, the rules in the following chart do not apply to the project-based voucher program.

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
Part 982 provisions on voucher issuance or use; portability; shared housing, manufactured home rental space, and homeownership	983.2(b)	Types of 24 CFR part 982 provisions that do not apply to PBV
982.202 (b)(2)	983.2(c)(1)	Prohibition against admission based on where a family will live Unlike the tenant-based program, admission to the program is based on where the family will live with assistance under the program.
982.204(d) 982 Subpart E, with the exception of 982.310, 982.312, and 982.316	983.2(c)(1)	Prohibition against admission based on family size Family size is a consideration in admission. The family must meet the occupancy standards for the available units.
982.302	983.2(b)(1)	Voucher issuance and request for tenancy approval PHAs do not issue vouchers to families for project-based units. Request for tenancy approval is not required.
982.310(a)(3)(d)(iii)–(iv)	983.257(a)	Good cause for eviction In the PBV program, “good cause” does not include a business or economic reason or desire to use the unit for an individual, family, or nonresidential rental purpose.
982.312	983.256(g)	Absence from the unit An owner’s lease may establish a tenant’s absence period that is shorter than the maximum period allowed by the PHA. The PHA does not terminate the HAP contract for tenant absence.

Section 2: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982 Subpart H	N/A	<p>Where a family can live and move</p> <p>The housing voucher regulations define where a tenant may locate suitable housing, lease, and move with the voucher, including portability. Therefore, the rules are not applicable to the PBV program where units are attached to specific units in specific properties.</p>
982.352	983.54	<p>Prohibition of assistance for units in subsidized housing</p> <p>PBV assistance is prohibited from being attached to units subsidized with:</p> <p>Any other form of Section 8 assistance (tenant-based or project-based);</p> <p>Any governmental rent subsidy (a subsidy that pays all or any part of the rent);</p> <p>Any governmental subsidy that covers all or any part of the operating costs of the housing;</p> <p>Section 236 and Section 521 rural housing rental assistance payments (However, a PHA may attach assistance to Section 236 and Section 521 units with subsidized interest reduction payments);</p>

Section 2: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982.352 (continued)	983.54 (continued)	<p>Any form of tenant-based rental assistance (e.g., a unit subsidized with tenant-based rental assistance under the HOME program) However, units in properties that use HOME funds for the acquisition and development activities are eligible for PBV assistance; and</p> <p>Any other duplicative federal, state, or local housing subsidy, as determined by HUD or by the PHA. "Subsidy" does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession.</p> <p>In addition, a PHA is prohibited from attaching project-based voucher subsidies to units that are in the following types of housing:</p> <p>Public housing;</p> <p>Section 202 housing for non-elderly persons with disabilities or Section 202 supportive housing for the elderly; and</p> <p>Section 811 project-based supportive housing for persons with disabilities.</p>
982.355	983.2(b)(2)	<p>Portability</p> <p>Project-based vouchers are not portable as they are attached to specific units within a property.</p>
982.401(a)(4)(ii)	983.101(e)	<p>Additional PHA quality and design requirements</p> <p>A PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Such additional requirements must be included in the HAP contract.</p>

Section 2: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982.401(j)	983.101(c) 24 CFR Part 35, subparts A, B, H, and R 40 CFR 745.227 Notice PIH 2017-13	<p>Housing Quality Standards: Lead-based paint</p> <p>In the housing choice voucher program, PHAs are responsible for the visual assessments and any required environmental investigation. PHA inspectors or other trained staff may conduct these and the PHA must pay for them.</p> <p>In the project-based voucher program, the owner has the responsibility for conducting the assessment/investigation and must pay for them. The PHA may wish to collaborate with the owner on this process, such as agreeing with the owner to conduct the investigation. The owner must notify the HUD field office of the results of the investigation and then of the lead hazard control work within 10 business days of the deadline for each activity.</p> <p>In addition, an owner must incorporate ongoing lead-based paint maintenance activities into regular building operation. If deteriorated paint is found, the owner must stabilize the paint before occupancy of a vacant dwelling unit or, if the unit is occupied, within 30 or 90 days of the owner's obtaining the results of the visual assessment, depending on the number of units. The owner must ensure that assessment and abatement work are conducted by a certified firm and that clearance by a certified risk assessor is passed before re-occupancy occurs. The owner must also monitor and maintain any remaining LBP and hazard controls with annual visual assessments and a reevaluation with dust testing every two years by a certified risk assessor. Further, the owner is responsible for notifying tenants of any lead hazard evaluations and reduction plans and for providing families with the lead hazard disclosure pamphlet, for notifying confirmed cases to the health department if notified of the case by a health care professional other than the health department, and for verifying the case when necessary.</p>

Section 2: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982.401(j) (continued)	983.101(c) 24 CFR Part 35, subparts A, B, H, and R 40 CFR 745.227 Notice PIH 2017-13 (continued)	<p>Nonetheless, PHAs must ensure that owners meet the lead-based paint poison prevention requirements of Part 35, Subpart H, Project-Based Assistance, 40 CFR 745.227, and the requirements specified in Notice PIH 2017-13. The specific actions that must be undertaken are dependent on the amount of federal subsidy.</p> <p>For assistance of more than \$5,000 per housing unit, a risk assessment, interim controls, and clearance are required. For assistance up to \$5,000 per unit, a visual assessment, paint stabilization, and clearance are required. Clearance levels are stipulated in 40 CFR 745.227(e)(8)(viii).</p> <p>At properties where the owner does not meet the requirements of the lead safe housing rules, the PHA must enforce the contract as provided under remedies for HQS violations.</p> <p>PHAs may refer to Notices PIH 2010-08 and 2017-13 for guidance on the Lead-Safe Housing Disclosure Rule and LBP requirements for the PBV program for more information.</p> <p>Other references for lead-based paint requirements are the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and the lead-based paint final rule published in the <i>Federal Register</i> on January 13, 2017.</p>
982.402(a)(3), (c), and (d)	983.253(b)	<p>Subsidy standards</p> <p>Subsidy standards are not used to determine maximum subsidy in PBV units. For the PBV program, families pay either 30% of their adjusted income, 10% of monthly income, or the minimum rent for their unit, whichever is greater, minus a utility allowance.</p>

Section 2: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982.403	983.260	<p>Terminating contract when unit is wrong size</p> <p>A PHA cannot terminate a HAP contract when a family occupies a unit of the wrong size or an accessible unit, when they do not need its features. Instead, the PHA must offer continued housing assistance as either tenant-based rental assistance under the voucher program or another form of continued assistance. Families must move out of the wrong-sized unit within specified time frames depending on what type of assistance was offered by the PHA. Failure to move out of the wrong-sized unit within those time frames requires the PHA to remove the unit from the PBV HAP contract.</p>
982.405(a)	983.103(b), (c), and (d)	<p>Initial and annual/biennial inspections</p> <p>There is no requirement for a Request for Tenancy Approval. The utility assignments are established in the PBV HAP contract. Turnover inspections may be conducted at any time after owner notifies a PHA that the unit is rent ready. For annual/biennial inspections, the PHA must conduct inspections based on a sample of 20% or units in each PBV building and is not required to inspect each unit.</p>
982.406	983.207(b)(2)	<p>HQS enforcement</p> <p>If a contract unit does not meet HQS, a PHA may exercise remedies for the individual unit or for all units under the contract. The PHA may also terminate the contract.</p>
982.455	No reference. No contract provision for such a termination.	<p>Automatic termination of the contract</p> <p>The PBV contract does not automatically terminate 180 days after the last assistance payment on behalf of a family.</p>

Section 2: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982 Part K with the exception of 982.503, 982.516, and 982.517	983 Part G 983.353 5.628 to 5.634	<p>Rent and housing assistance payment payment standards, family share calculations, negotiating rent with the owner, adjustment of rent to the owner, reasonable rent, maximum initial rent, utility allowance schedule, and higher payment standard as a reasonable accommodation</p> <p>For PBVs: Payment standards and family share calculations are not used to determine the tenant rent. A family's initial monthly rent is either: The greater of the following minus a utility allowance: –30% of their adjusted income, –10% their monthly income, or –The PHA determined minimum rent (up to \$50) OR The welfare rent if a family receives benefits in an “as paid” state. The owner and the family do not negotiate the rent. Rent reasonableness process is not on a unit-by-unit basis, but by contract unit size and type. PBVs must use the HCV utility allowance schedule. There is not a need for a higher payment standard as a reasonable accommodation. A higher payment standard does not affect the availability of PBV occupancy by a family or the amount a family pays for rent.</p>

Section 2: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982 Part K with the exception of 982.503, 982.516, and 982.517 (continued)	983 Part G 983.353 5.628 to 5.634 (continued)	Contract rent adjustments must align with the anniversary date of the HAP contract. They are not based on the lease effective date for each family. Requirements in 24 CFR 982.503 for HUD approval of exception payment standards above 120% applies.
Parts of 982.601 982.615– 618, 982.619, 982.622–624, and 982.625–641	983.2(b)(3), 983.9, and FR Notice 11/24/08 983.2(c)(7)(ii)	Special housing types Shared housing, manufactured home space rental, and the homeownership option are ineligible housing types
982.603	983 subpart E	SRO: Lease and HAP Contract There is no separate HAP contract for each PBV lease.
982.607	983 subpart E	Congregate housing: Lease and HAP contract There is no separate HAP contract for each PBV lease.
982.611	983 subpart E	Group home: Lease and HAP contract There is no separate HAP contract for each PBV lease.
982.613(c)(2)	983 subpart E	Group home: Rent and voucher housing assistance payment Family rent is not calculated using the payment standard.

Section 3 Ineligible Housing Types

INELIGIBLE HOUSING TYPES

As in the HCV program, the following housing types are ineligible for the PBV program:

24 CFR 982.352

- A public housing or Indian housing unit
- A unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C.1437f)
- Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing service (However, a dwelling unit in an assisted living facility is eligible)
- College or other school dormitories
- Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions
 - HUD-VASH families are permitted to live on the grounds of a VAMC in units developed to house homeless veterans
- A unit occupied by its owner or by a person with any interest in the unit. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program.

24 CFR 983.53

The PBV program has additional ineligible housing types:

- Shared housing
- Manufactured housing
- Transitional housing
- For existing housing, a unit that is occupied by a person ineligible to participate in the PBV program
- Any units which construction or rehabilitation has commenced as defined in 24 CFR 983.152 after proposal submission and prior to execution of an AHAP
 - HOTMA regulations amend this prohibition, but HUD has not yet issued implementation guidance

Section 3: Ineligible Housing Types

SPECIAL HOUSING TYPES

*24 CFR 983.9 and FR Notice
11/24/08*

Initially, cooperative housing was ineligible for the PBV program. HERA removed that prohibition primarily because it reduced housing options in large metropolitan cities like Chicago and New York.

A PHA may elect to include group homes and cooperative housing as eligible housing types.

The PHA must list the special housing types for which the PHA will and will not accept proposals in the administrative plan.

Section 4 Prohibition of Assistance in Subsidized Housing

24 CFR 982.352 (c)
24 CFR 983.54

PBV assistance may be attached to units subsidized with Section 236 and Section 515 (42 U.S.C. 1485) interest reduction payments. On the other hand, the PBV program shares the same restrictions as the HCV program prohibiting assistance in the following types of subsidized housing:

- Public or Indian housing assistance
- Other Section 8 assistance (including other tenant-based assistance)
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974)
- Section 236 rental assistance payments
- Tenant-based assistance under the HOME Program (TBRA)
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration)
- Any local or State rent subsidy
- Section 202 supportive housing for the elderly
- Section 811 supportive housing for persons with disabilities
- Section 202 projects for non-elderly persons with disabilities (Section 162 assistance)
- Any other duplicative federal, state, or local housing subsidy, as determined by HUD. For this purpose, housing subsidy does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Section 5 Rules Specific to PBV

SUBSIDY LAYERING REVIEW

*24 CFR 983.55,
Notice PIH 2013-11,
FR Notice 3/13/23*

Subsidy layering reviews (SLRs) are undertaken to ensure the amount of assistance provided by HUD is not more than necessary to make the PBV project feasible in consideration of all other governmental assistance. SLRs prevent excessive public assistance that could result when a development proposes combining (layering) the HAP subsidy from the PBV program with other public assistance from federal, state, or local agencies, including tax credits.

A SLR is required for proposed new construction and rehabilitation projects prior to the execution of the agreement to enter into a HAP (AHAP) when the project will be receiving other governmental assistance in addition to the PBV award. No subsidy layering review is required for existing housing or when PBV is the only governmental assistance provided to a project. Additionally, an SLR is not required for a project already in a PBV HAP contract, even if that project is recapitalized with outside sources of funding (i.e., a PBV project is currently in a 10-year contract and then receives an award of tax credits to address rehabilitation needs). However, if before or during the AHAP contract, the owner reports the addition of government assistance, then a SLR is required to be requested by the PHA at the time the owner notifies the PHA.

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using form HUD-2880. Appendix A of FR Notice 3/13/23 contains a list of all required documentation.

Section 5: Rules Specific to PBV

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. HCAs may include state housing finance agencies, participating jurisdictions under the HOME program or other state housing agencies that meet the definition of an HCA as defined under Section 42 of the Internal Revenue Code of 1986. This definition includes agencies that issue low-income housing tax credits. HUD provides instructions on how an agency may become an approved HCA in *Federal Register* Notice 3/13/23. The PHA must request an SLR through their local HUD field office or, if eligible, through a participating HCA. A list of HUD-approved HCAs is available on the HUD website under the Office of Housing Choice Vouchers, Financial Management Division (FMD).

HUD's SLR policy and legal requirements are summarized in the following chart:

Type of Project	SLR Reviewer	HUD Certification Required
PBV (without LIHTC) with two or more other governmental assistance, new or rehab	HCA or HUD*	If by HCA, certification not required. Otherwise, HUD certifies.
PBV only (without LIHTC), existing	No SLR required	No
PBV new construction or rehab but PBV is the only form of governmental assistance	No SLR required	No
PBV with LIHTC, new construction or rehab	HCA or HUD	If by HCA, certification not required. Otherwise, HUD certifies
Mixed finance with or without LIHTC, with or without PBV, with other forms of governmental assistance	HUD	Yes

* PHAs may request that HUD perform the SLR if the project does not include LIHTCs. If the PHA does not request that HUD perform the SLR, the field office will refer the SLR request to a participating HCA.

Section 5: Rules Specific to PBV

To meet subsidy layering review (SLR) requirements, a PHA is responsible for:

- Collecting all required documentation from the owner. The documentation required is listed in Appendix A of *Federal Register* Notice 3/13/2023 and on pages 3-19 and 3-21 of this workbook.
- Providing additional documentation to the HCA or HUD if the initial submission is incomplete, the HCA or HUD needs further documentation, or new information becomes available.
- Informing the owner that if any information changes on the disclosure either by the addition or deletion of other governmental assistance, the project owner must submit a revised disclosure statement.
- Notifying the HCA or HUD (if there is no participating HCA in their jurisdiction) if governmental assistance increased project financing by 10 percent or more of the original development budget that a further subsidy layering review is required.
- Maintaining a complete set of the required SLR documents with the project file.

DOCUMENTS TO BE SUBMITTED BY THE PHA TO THE APPLICABLE HCA OR HUD HEADQUARTERS FOR SUBSIDY LAYERING REVIEWS (Appendix A of *Federal Register* Notice 3/13/23)

1. *Subsidy Layering Review Request Memorandum*: Clearly identifying the PHA, the PHA number, the field office number, the project's name, the project's total number of units, and the number of PBV units requested. For a sample memorandum see Attachment 1 of PIH Notice 2013-11 or newer version superseding it.
2. *Project Description*: Short narrative identifying ownership, type of activity (rehabilitation or new construction), location (including county), total units, requested PBV units, PBV type (RAD, VASH, regular), utility allowances, bedroom distributions, supportive services (if applicable) and residential population (homeless, veteran, elderly, low-income families). The narrative should also identify any exceptions applicable to the project (e.g., number of PBV exceeding the project cap).
3. *Accounting Statement of Sources and Uses of Funds*: Identifying each source and indicating type (loan, grant, syndication proceeds, contributed equity). Sources generally include only permanent financing and grants. If interim financing or a construction loan is proposed, provide details in project description. Separately identify detailed uses, avoiding broad categories such as "soft costs." Under acquisition costs, identify purchase price separately from related costs such as appraisal, survey, title, recording and legal fees. Include separate line items representing construction contract amount, builder's general requirements, builder's profit, builder's overhead and total project costs. [Complete form HUD 50156]
4. *Description of Funding Sources*: Loans including principal, interest rate, amortization, term, and any accrual, deferral, balloon or forgiveness provisions. Describe any lender, grantor, or syndicator requirements for reserves or escrows requirements. Describe if a lender receives a portion of the net cash-flow, either as additional debt service or in addition to debt service. Identify the amount of LIHTC and include IRS form 8609.

Section 5: Rules Specific to PBV

5. *Commitment Letters*: Lenders and other funding sources evidence their commitment to provide funding and disclose significant terms. Signed commitment letters, conditional commitment letters, loan agreements, and grant agreements meet this requirement. However, proposal letters and letters of intent do not meet this requirement.
6. *Developer's Commitment Letter*: Delineating any arrangements, contributions, donations, significant terms, or transfer of funds from the developer and/or participating partners such as deferred developer's fees, cash contributions, land donations, and equity investments.
7. *HOME Commitment Letter* (when applicable): A signed document clearly identifying requirements of the HOME designated units and intended rents.
8. *Supportive Service Commitment* (when applicable): A signed memorandum of understanding that describes the type of services to be provided, frequency, terms of service, and resident eligibility.
9. *Appraisal Report*: Based on the "as is" value of the property, before construction or rehabilitation, and without consideration of any financial implications of tax credits or project-based voucher assistance. An appraisal establishing value after the property is built or rehabilitated is not acceptable unless it also includes an "as is" valuation. The appraisal date must be within 18 months of the SLR submission.
10. *Completed HUD Form 50156*: The form must include the operating pro forma, construction and permanent budget, projected rental, commercial, and miscellaneous gross income, vacancy loss, operating expenses, debt service, operational reserves contributions, replacement reserve contributions, cash flow projections, debt service ratios; as well as income and expenses trended at a consistent percentage.
11. *Low-Income Housing Tax Credit Allocation Letter*: Issued by the authorized tax credit allocation agency, identifying the amount of LIHTCs reserved for the project.

Section 5: Rules Specific to PBV

12. *Historic Tax Credit Letter*: Issued by an authorized historic credit agency, disclosing the estimated historic tax credit amount awarded to a project located in a designated historical area.
13. *Equity Contribution Schedule*: If equity contributed to the project is paid in installments over time, provide a schedule showing the amount and timing of planned contributions.
14. *Bridge Loans*: Providing details if the financing plan includes a bridge loan where equity contributions proceeds planned over an extended time can be paid upfront.
15. Disclosure, perjury and identity of interest statement (form HUD-2880) completed by the owner.
16. *PBV Award Letter*: Identifying the housing authority's approval of project-based voucher assistance for the project by number of units and bedroom distribution.
17. *PHA Rent Certification Letter*: Documenting proposed contract rents, utility allowances, and gross rental amounts for assisted units. Include rent reasonableness documentation or comparability analysis as evidence of rent determination and certification.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must notify the PHA and submit a certification to HUD at PBVSLRs@hud.gov with a copy to the Director of the local HUD Office of Public Housing. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

If an HCA is not designated in the PHA's jurisdiction, the PHA should contact its local HUD field office. HUD will inform the PHA if there is in fact an HCA in their jurisdiction that will conduct the review or if HUD will conduct the review.

Good working relationships with the HCA are essential in facilitating your route through the subsidy layering process.

ENVIRONMENTAL REVIEW

*Notice PIH 2016-22;
Notice PIH 2017-21;
24 CFR 983.58*

An environmental review is required for all PBV units, including existing units. An environmental review is not required when PBV units are added to a current PBV HAP contract.

The environmental review is undertaken by a responsible entity (RE), which is a unit of general local government in the area within which the project is located that exercises land use responsibility, i.e., county, district, city, township, town, borough, parish, municipality, and village, or if HUD determines this infeasible, the state. The RE is responsible for the scope and content of the environmental review and making the finding. HUD recommends that PHAs establish a formal agreement with the RE and provides a sample memorandum of understanding between a PHA and an RE in attachment A of Notice PIH 2013-07.

A PHA, an owner, or its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities until:

- The RE has completed the environmental review procedures required by the regulations, and HUD has approved the environmental certification and given a release of funds; or
- The RE has determined that the project is exempt or is categorically excluded and not subject to compliance with environmental laws; or
- HUD has performed an environmental review and has notified the PHA in writing of environmental approval of the site.

As a sound management practice, HUD recommends that PHAs obtain environmental reviews as soon as feasible. If housing proposed for PBV assistance fails an environmental review, a PHA must reject the proposal.

No HAP contract may be executed for existing units until the environmental review is complete. The RE must determine whether PBV assistance is categorically excluded from review and whether the assistance is subject to review under the regulations.

Section 5: Rules Specific to PBV

No AHAP for rehabilitated or new construction units may be executed until the environmental review is complete. For new construction and rehabilitation housing:

- If a PHA and/or an owner has already received an environmental clearance for the project from the RE, the PHA must obtain a copy of the approved Authority to Use Grant Funds (AUGF) or equivalent and maintain it in their records.
- If the project involves any other city, state, or other governmental funding and has already received an environmental clearance, the PHA may contact the RE for a copy of the AUGF letter or equivalent.
- If the project is categorically excluded and converted to exempt, then the PHA may contact the RE for a copy of their determination.
- If the project does not have an environmental clearance, the owner must coordinate the environmental review with the PHA and the RE.

Projects that are exempt or categorically excluded not subject to Part 58.35(b) (CENST) do not have to follow the request for release of funds process and do not need an AUGF.

The PHA is responsible for providing an accurate project description and scope to the RE and preparing the review for the RE, including the Partner Worksheets (if they are not using HEROS) and a Phase I Environmental Site Assessment (ESA). Depending on the results of the Phase I ESA, further environmental studies, such as a Phase II ESA assessment, may be required.

The PHA must require the owner to carry out mitigating measures required by the RE (or HUD, if applicable) as a result of the environmental review. The PHA must monitor the owner's activities to carry out such measures. Such monitoring may consist of reports from the RE.

Section 5: Rules Specific to PBV

At the conclusion of the environmental, the RE and the PHA must follow the request for release of funds process. Where submission is required, HUD will not approve the release of funds for PBV assistance if the PHA, the owner, or any other party commits funds (i.e., enters an AHAP or HAP contract or otherwise incurs any costs or expenditures to be paid or reimbursed with such funds) before the PHA submits and HUD approves its request for release of funds. After receipt of the letter to proceed, the PHA may enter into a HAP or an AHAP for the project, if the PHA has completed all other required PBV process steps and received approval of the subsidy-layering review.

The RE must maintain the complete Environmental Review Record (ERR) as part of the permanent record of the project. Likewise, the PHA should maintain a copy of the RROF/C, public notice, AUGF, or equivalent, and letter to proceed as part of their permanent record of the project in their files.

Other environmental review requirements for existing housing under HOTMA have not yet been implemented by HUD.

FAIR HOUSING AND EQUAL OPPORTUNITY CONSIDERATIONS

24 CFR 983.8
24 CFR 5.105(a)
24 CFR 903.7(o)
Section 504 of Rehabilitation Act

The PHA must comply with all equal opportunity and non-discrimination requirements under federal law and regulations in its implementation of the PBV program. In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing.

Remember that unlawful segregation, both by race and disability, is unlawful under federal fair housing law, as well as actions that have a discriminatory effect.

To this end, a PHA must not establish selection preferences for a specific type of disability. On the other hand, the PHA may adopt preferences on its project-specific waiting lists for families who are in need of services to be offered in conjunction with a property, building, or set of units. However, the owner must permit occupancy by any qualified person with a disability who could benefit from the housing or services provided, regardless of the person's disability.

Section 5: Rules Specific to PBV

Care should be taken to ensure that PBV units are similar to other unassisted units in the property of the same bedroom type and comparable design in terms of location, size, appearance, and amenities. Concentrating PBV units in specific buildings and floors could have a discriminatory effect.

ACCESSIBILITY FOR PERSONS WITH DISABILITIES

24 CFR 983.102
Section 504, Rehabilitation Act
of 1973 (29 U.S.C. 794)
24 CFR part 8
Fair Housing Amendments Act
of 1988

Existing housing, as well as new construction and rehabilitation projects must meet program accessibility standards of both Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8 and the Fair Housing Amendments Act of 1988. A PHA must ensure that an owner does not engage in discriminatory practices, the percentages of accessible dwelling units comply with HUD rules, and design and construction is completed in compliance with all requirements.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in programs and activities conducted by HUD or that receive financial assistance from HUD. In addition, Section 504 also sets minimum accessible unit percentages for federally-assisted multifamily housing projects (containing four or more units) that are designed, constructed, or altered after July 11, 1988. A minimum of five percent of the total PBV units or at least one unit, whichever is greater, must be fully accessible for persons with mobility impairments. An additional two percent of the units (but not less than one unit) in such a project must be fully accessible for persons with hearing or vision impairments.

If the housing was constructed prior to June 2, 1988, and the percentage of accessible units does not meet Section 504 requirements, the PHA should obtain sufficient documentation to support that an undue financial or administrative burden would exist if such requirements were met.

Section 5: Rules Specific to PBV

24 CFR 100.205
Fair Housing Amendments Act
of 1988

The Fair Housing Act applies to all housing (not just federally funded) with four or more units designed and constructed for initial occupancy after March 13, 1991. The units must be accessible to and usable by people with disabilities. All rental units must be accessible in buildings containing four or more units with one or more elevators, and all ground floor units in buildings containing four or more units, without an elevator. This means that the building and units must meet at least seven accessibility criteria so that a person in a wheelchair can maneuver in the space. These criteria include:

- An accessible building entrance on an accessible route
- Accessible common and public use areas
- Usable doors (usable by a person in a wheelchair)
- An accessible route into and through the dwelling unit
- Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
- Reinforced walls in bathrooms for later installation of grab bars
- Usable kitchens and bathrooms

Documentation regarding accessible units is required to be included as Exhibit D of the HAP contract.

RELOCATION ASSISTANCE

24 983.7
CFR part 24

Owners of new construction and rehabilitation projects must comply with regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and state relocation laws. URA does not apply to existing housing.

42 U.S.C. 4201-4655

Under federal and state laws, the owner must assist displaced persons. A displaced person is defined as a tenant, owner-occupant, business, farm, or nonprofit organization that is required to move because of the proposed project. The execution of the AHAP is the date that is used for the calculation of PBV relocation payments.

Section 5: Rules Specific to PBV

The owner may pay for relocation assistance with funds provided by the owner, local public funds, or funds from other sources. However, a PHA may not assist the owner by paying for relocation assistance from housing choice voucher program funds. PHAs may use their administrative fee reserve to pay for relocation assistance after all other program administrative expenses are satisfied.

PHAs are responsible for monitoring an owner's compliance with all relocation requirements.

FLOATING UNITS

The term *floating units* applies to properties in which specific apartments are not permanently designated as the PBV units, but instead, only a set percentage or number of units by bedroom size must always be designated as PBV. In such properties, the specific apartments designated as PBV units may change (or “float”) from time to time, based on tenant turnover. The use of floating units is advantageous when a PHA wants to ensure that PBV units are indistinguishable from and interchangeable with other assisted or market-rate units.

LABOR STANDARDS

*The Davis-Bacon Act, Contract
Work Hours and Safety
Standards Act (40 U.S.C. 3701-
3708)
29 CFR part 5*

If a new construction or rehabilitation project has nine or more units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics. The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR Part 5, and other applicable federal labor relations laws and regulations.

A PHA must ensure compliance with labor standards, even if the property involves governmental funding and another governmental entity monitors compliance. In the PBV Final Rule, HUD responds to a public comment about cooperating with other agencies to ensure Davis-Bacon compliance with the following statement:

CFR 24 983.154

- "...the PHA is still ultimately responsible for monitoring to ensure that the owner and owner's contractors and subcontractors comply with applicable federal labor standards (see HUD handbook 1344.1, Federal Labor Standards Compliance in Housing and Community Development Programs)."

This does not mean that the PHA must perform payroll reviews and interviews or complete all the tasks related to a full labor standards review when another governmental agency is funding the project. However, it is a good practice for a PHA to outline its procedures for remotely monitoring compliance. A PHA must also receive confirmation of labor standards compliance from the other governmental agency and maintain a copy in the project's contract file.

Should the PHA monitor and determine labor standards compliance, it must maintain documentation of its monitoring and determination in the project file.

24 CFR 983.210

The HERA final rule states that Davis-Bacon wage requirements may apply to existing housing when the nature of the work (including rehabilitation work) planned to be performed prior or after PBV HAP contract execution, within such post-execution period as specified by HUD, is constituted as development activity. It is therefore, important to understand the repair work undertaken to determine if Davis-Bacon wage requirements apply.

BROADBAND ACCESS

FR Notice 12/20/16

Effective 1/19/17, HUD requires the installation of broadband infrastructure at the time of new construction or substantial rehabilitation of multifamily rental housing that is funded or supported by HUD. The rule applies to PBRA, PBV, public housing, and HOME. Buildings with four or fewer rental units are excepted, as well as projects where installation is too costly because of building location or characteristics. The rule requires that the broadband infrastructure provided be able to receive high speed internet that is “accessible” in each unit. It does not require that the owner provide internet service to each resident, just the ability to access such services. Further, the owner chooses the form of infrastructure that is most appropriate for their circumstances.

Learning Activity 3-1: Evaluation of Property Eligibility

COOLVILLE HOUSING AUTHORITY'S PBV PROGRAM

Instructions: Your team is reviewing proposals for the Coolville Housing Authority's PBV Program to determine if they meet HUD rules and regulations and the PHA's threshold criteria for further consideration.

Review the case study describing Coolville Housing Authority (CHA) and four proposals for its PBV program. Determine if the proposals meet the requirements, outline the basis for rejecting any proposals, and provide any additional narrative comments your team decides are meritorious.

Learning Activity: In accordance with its Request for Proposal for project-based vouchers, CHA accepted proposals for new construction, rehabilitation, and existing housing. Projects must meet the following minimum local requirements as stated in the CHA administrative plan:

- The minimum number of units designated for project-based assistance per project consists of at least eight units.
- The maximum number of project-based units must not exceed the greater of 25 percent of units or 25 units in the project unless it provides housing for elderly families.
- The maximum number of total rental units in a project is 200 units in mixed-population projects.
- The maximum number of total rental units in a project for elderly families or families including persons with disabilities is 75 units.
- If buildings contain fewer than five units, only one unit may be project-based.
- CHA will not assist with funding for any required relocation costs.
- Verification of property tax, utility, and insurance payments is required. Properties will not be considered if they have past due bills.

Section 5: Rules Specific to PBV

- Existing properties must be available for occupancy within 45 days of proposal selection.
- Vacancy payments may be made in an amount not to exceed 80 percent of the contract rent the first month of vacancy and 50 percent of the contract rent for the second month minus any tenant's payment. Such payments will only be made if the owner can document every reasonable effort to minimize the length of vacancy as described in the CHA's PBV vacancy procedures.

Proposals were received for the four projects summarized below:

1. Majestic Villa	
Street Address	56 S. Downtown Ave.
Location	Central Western District which has a high concentration of subsidized housing and poverty rate of 30 percent but is beginning to show signs of economic growth with a new car manufacturing plant and national call center offering employment to area residents.
Owner	Majestic Real Property, LLC A Coolville Commissioner has a 5% interest in the LLC, but is willing to divest if the property is selected
Target Population	Families
Proposed PBV Units	9 of 48 total units (19%)
Management Agent	Majestic Real Property, LLC
Existing/Rehab/New	Existing Housing (rehabbed in 2007)
Additional Information	Proposed unit mix is nine assisted units: Eight 3-bedrooms and one 4-bedroom. Eight of the units proposed for PBV assistance are already occupied by tenant-based voucher holders. 44 of the 45 occupied units are leased to tenant-based voucher holders. Owner pays heat gas heat, water, and garbage. Property taxes are owed for 2011 and 2012, but the property is currently on a repayment plan.

Answer:



2. Greenville Estates	
Street Address	139 Greenville St.
Location	Northeastern District which is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area
Owner	Mr. and Mrs. Herbert Hughes
Target Population	Families
Proposed PBV Units	10 of 75 units (7.5%)
Management Agent	Managed by Mr. and Mrs. Hughes who have owned the property for 15 years
Existing/Rehab/New	Existing Housing constructed in 1965
Additional Information	<p>Proposed unit mix is 10 PBV assisted units: five 1-bedrooms and five 2-bedrooms.</p> <p>All units are currently occupied by long-term residents. All residents have annual incomes that are below 80% of median for their family size. Four of the 1-bedroom units are occupied by elderly families. One of the units is occupied by a 35-year-old single woman who works at the local Walmart.</p> <p>Owner pays water and garbage.</p> <p>There are no tenant-based voucher holders in the property.</p> <p>Property taxes, insurance, and utility bills are current. Past payment history is excellent.</p>

Answer:

3. Happy Valley Senior Homes	
Street Address	678 Happy Valley Lane
Location	Webster District, a middle-income community undergoing substantial new construction activity
Owner	Coolville Senior Properties, LLC
Target Population	Seniors who are 55 years of age or older
PBV Units	40 of 80 units
Management Agent	American Senior Housing Management Company, a national company with a local affiliate
Existing/Rehab/New	New Construction
Additional Information	<p>Proposed unit mix is 20 1-bedroom units and 20 2-bedroom units</p> <p>Property just started construction two weeks ago with completion anticipated in eight months.</p> <p>Owner will pay heat gas heat, water, and garbage.</p> <p>Property taxes are current. Coolville Senior Properties has an excellent history of paying taxes, insurance, and utilities.</p>

Answer:

4. McDonald Gardens	
Street Address	4366 McDonald Avenue
Location	Downtown historic area, where new market rate units are being developed that will impact the current high poverty rate of over 25%
Owner	Elmwood District Community Development Corporation, a non-profit organization
Target Population	Families
PBV Units	20 of 100 total low-income housing tax credit units
Management Agent	Central Valley Management Company, an affordable housing agent, with 25 years of housing management experience
Existing/Rehab/New	Substantial rehabilitation of property built in 1950
Additional Information	<p>Proposed unit mix is ten 2-bedrooms out of 50 total, six 3-bedrooms out of 45 total, and four 5-bedrooms out of 5 total.</p> <p>Property consists of 10 buildings of 10-units each. No building will have more than 2 PBV units in them.</p> <p>Owner pays heat, water, and garbage. Heat is via solar panels.</p> <p>Property taxes are current. Central Valley Management Company has an excellent history of paying taxes, insurance, and utilities.</p> <p>City is providing HOME program funding for the development. State is providing funding through an affordable housing program that is not tenant-based assistance.</p> <p>Property is scheduled to commence rehabilitation in November of this year, with completion anticipated in June of the following year.</p>

Answer:

Section 6

Chapter 3 Post Test

1. The eligibility criteria for admission to the PBV program is always different than for the HCV program.
 - a. True
 - b. False
2. In the PBV program, the owner has no responsibility for lead-based paint assessments.
 - a. True
 - b. False
3. List three areas where the PBV rules are different from HCV rules for determination of tenant rent.

4. Davis-Bacon wage rates apply to:
 - a. New construction and rehabilitation housing of four units or more
 - b. New construction and rehabilitation housing of nine units or more
 - c. Any repairs to PBV housing that cost over \$5,000
5. Both subsidy-layering and environmental reviews are required for:
 - a. New construction and rehabilitation housing prior to entering into an AHAP
 - b. New construction and rehabilitation prior to entering into an AHAP, and existing housing prior to the HAP contract
 - c. New construction and rehabilitation housing funded through low income housing tax credits and HOME funds only

Section 6: Chapter 3 Post Test

6. Section 504 accessibility standards apply to:
 - a. New construction and rehabilitation housing only
 - b. New construction, existing, and rehabilitation housing
 - c. New construction and rehabilitation multifamily buildings of more than four units that was built or renovated after July 11, 1988
 - d. Both b and c
7. PHA-owned units can be project-based noncompetitively and therefore do not need an independent third party approved by HUD to review the selection criteria or the initial rents.
 - a. True
 - b. False
8. Group homes are ineligible types of PBV units.
 - a. True
 - b. False

Notes

CHAPTER 4 Owner Proposal Selection Process

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Recognize the federal rules concerning owner selection for the PBV program
- Identify when competition is required
- Recognize public notice requirements
- Identify the elements that must be included in requests for proposals
- Establish evaluation criteria
- Identify which solicitation documents to retain in files
- Describe the requirements for project-basing Veteran's Affairs Supportive Housing (VASH) and Family Unification Program (FUP) units

OVERVIEW

There are several different ways that PHAs may add units under the project-based voucher program to a development.

Under the PBV program regulations at 24 CFR 983.51, the PHA may use two selection processes:

1. A competitive process through issuance of requests for proposals
2. A non-competitive process where a property was competitively selected through a governmental process within three years of the PHA PBV proposal selection date

Under HOTMA, the PHA may also project-base certain former public housing units noncompetitively provided they meet certain criteria discussed later in this chapter. The PHA may also reposition former public housing units under the RAD program or other repositioning programs. This will be discussed in more detail in a later chapter.

Section 1: Learning Outcomes and Overview

*24 CFR 983.6,
FR Notice 1/18/17
Notice PIH 2017-21*

No later than 14 calendar days prior to issuing a request for proposal or making a selection, the PHA must submit the following information (via email to pbvsubmission@hud.gov) to the local HUD field office for review:

- The total number of units authorized under the ACC for the PHA including special purpose vouchers
- The number of PBV units entirely excluded from the percentage limitation
- The number of units qualifying under the 10 percent program cap exception category
- The current number of units currently committed to PBV, (excluding those entirely excluded from the cap), including units currently under PBV HAP contract, under Agreement to Enter Into a HAP contract (AHAP), or covered by a notice of proposal selection.
- The number of units to which the PHA is proposing to attach project-based assistance through the new RFP or selection.

The PHA is no longer required to submit information on funding or available budget authority when submitting information to HUD on its intent to project-base vouchers. However, PHAs are still required to provide this PBV unit information to HUD no later than 14 calendar days prior to the date that the PHA intends to issue the RFP or makes the selection based on a previous competition or noncompetitively as applicable. A PHA must await a response from HUD prior to proceeding with the proposal.

In addition, a PHA may propose to project-base units in properties that it owns or has an interest. There are special conditions for project-basing units in PHA-owned properties. The procedures for project-basing PHA-owned units must also be described in the administrative plan.

Section 2 Competitive Selection

ADMIN PLAN REQUIREMENTS

24 CFR 983.51

The administrative plan must describe “the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals.”

The PHA must describe:

- Selection Processes
 - Outline the processes and procedures your PHA will use for selection of owners and explain the conditions for using the different types of selection processes.
 - A PHA may use both processes permitted by regulation for accepting proposals or only one, e.g., request for proposals (RFP) and properties that received funding through previous governmental affordable housing competitions. Some MTW agencies also have alternative processes that should be described.
- Broad Public Notice
 - Explain when, for what period, and through what specific media your PHA will advertise its requests for proposals.
 - Sample language:

Request for Proposals: New Construction and Rehabilitation Housing

Anytown PHA will place an advertisement in the Anytown Chronicle, a newspaper of general local circulation, at least one day for three consecutive weeks. The deadline for proposal submission will be at least 30 days after the last notice.

The RFP and proposal submission and rating and ranking procedures will be posted on the Anytown PHA’s website at www.theaha.org.

Section 2: Competitive Selection

- General evaluation and selection criteria for the proposals
 - Describe baseline criteria your PHA will use to evaluate and select proposals. Examples of such criteria include:
 - Owner experience and capability to build or rehabilitate housing as identified in the RFP
 - The extent to which the property furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities
 - A PHA does not need to provide detailed rating and ranking factors in the administrative plan, such as possible points and required scores.
- Proposal Selection Date
 - Define the proposal selection date. Is it the date of the preliminary award letters to the owners, the date of board approval of the selection, or is it the date of public notice?
- Final Selection Notification
 - Address how your PHA will notify owners and the public.
 - The PHA is required to notify all interested parties of its final selection of owners to provide housing under the PBV program and make its selection records and documentation for the basis for selection available for public inspection.

ISSUING AN RFP

24 CFR 983.51

A PHA may issue Requests for Proposals consistent with owner selection procedures outlined in its administrative plan and its procurement policy. Creating a good request for proposals (RFP) takes time and planning. Here are a few helpful hints for preparing the RFP:

- If your PHA has never created RFPs for PBVs, there are a plethora of PBV RFPs available on the internet. However, you are cautioned to resist the urge to copy. While you might find good source material, you should make sure that your PHA's RFP is designed to meet your specific local needs.

Section 2: Competitive Selection

- As local and state agencies are essential to the PBV process, your RFP planning process should take into account factors crucial to their involvement, for example, timing to align with award of low-income housing tax credits.
- Provide a format and fillable forms for the proposal. This helps ensure consistency when comparing data.
- Make sure that information in your RFP is written in clear, simple terms.
- Depending on the size and composition of your PHA's jurisdiction, you may limit the amount of detail an owner is required to submit in certain categories. An example would be site selection standards. A large PHA may wish to obtain precise, detailed information on various neighborhoods, but a smaller community might consider the same type of narrative unnecessarily redundant because they have centralized, updated descriptions of all of their neighborhoods.
- A PHA has the discretion to limit proposals to a certain number of pages and to limit the narrative in various sections to a specific number of pages. Nonetheless, each PHA must obtain sufficient documentation to satisfy questions of a HUD reviewer or auditor. Make sure that a third-party reviewer can easily determine that the project meets all regulatory requirements.
- Remember that your PHA must make proposals available for public inspection regarding the basis for the PHA selection of a PBV proposal.
- A PHA may issue one RFP for all types of units or develop different competitions and RFPs for new construction, rehabilitation, and existing housing, as well as different housing types such as supportive services housing, permanent housing for the homeless, family housing, and senior housing, or combinations of housing types.
- A PHA may not limit proposals to a specific site or restrict site locations.

Section 2: Competitive Selection

- Flesh out the evaluation details and points criteria. Keep in mind that a PHA cannot use factors that are not specified in the RFP to evaluate proposals.
- Provide timelines for PHA processing of the proposals, including prospective site visits, board approval dates, and a proposal selection date.

SELECTION STEPS

To competitively solicit a proposal, a PHA must take the following steps:

1. Develop the Request for Proposal(s).

- The PHA's RFP must be consistent with procedures in the PHA's procurement policy. If there is a maximum number of units to be selected under each RFP, provide the number. Include details on the evaluative criteria and scoring.

2. Determine the Members for the Evaluation Panel.

- Frequently, PHAs use interdisciplinary panels to evaluate proposals. Panel members may include housing authority executive level or senior staff and representatives from local units of government. In any event, the majority of the panel members must be PHA representatives. After all, it is a PHA program.
- It is important to establish earlier than later who will participate in the proposal evaluations. Confirm that PHA staff and other local representatives will be available on the projected evaluation dates.

3. Issue a Public Notice.

- Your PHA must make broad public notice as prescribed in the administrative plan. Such notice is usually in a variety of local newspapers and/or via the PHA's website. In addition, a good practice is to maintain an e-mail list of interested parties (e.g., local community agencies, real estate developers, and real estate professionals) and to e-mail them a notice. The public notice must include the deadline for application submission and information on how to obtain an application.

Reminder – A PHA must make detailed information regarding application procedures and requirements available to anyone who requests them.

4. Conduct a Preliminary Review of Proposals for Compliance with Basic RFP Requirements.

- Prior to proposal selection for all project types, a PHA must inspect the project site to determine that it meets site selection standards. The project site inspection may be conducted prior to or subsequent to the evaluation of proposals.
- Additionally, for existing housing, a PHA must perform a pre-selection inspection of all units proposed for PBV assistance to determine that the units substantially comply with Housing Quality Standards. A PHA may combine the project site inspection with the pre-selection site inspection or perform the two inspections separately. To accomplish such an inspection, the PHA requests the owner to provide a list of units proposed for assistance. The number of units on the form must be no less than the number proposed for assistance and may include a reasonable number of additional units of the same bedroom size, representing the universe of potentially assisted units. For example, if an application proposes 50 units for assistance, the owner may provide 55 units for inspection.

5. Perform a Pre-Selection of the Project Site.

- A PHA must inspect the project site prior to selection.
- For existing housing, the inspection should include a determination that the units substantially comply with Housing Quality Standards (HQS). To accomplish such inspection, the PHA requests the owner provide a list of units proposed for assistance. The number of units on the form must be no less than the number proposed for assistance and may include a reasonable number of additional units of the same bedroom size, representing the universe of potentially assisted units. For example, if an application proposes 50 units for assistance, the owner may provide 55 units for inspection.
- If any proposed existing units are occupied, encourage the owner to meet with the families residing in those units to provide general information on the PBV program. A PHA may provide fact sheets for the owners to use in providing such information.
- Before the scheduled inspection, the owner must provide notice to tenants in the occupied units in accordance with state and local laws, ensure access to all units, and ensure that units are HQS-ready.

6. Evaluate Proposals.

- There is no standard template for evaluating proposals. A PHA may combine individual scores and average them or determine final scores via consensus or other methods in compliance with federal rules.
- And remember! Evaluators may not consider factors that are not expressly stated in the RFP.

7. Recommend Sites for Board Approval.

- Depending on your PHA policy, the procurement of properties for PBV assistance may require approval from the board of commissioners. Check your PHA's procurement policies to determine if approval is required. Remember that PBV contracts are for multiple units over many years. Therefore, the awards may represent large dollar commitments of over \$150,000. For example, if a PHA's average subsidy for 3-bedroom units is \$275 per month, and an owner proposes ten PBV dwelling units for ten years, the PBV contract value is approximately \$330,000. The proposal selection date may be the board of commissioners' approval date, the date of the PHA's preliminary award letter, or another date set forth in the PHA's administrative plan.

8. Provide Preliminary Award Letters to Owners.

- Notify owners of the preliminary award and any conditions and timeframes for execution of an AHAP or HAP agreement.

9. Provide "Prompt" Public Notice of PBV Project Selections.

- HUD rules require that such notice be "prompt," which should be defined in the PHA administrative plan. The administrative plan should also specify the means by which the PHA will provide such public notice. Many PHAs make the public announcement via their website. Others use local newspapers.

10. Make Documentation of the PHA's Selection Decision Available for Public Review.

- While the public may review all proposals submitted, keep a copy of all information, including proposals that the PHA rejects. Keep in mind that the PHA may redact private confidential information such as the social security numbers of owners, developers, and partners.

11. Maintain Good Records of the Selection and Evaluation Process.

- While a PHA must follow all HUD rules in its selection process, the proof is in its documentation. Make sure that you maintain records for third-party audit and public review purposes. Many times, the maintenance of records is the Achilles heel of a PHA. Stay one step ahead of any audit findings and potential repayment of HUD funds by keeping good records.

CONTENT OF THE REQUEST FOR PROPOSALS

At a minimum, the RFP should include enough information for the PHA to be reasonably sure, prior to project selection, that the property can meet all federal and local requirements for execution of an AHAP or HAP contract. Some PHAs require all of the information as part of the proposal. Others require information after properties are selected, but prior to execution of contracts. How much information must be provided is at the discretion of the PHA. The components listed in the sections that follow make up the building blocks of what a PHAs should include in their RFPs.

GENERAL INFORMATION

A description of the PBV program

The maximum number of units that the PHA will award under the RFP

A description of eligible geographical areas within the jurisdiction of the PHA where properties may be located, e.g., census tracts, neighborhoods, townships, or cities

A description of the type of housing that is being solicited, e.g., supportive services housing, permanent housing for the homeless, family housing, or senior housing

Any minimum or maximum number of units the PHA will consider in a property

The number and type of proposal copies to be submitted, e.g., three 3-ring binders plus an electronic copy e-mailed to a PHA's designated mailbox or via CD

The location, due date and time for proposal submission.

Section 2: Competitive Selection

OWNER PROPOSAL REQUIREMENTS

Project information

- The PHA should request basic property information such as the project name, contact information, and address

Project description

- A description of the housing to be provided (i.e. existing, new construction, or rehabilitation)
- If the proposal is comprised of multiple buildings, a property description for each building;
- Total property unit count, total units to be assisted and subtotals by unit bedroom sizes, number of bathrooms, unit square footage, and other pertinent information, such as storage rooms
- If the proposal is for new construction or rehabilitation, sketches of unit plans
- For rehabilitation, a description of the property as is and the proposed rehabilitation

Project narrative

- The PHA may request a narrative about the ways in which the proposed housing project meets the funding priorities of the PHA, including the target population to be served. The narrative should also describe the need for the housing proposed and that the housing proposed is consistent with the priorities established in the locality's Consolidated Plan, if any.

A listing of amenities and services

- Amenities and services include such items as off-street parking, laundry facilities, playgrounds, community rooms, wiring for electronic media, and free cable TV.

An estimated date of completion or availability for occupancy

- New construction and rehabilitation housing may be completed in stages. Each stage must have an estimated completion and occupancy date. For existing housing, a date should also be provided for occupancy. Remember that properties that have already started construction may be eligible as existing housing.

Section 2: Competitive Selection

Photos for each building, including those of the:

- Exterior, showing the front and rear of the building
- Common area, such as the entrance and laundry area
- Typical unit interior for each bedroom size

Proposed contract rents and utility responsibilities

- For each unit type and size, the proposed contract rent must be provided as well as a breakdown of the utilities to be paid by the tenant and by the owner.

Rent comparability

- An owner may provide a market study for new construction and rehabilitation housing or newly constructed existing housing. For existing units, a PHA may request documentation of at least three comparables showing that the rents being proposed are reasonable and comparable to rents being charged for similar market rate housing, with similar amenities in the same market area as the proposed property. The PHA may compare the owner's information with its rent reasonableness database for the tenant-based program.

Relocation

- For occupied rehabilitation housing, the owner should provide a relocation plan and a certification that any relocation will be done in accordance with the Uniform Relocation Act. The relocation plan should incorporate:
 - The estimated number of persons and households to be permanently displaced
 - The estimated number of persons and households to be temporarily displaced
 - How the owner will provide information on relocation payments, advisory services, and eligibility for such payments and services, including the minimum 90 days written notice to vacate
 - The sources of funding the owner will use to pay relocation benefits

Section 2: Competitive Selection

- **Occupied Units:** Although it is not relocation per se, the PHA may request owners to provide vital information about occupants of existing housing units proposed for project-based assistance in order to determine if they are program eligible.

Identity of the owner and other principal parties, certification and disclosure

- As part of the proposal process, the applicant must identify the owner, developer, architect, management agent, officers, and principal members, shareholders, investors, and other parties with interest in the project. The owner must also complete a disclosure statement certifying that:
 - The owner and other property principals are not on the U.S. General Services Administration (GSA) list of parties excluded from federal procurement and non-procurement programs.
 - The owner and other property principals do not have any possible conflicts of interest that would be a violation of the HAP contract or HUD regulations. The owner and principal parties must not be:
 - A member or officer of the PHA board of commissioners (except a resident commissioner)
 - A PHA employee, or a contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
 - A public official, member of a governing body, or state or local legislator, who exercises functions or responsibilities with respect to the programs
 - A member of the Congress of the United States
 - The spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a proposed contract unit

Section 2: Competitive Selection

Evidence of financing or lender interest (if necessary)

- Operating proforma
 - The proposal should include an operating proforma for the life of the HAP contract showing projected project-based voucher income and reflecting sufficient project operating revenue to support the management and maintenance of the housing and appropriate capitalized reserves.

Disclosure of other governmental assistance for the proposed project (subsidy-layering review):

- The proposal should list the amount and type of governmental funding provided to the property.
 - If HUD has approved the subsidy layering review and no additional subsidies have been provided, the owner must provide a copy of the approval letter.
 - If the subsidy layering review has not been completed, the owner must provide the PHA with all the documentation required by the HUD mandated checklist.
 - If additional governmental subsidies are available to the property since the subsidy-layering review, information about the additional subsidies must be submitted for a further review.

Owner Proposal Selection Process

Section 2: Competitive Selection

Evidence that property meets site selection standards:

- The proposal must demonstrate that the proposed project is consistent with HUD’s statutory goal of deconcentrating poverty and expanding housing and economic opportunities, as set forth in the PBV regulations, 983.57.
- Below is a format that one PHA used for site selection criteria in its application.

<i>Check all boxes that apply to the site location for the proposed project. Provide a narrative not to exceed one page explaining why the criteria apply to the project and identify data sources used.</i>	X
A HUD-designated Enterprise Zone, Economic Community, or Renewal Community	
Decreasing the concentration of assisted units as a result of public housing demolition and redevelopment	
Undergoing significant revitalization as a result of state, local, or federal dollars invested in the area	
Developing new market rate units that will positively impact the poverty rate in the area	
Experiencing an overall decline in the poverty rate within the past five years if the poverty level is over 20%	
Providing meaningful opportunities for educational and economic advancement	

- The proposal should describe the surrounding community including type of housing stock, the development’s proximity to shopping, schools, medical facilities, parks and recreational space, public transportation, and other neighborhood amenities. If the project is comprised of multiple buildings in multiple neighborhoods, obtain a description for each neighborhood.

Section 2: Competitive Selection

- The neighborhood description may specify neighborhood amenities including, but not limited to:
 - Public transportation
 - Employment
 - Educational and childcare facilities (including school names and grade levels)
 - Medical services and health facilities
 - Commercial/retail establishments (including grocery stores and pharmacies)
 - Parks and recreational facilities
 - Social service providers
- Amenities may be graphically identified by a color-coded map. As an example, the proposed development might be shown as the center of the 1 or 2-mile radius ring. Each amenity would be denoted (with amenity name) on the map, as accurately as possible, within the one or two-mile ring. Corresponding addresses of the amenities, if not able to be displayed on the map, might be attached on a separate sheet.

Environmental review information

- At the PHA's discretion, the owner may submit environmental review information with the proposal or during subsequent processing steps. However, prior to selection of the property, it is advisable that the PHA obtain enough information to ensure that the property will be able to meet environmental requirements. In particular, the owner must supply the PHA with documentation of environmental clearance or the documents necessary for an environmental clearance from the Responsible Entity (RE). The PHA must submit the documents for environmental clearance to the RE that conducts the federal environmental review and approves or categorically excludes the project from requirements under the National Environmental Policy Act of 1969. If the RE cannot perform the review, the PHA must request that HUD perform the environmental review and submit the required documentation to HUD.

Section 2: Competitive Selection

Lead-based paint certification

- The PHA may request documentation that the project has completed a lead-based paint risk assessment if it was built prior to 1978.

Documentation of accessibility

- The owner should provide documentation that the property meets accessibility criteria. Such documentation may be in the form of a letter from the local building department that issues construction licenses and permits. On the other hand, the PHA may request site drawings and floor plans that will assist its determination of compliance.

Evidence of ownership

- Evidence of current ownership should consist of copies of official registered court documents, i.e., documents that are signed and if appropriate, stamped. Alternatively, especially for projects in predevelopment, an owner may provide evidence of pending site control, option agreements, sales contracts, etc.

Evidence of compliance with local permits and zoning requirements

- The owner must submit documentation establishing that the property is appropriately zoned or in the process of being rezoned for the intended use. If the property is in the process of being rezoned, the application should include evidence that this process has been initiated along with a timetable for completion.

Commitment to comply with labor standards, including Davis-Bacon

- The owner must agree to comply with labor standards.
- For properties with nine or more proposed PBV units, the owner, the owner's contractors, and subcontractors must pay Davis-Bacon wages rates to laborers and mechanics.
- The owner and the owner's contractors and subcontractors must comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations.

Section 2: Competitive Selection

Section 3 employment and training opportunities plan

- If the property is new construction or rehabilitation, the owner should provide a plan to comply with Section 3 requirements, if applicable. Often, Section 3 compliance is triggered by the use of HOME and CDBG funds.

Management plan

- This should include a description of the developer's background, length of time in business, and level of experience in developing and/or owning and managing and maintaining affordable housing, with a list of previous developments and their locations. It should also include a description of the management agent's experience.

Tenant selection and screening criteria or tenant selection plan

- The owner should provide tenant screening criteria for the property, and any preferences such as housing for families that need assistance with substance abuse prevention or families with developmental disabilities.
- The owner is responsible for adopting written tenant screening criteria that are consistent with the purpose of improving housing opportunities for very low-income families reasonably related to program eligibility. Such criteria must adhere to the PHA, local, state, and federal requirements. Most importantly, the owner/agent must apply the same screening criteria to all tenants at a property, regardless of PBV assistance.
- Such criteria must include the target population and income limits required by low-income tax credits, bond issues or other governmental programs for each development. For supportive housing, the criteria may include certification requirements specified by the local Continuum of Care agencies. Examples of tenant selection and screening criteria include a review of the applicants' credit history, a criminal background check, drug testing, housekeeping or home visits, and an evaluation of a resident's employment and economic self-sufficiency record. For properties that include other sources of governmental funding, the tenant selection plan (TSP) required by the governmental entity issuing the tax credits may meet the tenant screening and selection criteria.

Owner Proposal Selection Process

Section 2: Competitive Selection

- The tenant screening and selection criteria may be included as an exhibit to the PBV AHAP for rehabilitation and new construction housing.

Social services plan, (Supportive Housing)

- Members of tenant households in Supportive Housing must have access to services designed to assist the tenants to achieve and sustain housing stability. Such services may include substance abuse, mental health, medical, and job search and retention assistance, among others. An owner should describe what services will be provided and how they will be coordinated with service providers. Proposals for properties that will provide supportive services should include the following in their proposal:
 - Supportive services plan (including target population, staffing, and approach)
 - Supportive service programming funding uses
 - Qualification of service provider experience

Proposed contract term

- The owner may propose an initial contract term consistent with the PHA administrative plan requirements and consistent with federal requirements that the initial contract term be for no less than one-year and no more than 20 years.

Documentation that property meets local requirements

- A PHA may require items such as proof of insurance, payment of property taxes and utilities, and local design standards.

ADDITIONAL INFORMATION FOR THE OWNERS

Providing the recommended information up front will save in the end by reducing the number of inquiries and responses about the program. The administrative plan should also specify on the PHA's website and at program offices.

- HQS specifications
- Current HUD published fair market rents
- Current utility allowance schedules
- Hyperlink to the administrative plan
- List of current PBV developments
- Frequently asked questions (FAQs)
- Procedures for rent determination
- VASH information, as appropriate
- Hyperlinks to PBV contracts
 - Agreement to Enter into Housing Assistance Payments Contract (AHAP)
 - New Construction or Rehabilitation Part 1 (HUD 52531a)
 - New Construction or Rehabilitation Part 2 (HUD 52531b)
 - Housing Assistance Payments Contract
 - New Construction or Rehabilitation Part 1 (HUD 52530a-1)
 - New Construction or Rehabilitation Part 2 (HUD 52530a-2)
 - Existing Part 1 (HUD 52530b-1)
 - Existing Part 2 (HUD 52530b-2)

Quick Checklist for PBV RFPs

Component	Yes/No or N/A
General Information	
Required Information	
Basic project information: name, address, email address, contacts	
Project description, e.g., housing type, total # of units, total # of PBV units, bedroom sizes, # of buildings, floor plans.	
Narrative regarding how the project meets funding priorities and is consistent with Consolidated Plan	
Listing of amenities and services	
Estimated date of completion or availability for occupancy	
Photos for each building	
Proposed contract rents for each unit type and utility responsibilities	
Rent comparability information	
Relocation information	
Identity of the owner and other principal parties, certification and disclosure	
Evidence of financing or lender interest	
Operating proforma	
Disclosure of other governmental assistance for the proposed project (subsidy-layering review):	
Site selection standards	
Environmental review	
Accessibility documentation	
Evidence of ownership	
Lead-based paint certification	
Evidence of compliance with local permits and zoning requirements	
Commitment to comply with labor standards, including Davis-Bacon	
Section 3 employment and training opportunities plan	
Management plan	
Tenant selection plan	
Social services plan	
Proposed contract term	
Documentation that property meets local requirements	

Component	Yes/No or N/A
Additional Information	
HQS specifications	
Current HUD published fair market rents	
Current utility allowance schedules	
Hyperlink to the PHA Housing Choice Voucher administrative plan	
List of current PBV developments	
FAQs, frequently asked questions	
Procedures for rent determination	
VASH information, as appropriate	
Hyperlinks to PBV contracts	

EVALUATION CRITERIA

Evaluation criteria must be clearly stated in the RFP so that both those who respond and those who evaluate the proposals understand them. Evaluation criteria are the benchmarks against which requests for proposals (RFPs) are measured. A proposal may not be evaluated on criteria that are not in the RFP.

Evaluation criteria may include mandatory items or a combination of mandatory and point-rated items.

Mandatory criteria are minimum “threshold” standards that a proposal must meet for further consideration. If a proposed project does not meet the mandatory criteria, the PHA may reject them prior to consideration by an evaluation panel. Such criteria may include:

- The location of the project is within the PHA’s jurisdiction.
- The proposal is for an eligible housing type.
- The owner has site control.
- For new construction and rehabilitation housing, construction has not started.
- The project does not exceed the 25 percent cap.
- Gross rents are within 110 percent of the current HUD published fair market rents.

Section 2: Competitive Selection

- Proposed project is consistent with local PHA requirements stated in the RFP.
- The owner is eligible, not on the GSA list of contractors excluded from participation in federal procurements and does not have a conflict of interest.
- The project will be available for occupancy within the timeframe prescribed by the PHA.
- The proposal is complete.

Point-related criteria are used to score proposals. Such criteria measure the quality of the proposals in relationship to the PHA's needs, goals, and objectives. The criteria help to ensure that the evaluation is fair and objective. The criteria may be used as a tool to debrief proposers as well as to defend the PHA against grievances or appeals. Typically, a PHA establishes an evaluation panel to score the proposals. Examples of point-related criteria include:

- The extent to which the property provides increased housing opportunities outside areas of concentrated poverty
- Previous experience of the owner and management agent in developing and managing affordable housing
- Quality of the housing design, including amenities, size of units, accessibility
- Condition of the existing housing units
- Quality of the development plan, including financial commitments
- Quality of the supportive services program, including probability for long-term funding

Learning Activity 4-1: Developing Evaluation Criteria for Goodwill PHA's PBV Program

Instructions: For the Goodwill Housing Authority, use the criteria listed below or create new criteria:

1. Develop two minimum or more threshold criteria.
2. Develop two or more points-related evaluation criteria and assign points using a 100 point scale.
3. Recommend members, by job title, for the evaluation panel.

Case Study: Goodwill Housing Authority (GHA) has a voucher allocation of 4,000 units, with an annual budget authority of \$15.6 million. They would like to project-base 10 percent of their vouchers.

In accordance with goals outlined in the PHA Plan, Goodwill PHA's PBV program is specifically targeting properties that provide increased affordable housing options for families that need supportive services, seniors, and persons with disabilities.

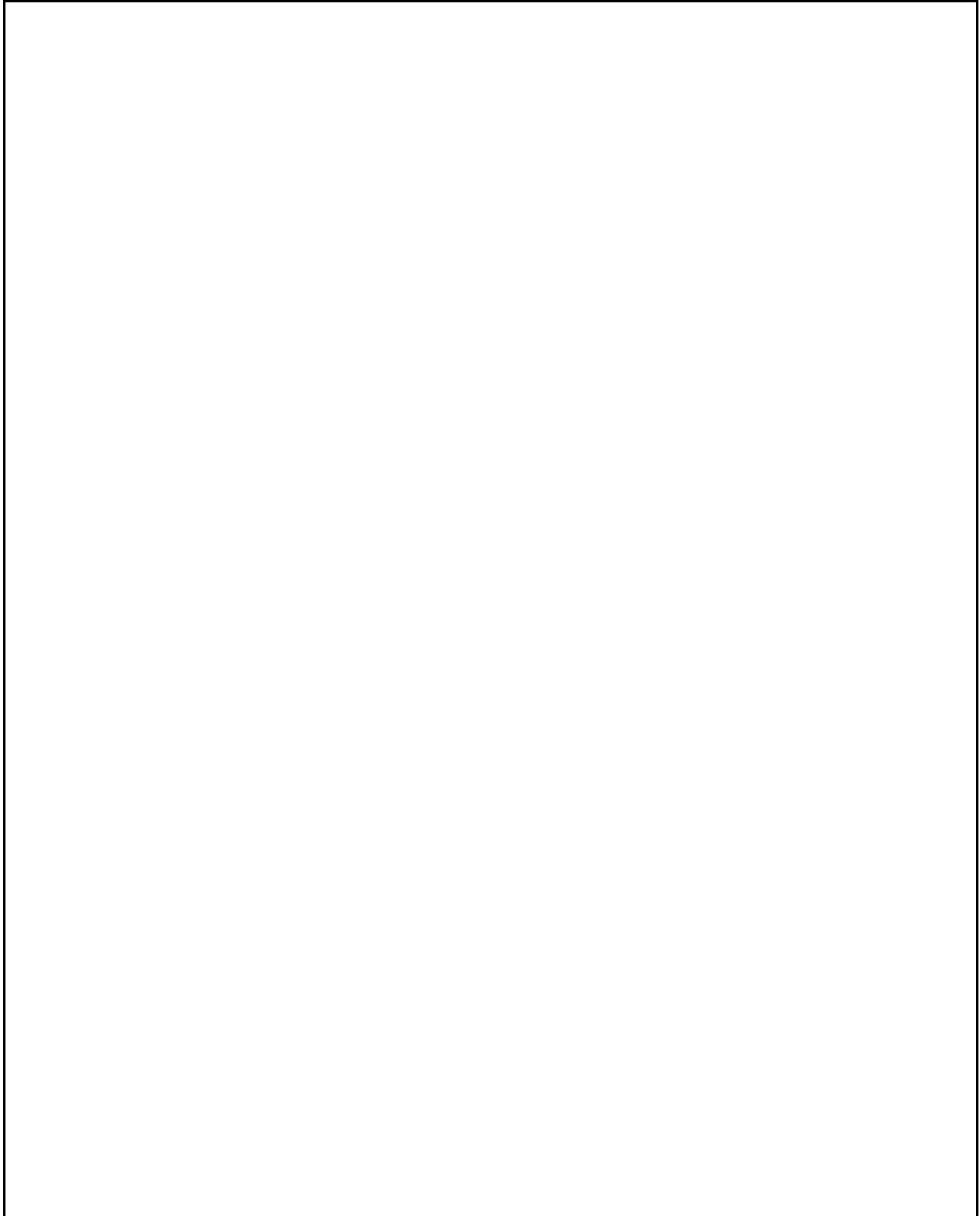
Projects must meet the following minimum local requirements as stated in the PHA's administrative plan:

- The minimum number of units designated for project-based assistance per project consists of at least eight units.
- GHA strongly supports mixed-income communities and the mainstreaming persons with disabilities in housing communities, and therefore gives priority to partially assisted properties.
- GHA would like to consider owners with demonstrated experience in partnerships with social service agencies and managing housing for people with special needs.
- Financial solvency of the owner is a critical factor.
- The maximum number of total rental units in a project is 75 units.
- If buildings contain fewer than five units, only one unit may be project-based.
- GHA will not assist with funding for any required relocation costs.

Section 2: Competitive Selection

- Verification of property tax, utility, and insurance payments is required. Properties will not be considered if they have past due bills.
- Existing properties must be available for occupancy within 45 days of proposal selection.
- Vacancy payments may be made in an amount not to exceed 80 percent of the contract rent the first month of vacancy and 50 percent of the contract rent for the second month minus any tenant's payment. Such payments will only be made if the owner can document every reasonable effort to minimize the length of vacancy as described in the GHA's PBV vacancy procedures.

Answers:



Section 3 Non-Competitive Proposals

24 CFR 983.51(b)(2)

A PHA may select properties without issuing an RFP if they meet all of three specific conditions:

1. The property was competitively selected through a federal, state, or local housing assistance, community development, or supportive services program process
2. The selection was within three years of the PHA PBV proposal selection date
3. The earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance

PHAs typically use this rule to select housing that was competitively awarded HOME and/or low-income housing tax credits within three years of the PHA selection date.

PUBLIC HOUSING UNITS SELECTED NONCOMPETITIVELY

FR Notice 1/18/17; FR Notice 7/14/17, Notice PIH 2017-21

The PHA may attach PBVs to a project in which the PHA has an ownership interest or has control of, without following a competitive process, in cases where the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The PHA must be planning rehabilitation or construction on the project with a minimum of \$25,000 per unit in hard costs, or replacement of the project or site that substantially complies with housing quality standards (HQS).

- The PHA must explain in its administrative plan the work it plans to do on the property or site and how many units of PBV it plans to add.

Ownership interest means that the PHA or its officers, employees, or agents are in an entity that is owned by the PHA or has a controlling interest in the entity that owns the unit. This includes if the unit is owned by an entity wholly controlled by the PHA or owned by a limited liability company or limited partnership in which the PHA holds a controlling interest in the managing member or general partner. Controlling interest means:

- Holding more than 50 percent of the stock of any corporation;

Section 3: Non-Competitive Proposals

- Having the power to appoint more than 50 percent of the members of the board of directors of a nonstock corporation (such as a nonprofit corporation);
- Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA;
- Holding more than 50 percent of all managing member interests in an LLC;
- Holding more than 50 percent of all general partner interests in a partnership; or
- Having equivalent levels of control in other ownership structures. This category is meant to cover any ownership structure not already listed where the PHA has more than 50 percent control in the ownership structure.

A unit is not considered PHA-owned if:

- The PHA holds a fee interest as ground lessor of the property on which the building is situated, but no ownership interest in the building or unit itself;
- The PHA holds only a security interest under a mortgage or deed of trust on the unit; or
- The PHA has only a noncontrolling interest in an entity that owns the unit or in the managing member or general partner of an entity that owns the unit.

Since the HAP contract administrator and the owner cannot be the same legal entity, the PHA must establish a separate legal entity to serve as the owner.

Section 4 PHA-Owned PBV Proposals

Notice PIH 2017-21

A unit of state or local government or another entity approved by HUD must review the unit selection process.

RECORD KEEPING

Selecting PBV properties is a procurement action. Therefore, a PHA must retain documentation of the procurement process for at least three years after projects have been selected, including copies of the proposals.

For new construction and rehabilitation housing, the project application or proposal is Exhibit A to the Agreement to Enter into Housing Assistance Payments Contract. While there are no specific regulations or HUD guidance on record retention for PBV proposals, HUD's Office of Inspector General (OIG) recommends in several audit reports that PHAs maintain certain information such as subsidy layering reviews and initial PBV inspections for the life of the PBV contract.

To play it safe, a PHA should maintain the proposals for selected properties as part of the project file. In addition, the AHAP should be maintained as part of the project contract file. Just as the tenant-based program requires that tenant applications are maintained for the duration of the tenant's participation, it is prudent to maintain the PBV application/proposal in the same manner. For properties that enter into PBV HAP contracts, a PHA should maintain all project records, including a copy of the original application, for three years after the final HAP payment is made to the owner.

Section 5 Project-Basing Veterans Affairs Supportive Housing (VASH)

OVERVIEW OF THE VASH PROGRAM

*FR Notice 5/6/2008,
5/19/2008, and 9/27/21;
Notice PIH 2017 21*

The HUD Veterans Affairs Supportive Housing (HUD-VASH) program is a special allocation of housing choice vouchers for homeless veterans that is combined with case management and clinical services provided by the Department of Veterans Affairs (VA). VA provides these services at VA medical centers (VAMCs) (including designated service providers (DSPs) and community-based outreach clinics. Detailed information on VASH may be found online at:

www.hud.gov/program_offices/public_indian_housing/programs/hcv/vash.

To achieve the purpose of the VASH program, certain tenant-based voucher rules are waived or altered. The following waivers apply to the PBV program:

- The prohibition on units on the grounds of a medical, mental, or similar public or private institution is waived, but only to allow VASH families to live in housing units on the grounds of a VA facility.
- PHAs do not have the authority to maintain a waiting list or apply local preferences.
- VA VASH case managers refer VASH-eligible families to the PHA for the issuance of vouchers. The PHA must accept referrals.
- VA VASH case managers screen all families in accordance with VA screening criteria, not PHA screening criteria.
- PHAs screen for income eligibility and lifetime sex offender status only. A voucher must be denied if the sex offender is a homeless veteran. Otherwise, the veteran may remove the family member from the household.
- PHAs must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of the veteran's age and social security number; A PHA cannot require the veteran to provide a social security card.

Section 5: Project-Basing Veterans Affairs Supportive Housing (VASH)

- PHAs must accept the VA photo identification card as proof of identity. This card may also be used to verify SSN and date of birth.
- PHAs are encouraged to consult with VA case managers prior to initiating termination actions and consider all mitigating circumstances.
- A family must be terminated for failure to participate in case management as required by the VAMC or DSP. Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period (as established by the PHA) to vacate the unit. The PHA must terminate assistance to the family at the earlier of (1) the time the family vacates or (2) the expiration of the reasonable time period given to vacate. If the family fails to vacate the unit, within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. A PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.
- Income-targeting rules do not apply.
- The vouchers are not included in SEMAP Indicator #13 – Lease-up but are reported in HUD systems.

The allocation of VASH vouchers involves three steps:

- The VA Central Office determines which areas of the country have the highest number of homeless veterans and identifies VA facilities in the corresponding communities.
- HUD then selects PHAs near to the VA facilities, taking into consideration the PHAs' administrative performance, and sends the PHAs invitations to apply for the vouchers.
- Interested PHAs apply for the VASH vouchers.

Section 5: Project-Basing Veterans Affairs Supportive Housing (VASH)

PROJECT-BASING VASH UNITS

*FR Notice 1/18/17,
Notice PIH 2017-21,
FR Notice 9/21/21*

PBV project selection for HUD-VASH must follow all regular project selection regulations. A PHA's entire allocation of tenant-based VASH vouchers may be project-based as long as the PHA does not exceed its maximum program cap. While the program cap is 20 percent of total authorized units under the ACC, the PHA may exceed that cap by an additional 10 percent for units that are specifically made available to house families that are comprised of or include a veteran. Special HUD-VASH PBV set-aside awards (FY 2010-2011 and FY 2014-2016) specifically designated for project-based VASH assistance are exempt from the PHA program cap. If the family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit for as long as the family resides in the unit.

*FR Notice 1/18/17
Notice PIH 2017-21*

Although the PHA may project-base HUD-VASH vouchers without further HUD approval, the PHA must consult with their partner Veterans Administration Medical Center (VAMC) or designated service provider (DSP) to ensure approval of the project.

FR Notice 9/21/21

The PHA and owner may agree to amend a PBV HAP contract to re-designate a regular PBV unit as a unit specifically designated for HUD-VASH families, so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to re-designate a unit specifically designated for HUD-VASH families as a regular PBV unit, so long as the unit is not funded through a HUD-VASH PBV set-aside award and is eligible for a regular PBV (for instance, the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Families under the VASH program have the right-to-move. However, the PHA's obligation to provide a tenant-based voucher is different from the regular PBV program. A VASH family that resides in a VASH PBV unit for 12 months or more and is in compliance with the lease and family responsibilities may request a voucher to move.

Section 5: Project-Basing Veterans Affairs Supportive Housing (VASH)

If a HUD-VASH veteran has been determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no HUD-VASH voucher is immediately available and cannot require the family to wait for a HUD-VASH voucher to become available.

FR Notice 9/21/21

If a HUD-VASH family that wishes to move still requires case and there is no HUD-VASH tenant-based voucher available at the time the family requests to move, the PHA may require the family to wait for a HUD-VASH tenant-based voucher for a period not to exceed 180 days. If a HUD-VASH tenant-based voucher is still not available after that time, the family must be allowed to move with its HUD-VASH voucher. Alternatively, the PHA may allow the family to move with its HUD-VASH voucher without having to meet this 180-day waiting period. In either case, the PHA may either replace the assistance in the PBV unit with one of its regular vouchers if the unit is eligible for a regular PBV (for instance, so long as the unit is not on the grounds of a medical facility and so long as the unit is eligible under the PHA's program and project caps) or the PHA and owner may agree to temporarily remove the unit from the HAP contract.

If a voucher is provided, a PHA must limit the jurisdictions where families requiring continued case management services might use the voucher or where comparable housing is located. Housing for such families must be in areas where VAMC or CBOC case management services are available

PROJECT-BASING FUP VOUCHERS

For FUP vouchers, HUD encourages PHAs to consider whether project-basing would yield significant benefits, whether doing so would limit the ability of youth to use such vouchers, and whether project-basing FUP vouchers would allow the PHA to serve the population eligible for FUP vouchers in such a way as to keep units filled.

FUP PBV FAQs

PHAs are not prohibited from project-basing 100 percent of the PHA's FUP allocation if doing so would not otherwise exceed the PHA's percentage limitation (program cap) for the number of PBV units.

FR Notice 1/24/22

FUPY/FYI vouchers placed under a PBV HAP contract after December 27, 2020, are included in the 10 percent PBV program cap and are exempt from the project cap. FYI vouchers that were awarded under Notice PIH 2019-20 are not part of this exception as they were not eligible to be project-based.

A PHA project-basing FUP vouchers may limit the project-based vouchers to one category of FUP-eligible families, such as making the project-based vouchers exclusively available for FUP families or youth, or a combination of the two.

FUP PBV FAQs

FUP youth are limited to 36 months of FUP assistance. At the expiration of assistance to the FUP youth residing in a PBV project, the PHA may:

- Create a preference in their regular HCV program to serve FUP youth.
- Substitute a different unit in accordance with 24 CFR 983.207.

If the youth does not vacate the unit or the PHA does not substitute a similar unit in the building, the unit cannot be assisted.

Section 5: Project-Basing Veterans Affairs Supportive Housing (VASH)

If a FUP participant is in a FUP PBV unit and wishes to move with continued assistance after one year and a FUP voucher is not available to allow the participant to move with continued assistance the following applies:

- FUP Families - The PHA may offer the FUP family continued HCV assistance through one of its regular vouchers, or provide other comparable tenant-based rental assistance. Comparable rental assistance is defined as a subsidy or other means to enable a family to obtain decent housing in the PHA jurisdiction renting at a gross rent that is not more than 40 percent of the family's adjusted monthly gross income.
- FUP Youth - The PHA may place the FUP youth on the waiting list for a regular HCV. To facilitate this process, PHAs may choose to create a preference in their regular HCV program. Where a FUP voucher will not be available and the youth will not receive a regular voucher prior to having received FUP assistance for 36 months, it is possible that the FUP youth will not have the opportunity to move with continued assistance. HUD encourages PHA's considering project-basing FUP vouchers to consider the impact on FUP-youth's ability to move with continued assistance.

Section 6 PBVs in Multifamily Housing Conversions

MULTI-FAMILY HOUSING CONVERSIONS WITH TENANT PROTECTION FUNDING

Notice PIH 2013-08

Notice PIH 2014-4

FR Notice 1/18/17

Notice PIH 2017-21

Periodically, HUD makes tenant protection voucher funding available to certain multifamily properties that meet three criteria:

1. Is in a county with a low-vacancy rate for units affordable to low-income households. HUD defines this rate as below the national vacancy rate set by the Census and 80th percentile vacancy rate in the most recent American Community-Survey five-year estimates.
2. Has an expiring or expired HUD-imposed affordability use agreement within a specified period of time,
3. Has FHA-insured primary mortgage or HUD-held primary mortgage that is eligible for prepayment or is repaid during a specified time period.

Owners of such properties may request either enhanced vouchers or PBV assistance for at-risk households residing in their property at the time of the application. At-risk households are defined as those with incomes below the low-income limit, i.e., 80% of AMI, which may be required to pay more than 30% of AMI for rent.

Because the amount of funding is limited, HUD cannot always provide all vouchers requested by owners. HUD gives priority for vouchers to families who will be required to pay the greatest percentage of income. Owners must conduct reviews to determine which families are potentially eligible for HCV assistance. The administering PHA makes the final eligibility determination.

If HUD approves the award of vouchers for the property, the HUD Public Housing Field Office Director then identifies PHAs with jurisdiction and administrative capacity to administer the voucher assistance. Any PHA identified may decline to participate entirely or may agree only to administer enhanced vouchers. If no PHA is identified to administer a PBV contract, HUD may provide enhanced vouchers even if the owner requests PBV assistance.

Section 6: PBVs in Multifamily Housing Conversions

Projects that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the overall program cap and project cap and may be selected on a non-competitive basis.

To be eligible for the exception to the project cap, the units must meet the following exception requirements:

- The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

In the five years prior to the date the PHA either (i) issued the RFP under which the project was selected or (ii) selected the project without competition, the unit met certain federal rent restrictions or was receiving another type of long-term housing subsidy provided by HUD as listed in FR Notice 1/18/17. and Notice PIH 2017-17.

If a property does not meet other PBV requirements, then HUD provides enhanced vouchers for the families.

For approved multifamily conversions with tenant protection funding:

- Families admitted to the HCV program with enhanced vouchers are special admissions and are not subject to income-targeting requirements.
- Families admitted to the HCV program with PBV assistance must be added to the PHA's waiting list, given an “absolute preference”, and are not subject to income-targeting requirements.
- In order to reduce processing time for these conversions, HUD permits the PHA to use the owner's most recent family income examination (form HUD-50059) if it is no more than six months old and the PHA determines that the owner certifications are acceptable after reviewing a small sample for accuracy. However, the PHA is never required to use the owner certifications and may choose to conduct its own income determination and verification. PHAs are reminded that not all owners have 50059s.

After the PHA receives its ACC that includes the conversion vouchers, the PHA may issue any remaining unused vouchers to families on its waiting list as a regular voucher.

ENHANCED VOUCHERS FOR HOUSING CONVERSION ACTIONS

Notice PIH 2013-27

FR Notice 1/18/17

Notice PIH 2017-21

In certain multifamily conversion actions, HUD provides enhanced or regular vouchers for eligible existing tenants. Multifamily conversions are defined as:

- Owner decisions to opt out of or not renew certain Section 8 project-based contracts;
- Owner prepayment of certain mortgages on the project; voluntary termination of mortgage insurance; or
- A transaction for preservation of a project that, under certain sections of the Multifamily Housing Reform and Affordability Act (42 U.S.C. 1437f note) (MAHRA)

Where an owner requests project-based voucher assistance for a property undergoing or has recently completed a conversion action, HUD provides guidance in Notice PIH 2013-27 on the procedures a PHA must take to achieve the voluntary relinquishment of enhanced or regular Housing Choice Voucher assistance. (Note that the procedures do not apply to conversions of multifamily projects to PBV assistance under the Rental Assistance Demonstration (RAD).)

A PHA must adhere to the following procedures:

- Owner may submit a proposal for PBV assistance. The property must meet all PBV eligibility requirements.
- Neither the PHA nor the owner may require eligible in-place families to give up enhanced vouchers they have received or will receive.
- PHA must schedule a briefing for potentially impacted families. The briefing must provide:
 - Information on the families' statutory right to an enhanced voucher
 - An explanation of significant differences between PBV assistance and enhanced voucher assistance
 - An opportunity for families to ask questions
 - Written material available for families concerning PBV assistance and enhanced voucher assistance, including mobility options, rent levels, rent payments, provision of supportive services, etc.

Section 6: PBVs in Multifamily Housing Conversions

- A written consent form explaining that a family's decision to consent to relinquish its right to enhanced voucher assistance is completely voluntary
- The anticipated date of the conversion action and the execution of the PBV contract between the owner and the PHA
- The PHA must give families 30 days to sign consent form acknowledging consent or non-consent
- If family chooses to stay in their unit with enhanced voucher, the unit is not eligible to be placed under a PBV HAP contract. Project owner must accept the family's enhanced voucher for the family to continue to reside at the property.
- If a family with an enhanced voucher is over the 80% adjusted median income limit for the HCV program, the unit must not be placed under a PBV HAP contract.
- Owners are not required to enter into voucher tenancy with tenants receiving regular housing choice vouchers. Therefore, tenants that do not agree to voluntarily relinquish their voucher may be required to move in order to receive voucher assistance.

Section 7 Chapter 4 Post Test

1. At a minimum, an RFP must require owners to submit proposals including:
 - a. Evidence of site control, disclosure of governmental funding, identity of owner and principals, and financing information
 - b. Proof that no other PBV project is within one mile of the proposed PBV project
 - c. An application fee not to exceed \$500
 - d. Enough information for the PHA to determine if the property can meet requirements for execution of an AHAP or HAP contract
2. PHA-owned units are eligible for PBV assistance:
 - a. If the units are not public housing
 - b. If HUD or a qualified independent entity determines that the property was selected properly
 - c. If an independent entity approved by HUD performs rent reasonableness and inspections
 - d. All of the above
 - e. b and c only
3. The owner is required to adopt tenant selection criteria that are in compliance with fair housing laws and consistent with the purpose of improving housing opportunities for low-income families.
 - a. True
 - b. False
4. Which of the following is not true regarding VASH vouchers:
 - a. VA case managers refer the family to the PHA for a VASH voucher
 - b. PHAs must accept the VA photo identification card as proof of identity
 - c. VASH families must be screened according to the PHA screening criteria
 - d. Income-targeting rules do not apply

Section 7: Chapter 4 Post Test

5. A PHA may use up to 30 percent of its HCV authorized units if it project-bases all of its tenant-based VASH vouchers.
 - a. True
 - b. False
6. Which of the following activities must be performed by an independent third-party entity approved by HUD for PHA-owned projects?
 - a. Review the PHA's PBV selection process
 - b. Establish the initial PBV contract rents
 - c. Determine rent reasonableness
 - d. Inspect the units
 - e. All of the above
7. Documentation on owner selection for PBV must be maintained in the PHA files for _____.
 - a. One year
 - b. Three years
 - c. 20 years
 - d. For the life of the PBV contract
8. The PHA must confirm and provide evidence in the file that the property meets the site selection standards as outlined in its administrative plan.
 - a. True
 - b. False
9. The PHA may attach PBV noncompetitively to a multifamily conversion as long as it occurred within the last seven years.
 - a. True
 - b. False
10. The PHA is only required to issue a public notice of its selection or award of PBV if the unit is PHA-owned.
 - a. True
 - b. False

CHAPTER 5 **Setting Rents in PBV Units**

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Understand how to set rents for PBV units
- Explore how low-income housing tax credits (LIHTCs) impact PBV rents
- Discuss rent adjustments in the PBV program

OVERVIEW

Contract rent to owner. The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Gross rent. The sum of the rent to owner plus any utility allowance.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) a payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner. HAP is equal to the gross rent for the unit minus the family's TTP.

Tenant Rent. The portion of rent to owner paid by the family as determined by the PHA in accordance with HUD requirements. Tenant rent is calculated by subtracting the HAP from the contract rent for the unit.

Section 2 Initial Rents

24 CFR 983.301

The PHA establishes the initial rent to the owner prior to execution of the HAP contract. In the case of new construction or rehabilitation, the PHA provides an estimated initial rent to the owner and incorporates it into the AHAP. However, the actual initial rent to owner is established when the new units are included in the HAP contract.

The fundamental tenet in setting the initial rents is “rent reasonableness,” i.e., that the owner will not charge more in rent for PBV units than for comparable unassisted units in the property and the immediate community. The PHA must consider factors that affect market rent, such as location, quality, size, type, and age of units, as well as the amenities, housing services, maintenance, and utilities provided by the owner. The PHA must compare the assisted unit with comparable units in the private unassisted market. This may include unassisted units in the same project.

Notice PIH 2002-22

- LIHTC units are not considered unassisted units for this purpose and should not be used as comparables
- Notice PIH 2020-19 provides additional information on rent reasonableness determinations, particularly in terms of what constitutes an assisted vs. unassisted unit.

When determining comparable rents for unassisted units, a PHA must not use other tax credit units in the property as comparables. Tax credit units are considered assisted or “subsidized” units. If a property has completed a market study, it may be used for rent reasonableness purposes.

Except for certain tax credit rents (which will be discussed below), the rent to owner must not exceed the lowest of the following amounts:

- A PHA-determined amount, not to exceed 110 percent of the applicable fair market rent (FMR) (or any exception payment standards approved by the Secretary of HUD), minus the applicable utility allowance
- The reasonable rent
- The rent requested by the owner

To set estimated and initial rents, a PHA must use the published FMR and the PHA HCV utility allowance schedule in effect at the time the PHA executes the HAP contract. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. In addition, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

SMALL AREA FAIR MARKET RENTS

*FR Notice 11-16-17,
PIH Notice 2018-01*

Small Area Fair Market Rents (SAFMR) replace the 50th percentile FMRs previously required in metropolitan areas with high concentrations of voucher families. The SAFMRs were effective April 1, 2018. SAFMRs are intended to provide families in metropolitan statistical areas (MSAs) with access to low-poverty areas by providing rental assistance at a level that makes the higher rents in such areas affordable to them. PHAs are not required to use SAFMRs for the PBV program. PHAs that operate SAFMRs must determine whether to apply FMRs or SAFMRs to its PBV program.

A PHA that chooses to apply SAFMRs to its PBV program must have policy in the Administrative Plan. The PHA must apply SAFMRs to all projects within its jurisdiction for which notice of owner selection was made after the effective dates of the agency's adoption of both SAFMRs and a revised Administrative Plan. For any project where the notice of owner selection was made prior to the policy change, the PHA and owner may agree mutually to apply SAFMRs to the project. If the rent to owner will increase as a result of this mutual agreement, then the rent increase shall go into effect no earlier than the first anniversary of the HAP contract and must comply with the requirements of 24 CFR §983.302(b), regarding rent increases.

Notice PIH 2018-01

- If the adoption of SAFMRs would create a significant discrepancy in individual ZIP code areas between existing PBV-assisted projects and newly developed projects under an SAFMR policy, then PHAs will want to consider the effect on neighborhoods and program participants before making a decision about whether to adopt SAFMRs in their PBV program.

Setting Rents in PBV Units

Section 2: Initial Rents

- If a family can reside in any of these ZIP codes at a lower cost to the PHA under standard FMRs than SAFMRs, then it may not make sense to adopt SAFMRs. Alternatively, in the case where FMRs are higher than SAFMRs, the PHA may be called upon to justify why it is paying so much more for some projects than others. Despite the change in rules that provides an explanation for the difference, a PHA may face pressure to terminate (or at least not extend) the PBV HAP on pre-SAFMR properties, with potential consequences for tenants, lenders, and investors. Also, if an owner has 30-year debt on the project and the appraised value has declined at the point of extension due to the adoption of SAFMRs, then the adoption of SAFMRs could create problems.

LOW INCOME HOUSING TAX CREDIT RENTS

24 CFR 983.301

In the low-income housing tax credit program, unit rents are established by the project's owner. While rents are not income-based, they are restricted in the LIHTC program by what are known as gross rent limits. The gross rent limit is the maximum allowable amount for rent and utilities by bedroom size that may be charged in an LIHTC unit. Rents in excess of LIHTC gross rent limits may not be charged, except for households that receive rental assistance through Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program. For these units, HAP is not included in the calculation of gross rent. For tax credit properties with PBV, the owner does not have to charge the same amount in rent for the LIHTC-only units as they charge for the PBV/LIHTC units, subject to rent reasonableness. Furthermore, there are special considerations for setting rents for in the PBV program that must be considered in addition to this.

In LIHTC/PBV properties, the procedure for establishing initial rent to owner vary based on whether or not the property is located in a qualified census tract and if rents for LIHTC-only units exceed 110 percent of the FMR (or any exception payment standards approved by the Secretary of HUD).

Setting Rents in PBV Units

Section 2: Initial Rents

A “qualified census tract” for purposes of determining the initial rent to owner, is defined as any census tract (or equivalent geographic area defined by the Bureau of the Census) in which:

1. At least 50 percent of the households have an income of less than 60 percent of Area Median Gross Income; or
2. Where the poverty rate is at least 25 percent and where HUD designates the census tract as a qualified census tract.

There are two procedures for setting rents.

PBV RENT PROCEDURE 1

24 CFR 983.301(b)

The first procedure is used for:

- Properties that do not have LIHTC, or
- LIHTC properties that are not in a qualified census tract and where rents for LIHTC-only units do not exceed 110 percent of the FMR (or any exception payment standards approved by the Secretary of HUD), or
- LIHTC properties in qualified census tracts

For these properties, the initial rent may not exceed the lowest of:

- 110 percent of the applicable FMR (or any exception payment standard approved by the Secretary of HUD) for the unit bedroom size minus any applicable utility allowance; or
- The reasonable rent; or
- The rent requested by the owner

Rent Setting Procedure 1

Rent Basis	Number of Bedrooms				
	1-BR	2-BR	2-BR, 1.5 Baths	3-BR	4-BR
110% FMR (or exception) minus utility allowance	580	650	650	740	820
Owner Requested Rent	575	625	650	735	815
Reasonable Rent	550	635	645	725	830
Maximum Initial Rent	550	625	645	725	815

RENT SETTING PROCEDURE 2

24 CFR 983.301(c)

The second rent setting procedure is for:

- Projects outside of qualified census tracts where the rents for LIHTC-only units exceed 110% of the FMR (or any exception payment standards approved by the Secretary of HUD).

For PBV units in such properties, the PHA would include the rent charged for LIHTC-only units in its comparison, not the tax credit gross rent limit for the unit size.

For these properties, initial rent may not exceed the lowest of:

- Rent for LIHTC-only units (no additional rental assistance); or
- The reasonable rent; or
- The rent requested by the owner

RENT SETTING PROCEDURE 2

Rent Basis	Number of Bedrooms			
	0-BR	1-BR	2-BR	3-BR
Rent for LIHTC-only units	600	665	750	825
Owner requested rent	600	665	750	825
Reasonable rent	625	675	775	900
Maximum Initial Rent	600	665	750	825

GROUP HOMES

24 CFR 982.610

For group homes, rent is based on the actual bedroom size of the group home. For example, a PHA would establish the rental amount for a comparable three-bedroom unit. Then the PHA would establish the pro-rata rent for the bedroom where the family resides. Similarly, the utility allowance is set at the pro-rata amount.

Example: Determining Rent for a Group Home Unit

Group home size: Three bedrooms

- PHA rent determination: \$750
 - Pro-rata share of group home used by a family:
 $1 \text{ bedroom} \div 3 \text{ bedrooms} = .3333 \text{ pro-rata share}$
- Pro-rata share of the rent: $\$750 \times .3333 = \250
 - Utility Allowance: UA for a 3-bedroom home with the same set of tenant-paid utilities is \$70.
- Pro-rata share of utility allowance: $\$70 \times .3333 = \23

Group home unit rent is \$250 and utility allowance is \$23.

SINGLE ROOM OCCUPANCY

24 CFR 982.4

The rents for single room occupancy (SRO) units depend on whether the unit meets the HCV definition of SRO. Under the HCV program, the definition is “a unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.”

24 CFR 888.113(f)(2)

If the unit meets the HCV SRO definition, then the FMR is 75 percent of the FMR for a zero-bedroom unit.

RENTS IN OTHER FEDERALLY SUBSIDIZED PROPERTIES

Like in the LIHTC program, rents in the HOME program are typically not income-based, rather they are restricted by HOME gross rent limits. Unlike in the LIHTC program, however, HAP is included in the calculation of gross rent. PBV rents in units also assisted through the HOME program may not exceed rents required by the HOME program.

Rents in eligible federally subsidized properties may not exceed the “basic rent.” The basic rent is the minimum contract rent for a unit with mortgage interest rate subsidies. The PBV rent is capped at basic rent for Section 236 projects, decoupled Section 236 projects with an interest reduction payment, Section 221(d)(3) below market interest rate projects, and Section 515 of the Rural Housing Service projects.

PHA-OWNED UNITS

For PHA-owned units, an independent entity must determine the initial rent to owner, re-determined rent to owner and reasonable rent. For initial rents, the PHA must use the rent to owner established by the independent entity. For rent re-determination, the independent entity gives the PHA written notice specifying the amount of re-determined rent and the notice becomes an amendment to the HAP contract as a signed exhibit. The independent entity also determines rent reasonableness and must furnish a copy of the determination, both initially and subsequently, to the PHA and the local HUD Field Office.

Section 3 Rent Adjustments

R24 CFR 983.302

Rents may be redetermined at the annual anniversary of the HAP contract. A PHA must redetermine PBV rents upon the owner's request. If there is a ten percent or greater decrease in the published FMR, the PHA must conduct a rent reasonableness determination and may be required to adjust the rent. Special adjustments to rents are not allowed as they are in the tenant-based program.

The owner's request for a rent adjustment must be in writing. In order for the rent increase to be effective on the annual anniversary, the PHA may require that the owner submit the request by a certain date. The PHA may not approve the rent increase if the owner is in violation of the HAP contract, including units not in compliance with HQS. The owner may not receive retroactive payments for any period of noncompliance.

4 CFR 983.301(e)

If there is a decrease in the rent to owner, the PHA must decrease the rent regardless of whether the owner requested a rent adjustment, unless:

- The PHA has elected within the PBV HAP contract not to reduce rents below the initial level; and
- Upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent levels, except:
 - To correct errors in calculations in accordance with HUD requirements;
 - If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required; or
 - If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and tenant

Rents are redetermined based on the same rules and procedures for setting initial rents. When redetermining the rent to owner, the PHA shall use the most recently published FMR, and the PHA utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may use the amounts in effect at any time during the 30-day period immediately before the redetermination date.

Section 3: Rent Adjustments

24 CFR 983.302

The PHA must provide a written notice to the owner of the rent adjustment. The written notice of rent adjustment constitutes an amendment to the HAP contract, and a copy must be filed with the project contract file.

Note that by accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

Section 4 Chapter 5 Post Test

1. PBV contract rents without LIHTC are capped at:
 - a. The rent for a comparable unassisted unit in a property
 - b. 110% of FMR or an exception rent approved by HUD (minus the utility allowance)
 - c. The amount of rent requested by the owner
 - d. The lesser of a, b, or c
 - e. The lesser of b and c
2. PBV rents with LIHTC, located outside of a qualified census tract may have rents that exceed 110% of the FMR (minus the utility allowance) if the rent is reasonable.
 - a. True
 - b. False
3. Rents may only be redetermined at the annual anniversary of the HAP contract.
 - a. True
 - b. False
4. Rents are redetermined based on the same rules and procedures for setting initial rents.
 - a. True
 - b. False
5. For PHA-owned units, an independent entity must only determine the initial rent to owner.
 - a. True
 - b. False
6. Tax credit units are not considered comparable for purposes of rent reasonableness.
 - a. True
 - b. False

Notes

CHAPTER 6 Project-Based Voucher Contracts

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe and explain the content of the Agreement to Enter into a Housing Assistance Payments Contract (AHAP)
- Describe and explain the Existing Housing - Housing Assistance Payments Contract, Part I and Part 2
- Describe and explain the New Construction and Rehabilitation Housing - Housing Assistance Payments Contract, Part I and Part 2
- Prepare and review AHAP and HAP contracts for execution by the PHA contracting officer
- Discuss why contract exhibits are essential elements of the contracts
- State when and how to amend HAP contracts
- Describe and explain the Statement of Family Responsibilities (SFR)
- Prepare the family tenancy addendum for execution by the owner and family
- Identify what should be maintained in the project contract file

OVERVIEW

HUD prescribes that the Agreement to Enter into a Housing Assistance Payment (AHAP) and the Housing Assistance Payments (HAP) contracts for the project-based voucher program must be used word for word and must not be altered, unless the PHA has received authorization to do so under moving to work (MTW). PBV HAP contracts are different from tenant-based HAP contracts in that they cover multiple units and contain clauses specific to PBV regulations. The AHAP and HAP contracts consist of the HUD HAP contract forms (Part I and Part II) and the exhibits. The contract lays out utility responsibilities between the owner and the tenant. The utility responsibilities may not be changed without a formal contract amendment.

Unlike in the HCV program, there are no individual contracts for each unit in PBV. Official contract records are not maintained in individual family files, but rather in a master contract file for each project. The PHA decides how much contract information to include in the family file.

Since PBV contracts are typically for long terms, involve large dollar commitments, and require board approval, authority for executing the contracts and any renewals usually rests with the PHA executive director or chief executive Officer. In some very large PHAs, such authority may be delegated to executive staff. As a rule, the housing choice voucher program director or supervisors do not have such contracting authority, although they may be actively involved in PBV selection, contract preparation, administration, and reviews.

Before an AHAP or HAP contract may be executed, the PHA must take certain steps. For the AHAP, an environmental review and the subsidy layering review must be completed prior to contract execution. Prior to execution of the HAP Contract, the PHA must inspect all units in the development or completed stages of the development and ensure the units meet Housing Quality Standards (HQS).

Section 1: Learning Outcomes and Overview

There are also specific requirements for new construction and rehabilitation housing. In the HCV program, the HAP contract must be executed within 60 days of the effective date of the lease. In PBV, the HAP contract must be executed on or before effective date of any leases. Housing assistance payments may begin on the effective date of the HAP contract or, if the project is completed in stages, the effective date of each stage of the HAP contract. The family lease terms are not required to correspond with the effective date of the HAP contract. However, the lease for a family receiving project-based assistance may not begin prior to the effective date of the executed HAP contract. The effective date of the family lease and the PBV tenancy addendum must be the same.

While it may seem elementary, we encourage PHAs to carefully proofread the prepared contracts for accuracy and completeness. By doing so, your PHA will reduce the risk of audit findings and possible repayment of funds. Unfortunately, one of the Office of Inspector General's major PBV program findings is that PHAs did not use or incorrectly completed required forms, such as the AHAP, HAP, and tenancy addendum.

Section 2 The Agreement to Enter Into a Housing Assistance Payments Contract

The Agreement to Enter into a Housing Assistance Payments Contract (AHAP) is a “contract” or a firm commitment between the owner and the PHA. The AHAP commits to the owner that, upon satisfactory completion of the construction or rehabilitation of housing in compliance with the Agreement, the PHA will enter into a Housing Assistance Payments Contract with the Owner.

The contract must be prepared for execution using HUD’s AHAP template, form HUD-52531-A, Part I.

HUD issued an updated version of the AHAP in July 2019 to bring the form current with all recent guidance and regulatory requirements. PHAs must use the updated AHAP in all cases where an AHAP is required and has not already been executed.

The full Agreement consists of Part I: form HUD 53531-A, all Exhibits, and Part II: form HUD 52531-B. The agreement reiterates that a PHA must promptly execute the AHAP once the subsidy-layering and environmental reviews are complete.

EXECUTION OF THE AGREEMENT TO ENTER INTO A HAP

*24 CFR 983.153,
FR Notice 11/24/08*

PBV regulations require that the PHA enter into the AHAP with the owner promptly after the property selection, but not before applicable subsidy-layering and environmental reviews are completed. A standard time frame used by many PHAs is 10 business days.

The administrative plan must provide the PHA’s timeframe for executing the AHAP after completion of the subsidy-layering and environmental reviews.

AHAP PART I

The major content of the agreement is in its Exhibits:

- EXHIBIT A is the project proposal or application.
- EXHIBIT B is description of rehabilitation or construction work including all of the following:
 - The rehabilitation work write-up, and where the PHA has determined necessary, specifications and plans
 - The working drawings and specifications for new construction housing
 - Any PHA requirements relative to quality, design, and architecture
 - Work items to ensure compliance with Fair Housing and Section 504 accessibility requirements
- EXHIBIT C is a description of housing, including:
 - Project site
 - Total number of PBV units in the project covered by the agreement
 - Location of contract units on site
 - Number of contract units by area (size), and number of bedrooms and bathrooms
 - Services, maintenance, or equipment to be supplied by the owner without charges to the tenant
 - Utility services to be paid by the owner and the tenant
 - Estimated initial rent for the contract units
- HUD does not provide a template for the Exhibits A, B, and C. Each PHA may develop its own format. If the PBV units are floating units, the PHA must identify all of the units that may receive project-based assistance. The PHA should include an explanatory note stipulating the maximum number of units by bedroom size and type that may receive assistance at any time.
- EXHIBIT D is a current copy of a blank HUD PBV HAP contract for new construction and rehabilitation housing.

The exhibits are an essential component of the AHAP as stipulated in Part I of the agreement.

AHAP PART II

Part II of the AHAP articulates the owner's responsibility to comply with requirements for Section 3 training, employment, and contracting opportunities, equal employment opportunity (nondiscrimination), and labor standards. Further, it outlines conditions for settlement of wage and claim adjustments, payment of pending claims into an escrow account held by the PHA at the time the owner provides evidence of completion, and the statutory obligation for flood insurance during the life of the property if it is located in a flood hazard area identified by the Federal Emergency Management Agency.

The AHAP with its exhibits should be maintained as part of the property's permanent record.

Section 2: The Agreement to Enter Into a Housing Assistance Payments Contract

Learning Activity 6-1: Agreement to Enter Into a Housing Assistance Payments Contract

Task

Break up into groups. Refer to the AHAP to answer the following questions in each section. Each group should select a spokesperson who will report their findings to the class.

Section 1.3

1. List the four exhibits that must be included with the AHAP and describe what information is included in each exhibit.

2. Does HUD provide a prescribed template for the AHAP exhibits?

Section 1.4

3. Does the AHAP allow units to be placed on the contract in stages?

Section 2: The Agreement to Enter Into a Housing Assistance Payments Contract

Section 1.7

4. Describe what the AHAP requires if there is a change of work.

Section 1.8

5. Describe what the owner must provide to show that work was completed.

Section 2: The Agreement to Enter Into a Housing Assistance Payments Contract

Section 1.9

6. Describe what defines acceptance of the contract units.

Section 1.11

7. Describe the actions the PHA must take if units are completed in multiple stages.

Section 1.12

8. Describe the requirements if the estimated rent exceeds rent reasonableness once the units are completed.

Section 1.14

[illegible]

10. Is the owner required to provide the PHA and HUD with access and information upon request?

[illegible]

Section 3 The Housing Assistance Payments Contract

HUD provides two contract templates for the Housing Assistance Payments Contract, one for existing housing and the other for new construction and rehabilitation housing. The terms and conditions of both contracts are identical, except that the one for New Construction and Rehabilitation Housing includes a section for housing completed in stages. Therefore, the discussion that follows applies to both types of contracts. The HUD contract forms that must be used are:

- HUD 52530a-1, New Construction or Rehabilitation Housing Part 1
- HUD 52530a-2, New Construction or Rehabilitation Housing Part II
- HUD 52530b-1, Existing Housing Part 1
- HUD 52530b-2, Existing Housing Part II

HAP CONTRACT PART I

HUD 52530a-1, New Construction or Rehabilitation Housing Part 1

HUD 52530b-1, Existing Housing Part 1

The contract starts by identifying the parties to the contract by the official name of the PHA and the legal name of the project owner, which may be an individual, a non-profit organization, or a legal entity such as a corporation. The legal name of the property owner is not necessarily the same as the name of the property, developer, sponsor, or managing agent. This part of the contract also contains the Addendum for Project-Based Certificate Conversions to PBV and the Moving to Work (MTW) Rider to the HCV and/or PBV HAP Contracts.

Section 3: The Housing Assistance Payments Contract

Next, the contract identifies the exhibits that are part of the contract.

- *As a side note, we place emphasis on the exhibits being part of the contract. Various audits for the PBV program have revealed that exhibits are missing or misplaced for various property contracts. In addition, sometimes staff that is well versed in the tenant-based voucher program misunderstands the project-based model responsibilities and may change the utility responsibilities with each tenancy. Sometimes units that were not part of the contract are misidentified as PBV units, some of which are the wrong unit size. What this indicates is that we must do a better job of maintaining our project contract files and that the assisted housing industry must provide more training on the unique differences in implementing various assisted housing programs.*

Now back to the actual contract exhibits.

EXHIBIT A specifies the total number of PBV units in the project, initial rent to owner, and the number and description of the contract units. The description must include:

- The total number of contract units by bedroom size
- The specific contract units in each building by bedroom size as well as accessibility for persons with disabilities
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information essential to identify the site and contract units

If the units are floating units, all potential units must be identified by bedroom size. Again, paralleling our recommendation for the AHAP, the PHA should include an explanatory note stipulating the maximum number of units by bedroom size and type that may receive assistance at any time. For multi-stage projects, this exhibit must include a description for units in each completed phase.

Section 3: The Housing Assistance Payments Contract

EXHIBIT B lists the services, maintenance, and equipment the owner will provide without charges in addition to rent. Examples of such services include air-conditioning units, cable connections, yard maintenance, off-street parking, coin operated laundry facilities, recycling, extermination schedule, window coverings, carpeting, storage units, ranges, microwaves, and refrigerators. In supportive housing, the owner may provide furnishings. This exhibit may also include supportive services and/or referrals to be provided at the property.

EXHIBIT C lists the utilities that are owner-paid without charge to the family and those that are the family's responsibility. The utility responsibilities may vary by the unit type and size. The utility responsibilities also include ranges and refrigerators. The utility responsibilities do not change except through a formal amendment of the contract.

EXHIBIT D identifies features provided to comply with program accessibility features of Section 504 of the Rehabilitation Act of 1973. It may include a listing of the units that are fully mobility accessible, those with features to meet hearing and visual needs, and those that are adaptable.

ADDITIONAL EXHIBITS: A PHA may add exhibits as it determines necessary. Recommended exhibits include the owner's tenant selection plan or screening criteria, management plan, and supportive services plan.

Note: *Copies of the exhibits may be useful to PBV staff who work with the properties. However, a PHA must maintain the original exhibits as part of the permanent property contract file and make it available for audit.*

For new construction and rehabilitation housing, after the list of exhibits, the contract identifies if the property is a single or multi-stage contract. If the project is a single stage contract, the effective date of the contract is established. If the property has multi-stages, the contract identifies the specific units for each stage in Exhibit A. Further, the contract explains that the effective date for each stage is set when the stage is completed, accepted, and the relevant block beginning on HAP contract page 10 is executed.

EXECUTION OF HAP CONTRACT FOR STAGED PROJECTS

If the project is staged, the HAP contract is executed upon acceptance of units in the first stage. The number and types of units in each stage and their initial rents are shown separately on the HAP contract. Upon acceptance of the first stage, the owner executes the HAP contract by signing in the signature block provided for that stage. Upon acceptance of each subsequent stage, the owner and PHA sign in the signature corresponding block. The effective date of the first stage establishes the initial term of the contract as well as the anniversary date for each subsequent stage of the contract.

Example of PBV HAP Contract Section for Multi-Stage Project

**PBV HOUSING ASSISTANCE PAYMENTS CONTRACT
NEW CONSTRUCTION OR REHABILITATION
PART 1 OF HAP CONTRACT
(excerpts)**

d. Single-Stage and Multi-Stage Contracts (Check the applicable box.)

1. ☐ Single-Stage Project

This is a single-stage project.

For all contract units, the effective date of the HAP contract is:

_____.

The PHA enters the effective date, and executes the HAP contract, after completion and PHA acceptance of all units in the single stage project.

2. ☒ Multi-Stage Project

This is a multi-stage project. The units in each completed stage are designated in Exhibit A.

2. Length of initial term

a. Subject to paragraph 2.b, the initial term of the HAP contract for any contract units is: _____

ADMINISTRATIVE PLAN POLICIES

24 CFR 983.204

PHAs must enter into a HAP contract promptly. Establish the definition of prompt for your PHA.

For existing housing, the regulations require prompt execution after PHA selects the property, inspects the PBV units, and determines that all PBV units meet HQS. For new construction and rehabilitation, the regulations require prompt execution after the PHA receives satisfactory evidence of completion from the owner, inspects the units completed in a phase of development, and determines that the units for that phase meet HQS.

For renewals, a PHA must determine that the property continues to meet the long-term affordable housing needs for low-income families. A PHA may wish to consider additional factors such as the condition of the units, the owner's record of compliance with the contract, whether the property continues to support the goals of deconcentrating poverty and expanding housing opportunities, and PHA funding. Identifying the types of factors the PHA considers in making its decision makes the process more transparent and illustrates to affected owners and residents that the PHA will follow a decision making process that is fair and reasonable.

Learning Activity 6-2: The HAP Contract

Task

Break up into groups. Refer to HAP Contract Part I, and HAP Contract Part II to answer the following questions in each section. This activity will use the HAP contract for new construction or rehabilitation housing. Each group should select a spokesperson who will report their findings to the class.

PBV HAP CONTRACT PART I

Section e. Term of the HAP contract

1. When may the term of the HAP contract begin?

2. What is the length of the initial term of the HAP contract?

3. When may the PHA and owner agree to an extension of the HAP contract?

Section f. Occupancy and payment

4. If an assisted family moves out of a contract unit, may the owner keep HAP for the calendar month when the family moves out?

5. For how long may the PHA provide vacancy payments?

6. How much may the PHA pay in vacancy payments?

7. Is the PHA responsible for family damage to the unit or family debts to owner?

Section g. Income-mixing requirements

8. What is the limit on the number of PBV units in a project if the project doesn't have any excepted units?

PBV HAP CONTRACT PART II

DEFINITIONS

9. What is the definition of newly constructed housing?

4. RENT TO OWNER; HOUSING ASSISTANCE PAYMENTS

10. If the PHA wishes to elect not to reduce rents below the initial level, what must the PHA do on the HAP contract?

Section 3: The Housing Assistance Payments Contract

11. If the PHA determines the owner is not entitled to the HAP or part of the HAP, what may the PHA do?

12. If the PHA terminates the family's assistance, is the PHA required to notify the owner?

.

5. ADJUSTMENTS OF RENT TO OWNER

13. When is rent to owner adjusted?

14. May the PHA make special adjustments in rent to owner?

7. OWNER CERTIFICATION

15. May the owner be the brother of the head of household?

8. CONDITION OF UNITS

16. When must PBV units be inspected?

17. If a unit is not in compliance with HQS, what may the PHA do?

9. LEASING CONTRACT UNITS

18. Is the owner required to adopt tenant selection procedures?

10. TENANCY

19. When are changes in tenant rent effective?

20. Who collects the security deposit from the family, the PHA or the owner?

11. FAMILY RIGHT TO MOVE

21. When may the family request tenant-based rental assistance?

22. What if the PHA does not have tenant-based assistance available when the family makes their request?

21. TRANSFER OF THE CONTRACT OR PROPERTY

23. If the owner wishes to transfer the HAP contract, what must the owner do first?

Section 4 HAP Contract Amendments

ADDITION AND SUBSTITUTION OF UNITS

FR Notice 1/18/17
Notice PIH 2017-21

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps.

- The anniversary and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract of the PBV units originally in place under the HAP contract.

Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

A PHA and owner may amend the HAP contract to substitute units in the HAP contract at any time during the contract term. Prior to the substitution, the PHA must inspect the substitute units to determine compliance with HQS and must determine rent reasonableness. Both the owner and the PHA must execute such an amendment.

CHANGES IN UTILITY RESPONSIBILITIES

24 CFR 983.256

The PHA and owner may amend the contract to change the allocation of utility responsibilities between the owner and families. The PHA must perform a rent reasonableness determination, adjust the contract rent accordingly, and establish an effective date of the change. The owner and the PHA must execute the contract amendment.

The PHA must also redetermine the tenant rent for each family affected by the change. The owner must modify the existing lease with such families. The PHA must also prepare a new PBV tenancy addendum to be executed by the owner and family.

REDUCING THE NUMBER OF CONTRACT UNITS

24 CFR 983.254

If any contract units have been vacant for a period of 120 or more days, the PHA may amend the HAP contract to subtract the number and bedroom-size of the vacant units. The PHA may do so even if the PHA and the owner have made reasonable good faith efforts to fill the vacancies. Such an amendment does not require the owner's agreement.

Section 5 HAP Contract Extensions

24 CFR 983.205

As of April 18, 2017, a PHA may enter into a HAP contract with an owner for an initial term of up to 20 years. A PHA may extend the PBV HAP contract at the time of initial HAP contract execution or any time before expiration of the contract for an additional term of up to 20 years provided the PHA determines an extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. An extension will not change the HAP contract anniversary date.

The PHA may further extend the HAP contract beyond 20 years from the end of the initial term provided the determination is made no earlier than 24 months prior to the expiration of the HAP contract, the new extension does not exceed 20 years, and that such extension is appropriate.

In either case, a PHA may provide for multiple extensions, provided that extensions do not exceed 20 years cumulatively.

Remember that the PHA may not make a PBV HAP payment to the owner unless there is a valid PBV HAP contract in place.

Extensions after the initial extension term cannot begin prior to the expiration date of the previous extension term and should be made on the same calendar day as the effective date of the initial contract, but with the appropriate year.

24 CFR 983.59

Further, for PHA-owned units, any changes to the term of an initial HAP contract or any extension must be agreed upon by the PHA and the independent entity.

Since the Housing Opportunity through Modernization Act of 2016 (HOTMA) changes the limitation on the initial term of the HAP contract from 15 years to 20 years, PHAs and owners with HAP contracts that are in their initial term in effect prior to the implementation of this provision may be extended to from 15 to 20 years by mutual consent with the owner, and then subsequently for an additional 20-year extension. PHAs and owners with HAP contracts that are no longer in the initial term may mutually agree to extend the second term of the contract for maximum of 20 years.

Example of Initial HAP Contract Term and Extensions during Initial Term

Revised Term	Term	Start Date	End Date	Comments
Initial Term	20 Years	1/1/16	12/31/35	Because the HAP contract is still in the initial term, the initial term may be adjusted. It is now the maximum of 20 years.
Extension	20 Years	1/1/36	12/31/55	PHA and owner also revised the length of the existing extension to the 20-year maximum.
Total Term	40 Years	1/1/16	12/31/55	Contract is all post-HOTMA maximum rent term of 40 years. PHA may consider further extension, but not until 12/31/53.

Example of Initial HAP Contract Term and Extensions after Initial Term

Revised Term	Term	Start Date	End Date	Comments
Initial Term	10 years	1/1/05	12/31/14	No change - the initial term is already over and may not be extended.
Extension	20 years	1/1/15	12/31/34	After April 18, 2017, the PHA and owner have now increased the extension from 15 years to the maximum of 20 years beyond the end of the initial term.
Total Term	30 years	1/1/05	12/31/34	Contract has a maximum term of 30 years.
Future Extension	May not exceed 20 years	1/1/35	TBD	PHA may consider further extension no earlier than 12/31/32 (24-month requirement).

HAP CONTRACT EXPIRATION

FR Notice 1/18/17
Notice PIH 2017-21

Not less than one year prior to the termination or expiration without extension of a HAP contract, the owner must provide notice to both the PHA and affected tenants. In this case, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause.

Section 5: HAP Contract Extensions

Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

If the owner does not provide proper notice, they must permit tenants to remain in their units for the required notice period with no increase in the tenant portion of rent.

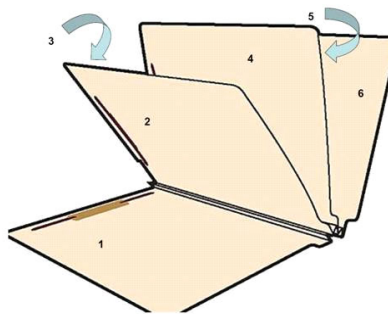
- All other HCV program rules would apply to families who remain in the project.
- See Notice PIH 2017-21 for detailed information on transitioning from PBV to HCV assistance in such circumstances.

Section 6 PBV Project Files

Whether a PHA maintains its PBV files in paper or electronic formats, the maintenance of organized, well-documented family and contract files is extremely important. The PBV regulations do not stipulate how long a PHA must maintain PBV proposal selection and pre-contract documentation necessary to establish that the property met all HUD requirements when selected and prior to execution of the HAP contract. However, the Office of Inspector General (OIG) has issued findings for lack of proper documentation for properties selected up to eight years prior to their audit. Consequently, to err on the side of caution, we recommend that a PHA maintain pre-contract documentation as a permanent record during the contract period and for at least three years afterwards for each property. In addition, the PHA should maintain procurement files for competitive proposal selection consistent with its procurement policy.

Unlike the tenant-based program, there are no requirements for maintaining a copy of the HAP contract or unit inspection report in each family's file.

A PHA may consider establishing three different contract files for each PBV existing housing property and four for new construction and rehabilitation housing. Unless your PHA is using an electronic filing system, we recommend six-part folders for such files.



Section 6: PBV Project Files

If the original documentation and contracts are in a paper format, we recommend access be restricted to senior staff, since these are permanent records. The PHA may make copies of the paper file or summary project information available for staff use. If the documentation and contracts are in electronic format, the ability to add information, change, or modify the contract file should be restricted.

Whether the files are paper or electronic, the PBV files should include the following content:

1. Proposal selection and pre-contract documentation (permanent record)
 - Proposal
 - Documentation of initial site visit (if existing housing, documentation that the units substantially meet HQS)
 - Documentation that the site meets site standards
 - Environmental review documentation and approval
 - Subsidy layering review and approval
 - Documentation of rent determination
 - Documentation of ownership
 - Identification of owners; documentation that the GSA data base has been checked and the owners and other principals are eligible to participate in HUD programs
 - Conflict of interest disclosure
 - Proof of flood insurance, when required
 - Pre-contract inspection reports, e.g., documentation of “passing” HQS unit inspections
 - Evidence of completion:
 - Owner certification that the housing meets HQS and all AHAP requirements
 - Owner certification of compliance with labor standards and equal opportunity requirements
 - Other evidence required by the PHA
 - Tenant selection plan or screening criteria
 - Social services plan

Section 6: PBV Project Files

2. AHAP, new construction and rehabilitation only (Permanent Record)
 - Part I
 - Part II
 - All exhibits
3. HAP contract (permanent record)
 - Part I
 - Part II
 - All exhibits
 - Contract amendments and renewals
4. PBV working file
 - Current summary information for each property
 - Correspondence and notes from meetings between the PHA and owner
 - Complaints and resolution
 - Determination of rents; rent reasonableness documentation
 - Property reviews and site visits
 - Inspection reports for three years
 - Vacancy claims and approvals

Depending on the number of PBV units at a property, a PHA may wish to keep separate files for property and unit inspections. In any event, the inspection reports should be maintained in such a manner that they are easy to review for compliance with HUD rules, facilitate audits, and to support the PHA's inspection-related actions and remedies.

RELATIONSHIP OF FAMILY FILES TO PBV CONTRACT FILES

Unlike the tenant-based program, the HAP contract and each inspection report are not required to be in each family's file. There is no requirement for a request for tenancy approval (RFTA), as the PBV HAP contract prescribes utility responsibilities, establishes the housing type, and describes the number of bedrooms in each unit.

HAP Contract File Example

EXAMPLE PBV CONTRACT FILE FORMAT HAP CONTRACT	
File Part 1: Left outside folder section	
Renewal contracts (original copy)	
Contract amendments adjusting the contract rent; adding, substituting or removing units, or change in utility responsibilities. The amendments should be maintained in reverse chronological order with the most recent amendment always on top.	
File Part 2: Left inside folder section	
HAP CONTRACT PART I (original copy)	
HAP CONTRACT PART II	
File Part 3: Center left folder section	
EXHIBIT A: Description of units by type, bedroom size, square footage, number of bathrooms, accessibility features, building and address location, and initial rent. If units are added, substituted, or removed from the HAP contract, the revised contract unit information should be included in this section.	
EXHIBIT B: Statement of services, maintenance, and equipment to be provided at no charge to families.	
File Part 4: Center right folder section	
EXHIBIT C: Statement of utilities. If the utility responsibilities change during the contract term, the amendment for the utility responsibilities should be included in this section. The amendments should be placed on top of the original Exhibit C with the most recent amendment always on top.	
File Part 5: Right inside folder section	
EXHIBIT D: Description of program accessibility features to comply with Section 504	
File Part 6: Right outside folder section	
EXHIBIT E: Tenant selection plan or tenant screening and selection criteria and a copy of the owner's lease (recommended)	
EXHIBIT F: Supportive services plan (recommended)	
Additional exhibits required by the PHA	

AHAP Contract File Example

AGREEMENT TO ENTER INTO A HOUSING ASSISTANCE PAYMENT CONTRACT (AHAP) FILE FORMAT EXAMPLE
File Part 1: Left outside folder section
Documentation of monitoring of labor standards, environmental remediation, if required, Section 3 compliance, and relocation activities; initial rent determination; changes in work approvals; extensions of completion date approvals; and correspondence.
File Part 2: Right inside folder section
AHAP PART I (original copy)
AHAP CONTRACT PART II
File Part 3: Center left folder section
EXHIBIT A: The project proposal or application.
File Part 4: Center right folder section
EXHIBIT B: Description of rehabilitation or construction work including:
<ul style="list-style-type: none"> The rehabilitation work write-up and, where the PHA has determined necessary, specifications and plans
<ul style="list-style-type: none"> The working drawings and specifications for new construction housing
<ul style="list-style-type: none"> Any PHA requirements relative to quality, design, and architecture
<ul style="list-style-type: none"> Work items to ensure compliance with fair housing and Section 504 accessibility requirements
File Part 5: Left inside folder section
EXHIBIT C: Description of housing, including:
<ul style="list-style-type: none"> Utility services to be paid by owner and the tenant
<ul style="list-style-type: none"> Estimated initial rent for the contract units
File Part 6: Right outside folder section
Additional exhibits required by the PHA

Existing Housing Example

EXISTING HOUSING PROPOSAL SELECTION AND PRE-CONTRACT FILE FORMAT
File Part 1: Left outside folder section
Board resolution approving the property
Documentation of initial rent determination
File Part 2: Left inside folder section
Environmental review documentation and approval, if required
File Part 3: Center left folder section
Documentation that site meets site selection standards
Documentation of initial site visit and determination that the units substantially meet HQS
File Part 4: Center right folder section
Initial inspection reports that units meet HQS prior to inclusion in the HAP contract
File Part 5: Left inside folder section
Conflict of interest disclosure
Identification of owners and documentation that the GSA data base has been checked and the owners and other principals are eligible to participate in HUD programs
Documentation of ownership
File Part 6: Right outside folder section
Original proposal or application for existing housing
Documentation of proposal selection process or reference to location of procurement file

New Construction and Rehabilitation Example

PBV NEW CONSTRUCTION AND REHABILITATION HOUSING PROPOSAL SELECTION AND PRE-CONTRACT FILE FORMAT
File Part 1: Left outside folder section
Board resolution approving the property
Documentation of initial rent determination
File Part 2: Left inside folder section
Subsidy layering review and approval
File Part 3: Center left folder section
Environmental review documentation and approval
File Part 4: Center right folder section
Documentation that site meets site selection standards
Documentation of initial site visit
File Part 5: Left inside folder section
Conflict of interest disclosure
Identification of owners and documentation that the GSA data base has been checked and the owners and other principals are eligible to participate in HUD programs
Documentation of ownership
File Part 6: Right outside folder section
Documentation of proposal selection process or reference to location of procurement file
If property was competitively selected by another entity, documentation that the property meets the three conditions for non-competitive selection by the PHA, i.e., the other entity's selection was competitive, within three years of the PHA's selection and did not consider PBV assistance

Project-Based Voucher Working File Example

PROJECT-BASED VOUCHER WORKING FILE FORMAT
File Part 1: Left outside folder section
<p>Current property summary sheet that includes:</p> <ol style="list-style-type: none"> 1. Property name, address, and office phone number. 2. The names, addresses, phone numbers, and e-mail addresses of owner and managing agent. 3. Number of PBV units by bedroom size and type, contract rents, and utility allowances for each unit size. If the property has blended occupancy, the summary should include the number of LIHTC and/or HOME units and the related income limits. 4. The names, addresses, phone numbers, and e-mail addresses social service providers. 5. Summary of any special tenant selection criteria and preferences. <p><i>For audit purposes, it is advisable to maintain copies of the property summary sheets for the previous three years.</i></p>
File Part 2: Left inside folder section
Correspondence and notes from meetings between the PHA and owner
File Part 3: Center right folder section
Determination of adjusted rents; rent reasonableness documentation
File Part 4: Center left folder section
Documentation of PHA property reviews, site visits, reviews of supportive services participation, and annual proof of flood insurance
File Part 5: Left inside folder section
The most recent year's property inspection summary and unit inspection reports, including annual/biennial, turnover, and complaint inspections
File Part 6: Right outside folder section
Property inspection summaries and unit inspection reports for at least two years prior to the most recent inspection. A PHA may retain more inspection reports if there are ongoing concerns.

Section 7 Chapter 6 Post Test

1. A PHA develops its own exhibit formats for the AHAP or HAP contract.
 - a. True
 - b. False
2. An owner may set screening criteria for determining tenant suitability.
 - a. True
 - b. False
3. A PHA may amend the PBV HAP contract for the following reasons:
 - a. Addition of PBV units
 - b. Subtraction of PBV units
 - c. All of the above
 - d. None of the above
4. Unit inspections are conducted annually/biennially based on a family's anniversary date.
 - a. True
 - b. False
5. PBV HAP contracts are typically signed by the executive director/CEO.
 - a. True
 - b. False
6. For turnover units, a PHA may not approve tenancy before receiving a request for tenancy approval (RFTA) form.
 - a. True
 - b. False
7. A family is entitled to a housing choice voucher if they have lived in a PBV unit for 12 months:
 - a. If the family requests the voucher before moving and a voucher is available
 - b. Under any circumstances
 - c. If the family is over or under-housed
 - d. The family may not request a housing choice voucher under any circumstances

8. An owner may change utility responsibilities:
 - a. If a new family moves into a unit upon a vacancy turnover
 - b. If, by doing so, the owner will receive more contract rent to pay property debts
 - c. If the owner obtains the PHA's approval and the HAP contract is amended
 - d. Every year at the annual anniversary of the HAP contract
9. A PBV contract's effective date for the initial term is July 15, 2020. What is its anniversary date the following year?

10. A PBV HAP contract's effective date for the initial term is October 9, 2021. What is the maximum possible expiration date for the initial term of this contract?

CHAPTER 7 Waiting List Management

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe the application process
- Explain the requirements for PBV waiting lists, including preferences
- Discuss family eligibility and continued eligibility
- Describe the planning process for initial occupancy of new construction and rehabilitation housing

OVERVIEW

PHAs work with families in a variety of ways throughout the implementation of a PBV program as well as during the term of the property's HAP contract. The agency must work with families residing in an existing housing property during the property selection process. Prior to a property being ready for occupancy, the PHA must establish PBV waiting lists. When the property nears PBV HAP contract execution, the PHA should begin qualifying families from the waiting list, submitting them to the owner for screening and selection, and briefing the families on PBV rights and responsibilities.

Section 2 Planning for Initial Occupancy

24 CFR 983.251(a)(2)

Except for voucher participants (determined eligible at original admission to the voucher program), the PHA may only select families determined eligible for admission at commencement of PBV assistance.

IN-PLACE FAMILIES IN EXISTING HOUSING AND REHABILITATION

CFR 24 983.53; 24 CFR 983.251(b)

If there are in-place families living in proposed contract units, the PHA must obtain enough information prior to execution of the HAP contract to determine that the families are eligible for admission to the PBV program. The PHA may deny assistance to in-place families for grounds specified in the denial regulations. If a family is not eligible, that unit must not be included on the project's HAP contract.

The term "in-place family" means an eligible family residing in a proposed contract unit on the proposal selection date.

If a proposed contract unit is occupied by an eligible in-place family on the proposal selection date, the in-place family must be placed on the PHA's waiting list (if the family is not already on the list) and, once their continued eligibility is determined by the PHA, the eligible in-place family must be given an "absolute selection preference" and referred to the project owner for an appropriately sized unit in the project.

Admission of in-place families is not subject to income-targeting.

NEW CONSTRUCTION AND REHABILITATION

A PHA should meet with the property owner to discuss initial occupancy goals and timeframes. For new and rehabilitated housing, it is desirable to have qualified tenants who are ready to move in prior to its completion. Generally, if a PHA is using a property-specific waiting list, it should prepare to accept applications for a new property approximately six months in advance. If the PHA is using a general waiting list, then it should gauge the number of families interested in the new property.

Section 2: Planning for Initial Occupancy

Once move-in dates are established, family intake interviews and eligibility processing should begin about 120 days in advance of the properties scheduled opening. After the PHA determines eligibility, the property owner must also screen the family for suitability and ensure that the family meets the funding requirements of other governmental programs such as HOME and LIHTC. PBV regulations do not address verification time limits for eligibility verifications. Verification documentation should be no older than allowed by PHA policy at the time of the family's initial lease. Therefore, if the verifications are approaching the PHA's time limit, it may be a good idea to update the verifications.

Section 3 PBV Waiting Lists

ESTABLISHING THE WAITING LIST

24 CFR 983.251

The PHA must establish and maintain the PBV waiting list. Applicants must be selected by the PHA from the PHA's waiting list. For PBV admissions, a PHA may:

- Use its housing choice voucher waiting list
- Set up a waiting list for the whole PBV program
- Establish waiting lists for each project or building (or for sets of such units)
- Merge the PBV waiting list with that of another assisted housing program

MANAGING THE WAITING LIST

Other factors to consider when managing the waiting list include:

24 CFR 983.251

- If the PHA uses a separate list for the PBV program from the HCV program, families on the PHA's tenant-based waiting list must be given the option of being on any project-based waiting list.

CFR 982.554(a)

- Applicants must be admitted, placed on the waiting list, or rejected.
- PHAs must organize the waiting lists to assure that applicant selection takes place according to program requirements and PHA policy.

CFR 985.3(a)

- Any system the PHA uses to maintain its waiting list must document how and when applicants are selected in a way that allows for a clear, easy-to-understand HUD management review.
- The waiting list is the beginning of a "paper trail" and must enable a reviewer to immediately determine if the selection process is in accordance with the PHA's
- The waiting list should be kept as up-to-date as possible. HUD regulations do not describe specific procedures for purging the waiting list. When and how to purge the waiting list is up to the PHA.

Section 3: PBV Waiting Lists

CFR 982.204(c)

- The administrative plan must state policy for removal from waiting list.

CFR 982.204(c)(2)

- If an applicant does not respond to the PHA's request for information or update because of a family member's disability, the PHA must reinstate the applicant to the family's former position on the waiting list.

OWNER REFERRALS

24 CFR 983.51(c)(5)

A PHA may place families referred by an owner to its PBV waiting list. Such families must be selected from the waiting list in accordance with PHA policies and procedures in its administrative plan.

Section 4 Applications

INITIAL APPLICATION FOR ASSISTANCE

Both the PHA and owner will have application requirements. The PHA determines program eligibility. The owner determines suitability as a tenant.

*CFR 1.4 and
CFR 982.206 (a) &(b)(2)*

All persons who express a desire to participate in the program must be given an equal opportunity to apply for assistance whenever the waiting list is open, unless there is good cause for not accepting the application such as denial of assistance because of action or inaction by members of the family for grounds stated in 982.552 and 982.553. The PHA is obligated to make application process available to applicants with a full range of disabilities.

Industry Practice

HUD generally does not mandate the format or content of the application or the method for processing applications. The PHA may require a pre-application or a full application initially. While the pre-application is optional, all applications must complete a full application.

Section 5 Preferences

CURRENT REGULATIONS GOVERNING PREFERENCES

CFR 982.202(d) & 982.207(a)

A PHA may establish a system of local preferences for the selection of families. Preferences are optional. If the PHA adopts a system of preferences, they may affect the order in which applicants are pulled from the waiting list. Preferences do not make anyone eligible who was not otherwise eligible, and they do not change the right of an owner or a PHA to adopt and enforce tenant screening criteria. If a PHA does not have a system of local preferences, applicants are selected from the waiting list in sequence according to the date and time of their applications or the result of a random drawing. A PHA's selection preferences must be described in its administrative plan. A PHA's system of local preferences must be consistent with its PHA plan and the consolidated plan for the jurisdiction.

The PHA may establish different preferences at different properties. Provided the PHA does not merge the PBV and HCV waiting lists, preferences for the PBV program may differ from those for the HCV program.

A PHA should clearly define any preferences that it adopts. The definitions should be simple enough so that families claiming preferences clearly understand what they are claiming, and preferences can be easily verified. A PHA must explain each preference to applicants and provide them with an opportunity to show that they are qualified for the preference. A PHA must have a system for verifying that families meet a particular preference. If the family does not meet the preference, the PHA may place them back on the waiting list.

PREFERENCES FOR SUPPORTIVE HOUSING

24 CFR 983.251 (d)

A PHA may provide preferences on waiting lists to families that need the specific services provided in supportive housing. Such preferences include homeless, seniors, families needing supportive services related to specific disabilities, veterans, or families needing assisted living as defined in the property's HAP contract. However, a PHA may not establish a preference for a family based on a specific disability.

Section 5: Preferences

FR Notice 1/18/17

Under HOTMA, the PHA may offer a preference for individuals who qualify for voluntary services offered in connection with units. The services may or may not include disability-specific services. Even if the preference is adopted, participation in services is still voluntary.

Program beneficiaries who receive housing because of the preference still have the ability to receive voluntary services from a service provider of their choosing, or not to participate in services at all. If the individual chooses to no longer participate or no longer qualifies, they may not subsequently be denied continued housing opportunity.

Preferences may not be given to persons with a specific disability. Examples of this type of preference may include a preference for persons who qualify for employment assistance or transportation services, or for a person who qualifies for housekeeping assistance, case management, or outpatient health services.

If the PHA adopts a disability-specific service, the PHA must consider how to implement the preference consistent with Section 504 and the Americans with Disabilities Act (ADA), and their implementing regulations. Regulations require that the PHA ensures that the person with disabilities can interact with persons without disabilities to the fullest extent possible in an integrated housing setting. Further, the Fair Housing Act and related regulations require a dispersion of units occupied by individuals with disabilities, and that the owner not assign individuals with disabilities to a particular section or floor of a building. Also, a PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require the individuals be transitioned to different projects based on service needs.

A PHA may keep a supportive housing waiting list open for families that meet particular preferences. City agencies or designated local social service agencies may refer families for placement on the waiting list in addition to owners, if the PHA's administrative plan permits it. For example, if no families on the waiting list meet the tenant screening and selection preference for a property (e.g., supportive housing for homeless veterans), the PHA may accept applications limited to homeless veterans and their families to ensure full occupancy of the units in the PBV properties.

Section 6 Chapter 7 Post Test

1. Who operates the PBV waiting list:
 - a. The PHA
 - b. The owner
2. PBV waiting lists must be site-based.
 - a. True
 - b. False
3. The PHA must include a supportive services preference if supportive services are offered at a project.
 - a. True
 - b. False
4. Waiting list preferences are _____ for the PBV program.
 - a. Mandatory
 - b. Optional
5. If the PHA determines that an in-place family living in a unit proposed to be included on the PBV HAP contract is not eligible for PBV assistance, the PHA must require the family to move with 30-day notice so that the unit may be added to the HAP contract.
 - a. True
 - b. False

Notes

CHAPTER 8 Eligibility

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Describe the factors of eligibility, including:
 - Family types
 - SSN disclosure requirements
 - Noncitizens rule requirements
 - Income limits
 - PHA denial of assistance criteria
- Recognize discretionary owner screening criteria

OVERVIEW

- To be eligible for participation in the PBV program, an applicant must meet HUD's criteria. HUD eligibility factors are:

CFR 982.201(a)

- The applicant must be a “family”

CFR 982.201(b)

- The family's annual income may not exceed the applicable income limit

CFR 5.216(a)
CFR 5.216(g)(3)

- Social Security numbers must be disclosed and documented for all household members, except noncontending persons.

CFR 5.500

- Applicant must furnish evidence of citizenship or eligible immigrant status.
- See Denial of Assistance provisions for other factors.

Section 2 Family Types

FAMILY

CFR 5.403;
FR Notice 02/03/12

- HUD’s definition of “family” includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:
 - A single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or
 - A group of persons residing together. Such a group includes, but is not limited to:
 - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family)
 - An elderly family
 - A near-elderly family
 - A disabled family
 - A displaced family
 - The remaining member of a tenant family

CFR 5.403;
FR Notice 02/03/12

- HUD further defines *elderly, disabled and displaced* families.
- Gender *identity* means actual or perceived gender characteristics.
- Sexual *orientation* means homosexuality, heterosexuality, or bisexuality.

CFR 982.54(d)(4)(i)

- The PHA determines (in the administrative plan) what groups other than the HUD-defined groups constitute a family.

Section 2: Family Types

*Form HUD-50058
Instruction Booklet*

COHEAD

- An individual in the household who is equally responsible for the lease with the head of household.
- Indicate either a spouse or a cohead, but not both.
- A cohead never qualifies as a dependent. However, a cohead may be under 18 years old if declared an “emancipated minor”, as many states will allow an emancipated minor to sign a lease.

*CFR 5.403;
FR Notice 02/03/12*

ELDERLY FAMILY

- An elderly family includes:
 - A family whose head (including cohead), spouse, or sole member is at least 62 years of age
 - Two or more persons at least 62 years of age living together
 - One or more persons at least 62 years of age living with one or more live-in aids

*CFR 5.403; FR Notice
02/03/12*

DISABLED FAMILY

- A family whose head (including cohead), spouse or sole member is a person with disabilities.
- Two or more persons with disabilities living together.
- One or more persons with disabilities living with one or more live-in aides.

PERSONS WITH DISABILITIES

- Note: See full definition under “Legislative Reference” in Chapter 1.

CFR 5.403

DISPLACED FAMILY

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

Section 2: Family Types

CFR 5.403

SINGLE PERSONS

- All single persons are eligible if they meet other eligibility criteria.
- A single-person family may be:
 - An elderly person (62 and over)
 - A displaced person
 - A disabled person
 - Any other single person who is not elderly, displaced, disabled, or the remaining member of a tenant family.

LIVE-IN AIDE

CFR 5.160

- Definition of Household - The family and the PHA-approved live-in aide

CFR 5.403

- Definition of Live-in Aide - A person approved by the PHA who resides in the unit to care for a family member who is disabled or at least 50 years of age, and who:
 - Is determined to be essential to the care and well-being of the person(s)
 - Is not obligated for support of the person(s)
 - Who would not be living in the unit except to provide necessary supportive services

CFR 982.316

- The PHA must approve a live-in aide, if needed, as a reasonable accommodation for a person with a disability.

Industry Practice

- Relatives are not automatically excluded. The relative must meet the requirements stated above to qualify.

*HUD Letter; Chicago Office,
7/3/90*

- Originally HUD anticipated that live-in aides would be single persons and that only one additional bedroom would be required.

Eligibility

Section 2: Family Types

- The PHA may not refuse to approve a live-in aide simply because the aide has family members that would be residing in the unit, provided that the presence of the live-in aide's family does not:
 - Overcrowd the unit or property, or
 - Create an undue financial burden (it might be an undue burden to provide a 3BR subsidy to a single eligible individual).
- In making decisions pertaining to the family members of live-in aides, a PHA cannot refuse to approve a particular live-in aide simply because they have children, since this would be familial status discrimination.
- At any time, the PHA may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if the person:
 - Commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
 - Commits drug-related criminal activity or violent criminal activity
 - Currently owes rent or other amounts to the PHA or to another PHA in connection with HCV or public housing assistance under the U.S. Housing Act of 1937.

CFR 982.316

FOSTER CHILDREN AND ADULTS

- With PHA approval, families may have foster children or foster adults live with them if it would not result in overcrowding. PHAs should adopt reasonable policies regarding when PHA approval may be given or denied.
- The regulatory definition of dependent specifically excludes foster children and foster adults. So, while PHA-approved foster children and foster adults are counted in determining family unit size, they do not qualify for the \$480 dependent allowance.
- Child care expenses for foster children are deductible to the same extent that child care expenses for other children are deductible.

*CFR 982.551(h)(4);
982.401(d)(2)(ii)*

*CFR 5.603(b); HUD-50058
instruction booklet, p. 35*

HCV Program GB p. 5-29

Section 2: Family Types

CFR 5.609(c)(2)

CHILD CUSTODY

HUD Guidance

- PHAs should establish policies on whether to count a child as part of the family in these situations:
 - When a family member does not have full custody of the child
 - When the child lives only part of the time with the family
- The PHA should consider custody and the amount of time the child spends with the applicant/participant.
- If the child does not currently reside with the applicant, the PHA should consider the child part of the family only if there is evidence that the child would reside with the applicant if the applicant were issued a voucher.
- The same child should not be claimed by more than one applicant.

CFR 5.609

- If a child is included as part of the family, typical determinations on income and allowances are to be made.

Section 3 Social Security Number Requirements

The regulations governing disclosure and verification of Social Security numbers were revised effective January 31, 2010. The regulations cover the requirements for disclosure and documentation of SSNs for every applicant and participant household member. While applicants and participants must disclose and document SSNs under the regulations, the actual “verification” of SSNs is performed by the PHA through HUD’s automated systems. The regulations also provide penalties for failure to disclose or document SSNs.

REQUIRED DISCLOSURE

*CFR 5.216;
Notice PIH 2018 24*

All assistance applicants and participants must disclose a complete and accurate SSN for each member of the household, including foster children, foster adults, and live-in aides. Some household members are exempt from the SSN disclosure requirement. These include:

- Individuals who do not contend eligible immigration status (“noncontending” family members in a mixed family receiving prorated assistance).
- Current program participants who had not previously disclosed an SSN, and who were at least 62 years old on January 31, 2010. The exemption applies at all future reexaminations and continues if the individual moves to a new assisted unit or receives another form of housing assistance.
- Household members who have already provided a valid SSN prior to January 31, 2010. The new regulations do not require the PHA to re-verify the SSNs of current program participants whose SSNs have been validated through HUD’s automated systems.

Section 3: Social Security Number Requirements

REQUIRED DOCUMENTATION

CFR 5.216(g); Notice PIH 2018-24

Several forms of documentation are acceptable. For each household member, the applicant or participant family must provide any one of the following:

- An original social security card issued by the Social Security Administration.
- Documentation issued by the Social Security Administration that contains the name and SSN of the individual (e.g., a benefit award letter, Medicare card, or printout).
- An original document showing the individual's name and SSN, issued by a federal, state, or local government agency. This could include welfare agency documents, military papers, unemployment insurance documents, or any other government-issued documentation.

CFR 5.216(i); PIH 2018-24

Since SSNs for all household members are matched against SSA records through HUD's automated systems, the PHA must generally accept any of the documents listed above. The PHA may only reject documents which:

- Are not original
- Appear to be forged, or
- Appear to be altered, mutilated, or not legible.

If the PHA rejects the family's documentation, the PHA should explain why the documents were not acceptable. The PHA should then request acceptable documentation within a specified time frame.

Notice PIH 2018-24

The PHA verifies the SSN by making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the family's file. In addition, the PHA records the SSN on line 3n of form HUD-50058 and transmitting the form to HUD in a timely manner. PHAs are required to submit the form no later than 30 calendar days of receiving the SSN documentation to enable HUD to initiate its computer matching efforts for current program participants.

Section 3: Social Security Number Requirements

Notice PIH 2018-24

HUD allows PHAs, at their discretion, to remove and destroy SSN documentation from the file once the SSN has been validated through the EIV system. The EIV printout will be considered adequate to verify the SSN. Doing so minimizes the risk of exposing the individual's SSN.

WHEN DISCLOSURE AND DOCUMENTATION ARE REQUIRED

The HUD regulations provide differing time frames for SSN disclosure and documentation. The time limits depend upon the assistance program, type of certification, ages of household members and other factors.

*CFR 5.216(b); 5.216(h) Notice
PIH 2018-24*

- For applicant families, the SSN for each household member (except noncontending persons) must be disclosed and documented when program eligibility is being determined. The family may not be admitted to the program until this requirement has been met. If otherwise eligible, the family may retain its place on the waiting list pending SSN disclosure and documentation.

CFR 5.216(e)

- Current program participants who have not previously disclosed a SSN for any non-exempt household member must do so at the next interim or annual reexamination. This includes children under six for whom a SSN was not previously provided, family members who certified that they had not been assigned an SSN, and other household members.

*CFR 5.216(e)(2);
Notice PIH 2018-24*

When adding a new household member to a participant family, the time frames depend upon the age of the new member and whether he or she has been assigned an SSN.

- If the new household member is at least six years old or is under six but already has an SSN, the SSN must be disclosed and documented at the time of the request, or during processing of the interim reexamination to add the new member. The new member cannot be added to the household until this requirement is met.

Section 3: Social Security Number Requirements

- If the new household member is under the age of six and has not been assigned an SSN, the participant must disclose and verify the child's SSN within 90 days of the child's addition to the household. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the participant or was due to unforeseen circumstances. The PHA must include the child as part of the household during this period and must provide the family with any related benefits such as allowances and deductions.

PENALTIES FOR FAILURE TO DISCLOSE/DOCUMENT SSNs

*CFR 5.218;
Notice PIH 2018 24*

The PHA must deny assistance for an applicant family if the regulatory requirements for SSN disclosure and documentation are not met. The applicant must disclose and document the SSN for every household member (except noncontending persons) in order to qualify for the program.

The PHA must terminate assistance of participant households if the regulatory requirements for SSN disclosure and documentation are not met. Assistance must be terminated for the entire household if these requirements are not met for every non-exempt household member. The PHA must defer termination for a period not to exceed 90 days if it determines that the participant's failure to meet the requirements was due to unforeseen circumstances outside the control of the family, and if it is reasonably likely that the participant will be able to disclose and document the SSN(s) by the deadline

Section 4 Restriction on Assistance to Noncitizens

EFFECTIVE DATE AND PURPOSE OF RULE

CFR Part 5, Subpart E

- Effective Date: 6/19/95, revised by an interim rule issued 11/29/96.
- The purpose of the regulation is to:
 - Provide implementation procedures
 - Ensure only citizens, nationals, and certain categories of eligible immigrants are assisted
 - Preserve family status.

DEFINITIONS

- *Child*: A member of the family other than the family head or spouse who is under 18 years of age.
- *Citizen*: Citizen/national of the United States.
- *Evidence of citizenship or eligible immigration status*: The documents which must be submitted to establish citizenship or eligible immigration status.
- *Head of Household*: The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.
- *Mixed family*: A family including citizens or eligible immigrants, and members without citizenship or eligible immigration status.
- *National*: A person who owes permanent allegiance to the United States.
- *Noncitizen*: A person who is neither a citizen nor a national of the United States.
- *Spouse*: The marriage partner, either a husband or wife, who must be divorced to dissolve the relationship. Includes common law marriages, but not boy/girl friends, significant others, or coheads.
- *USCIS*: United States Citizenship and Immigration Services (formerly known as INS).

Section 4: Restriction on Assistance to Noncitizens

RULES FOR ADMISSION

CFR 5.512(a) and (b)

- No family applying for federal assistance may receive such assistance prior to the affirmative establishment and verification of eligibility of at least one family member.

CFR 5.506 (a), CFR 5.514(c)

- However, if a PHA elects not to affirmatively establish and verify eligibility before providing assistance to a family, the PHA must terminate the assistance if the verification process results in a determination that no family member has eligible immigration status.

NOTIFICATION REQUIREMENTS

CFR 5.508

- All families must be notified of the requirement to provide verification of their citizenship status:
 - New applicants must be notified when they apply
 - Current participants should have been notified.

CFR 5.502

- Where feasible, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

ELIGIBILITY FOR ASSISTANCE

To determine the family type and eligibility status of any family, the eligibility of each individual in the family must be established first.

CFR 5.508

- Individuals will fall into one of these categories:
 - Citizens or nationals
 - Eligible immigrants 62 or older
 - Other eligible immigrants
 - Ineligibles, including noncitizen students on student visas.

Section 4: Restriction on Assistance to Noncitizens

- Providing housing assistance to noncitizen students is prohibited.
 - This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student.
 - The prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance.
- Public Law 106-504, which was enacted on November 3, 2000, defines geographic parameters by which aliens who are lawful residents of the Marshall Islands, the Federated States of Micronesia and Palau (together known as the Freely Associated States, or FAS) are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and Governments of the FAS.
- PIH Notice 2001-27 offers guidance on the implementation of the law, such as:
 - PHAs must consider certain FAS citizens to be eligible applicants for federal housing assistance
 - PHAs must notify all affected families of the eligibility changes made by Public Law 106-504. Such changes might alter the status of some families from “mixed” to “eligible” if one or more of the family members is a FAS citizen
 - PHAs must conduct an interim reexamination of income for any family that requests a reexamination as a result of changes in the law.

Notice PIH 01-27

Section 4: Restriction on Assistance to Noncitizens

Notice PIH 01-27

- An FAS citizen who is a lawful resident of the United States (including territories and possessions) is eligible for housing assistance.
 - FAS stands for “the Freely Associated States”
 - Republic of the Marshall Islands
 - Federated States of Micronesia
 - Republic of Palau

CFR 5.504 and 5.506

FAMILY CATEGORIES

- After the status of each person has been determined, families will fall into one of the categories below:
 - An **eligible** family will be comprised of citizens, nationals or noncitizens with eligible immigrant status
 - Eligible for full assistance
 - An **ineligible** family is one in which no member is a citizen, national or eligible immigrant
 - Denied or terminated assistance
 - **Mixed families** are comprised of citizen(s) or eligible noncitizen(s) and those without citizenship or eligible noncitizen status
 - A mixed family is eligible for prorated assistance.

VERIFICATION REQUIREMENTS

CFR 5.508

- Unlike the third-party verification process for income eligibility, verification of citizenship or national status is provided directly by the family.
 - Persons who claim citizenship status by executing a signed declaration (Section 214 Status).
 - Persons 62 and older who claim eligible immigration status by executing a signed declaration and providing proof of age.
 - Persons who declare themselves ineligible or don't contend eligibility status.
- PHAs may require verification of either citizen/national declaration in the form of a U.S. passport, resident alien card, registration card, social security card or other appropriate documentation.
- Verification is required by law for all other noncitizens who claim eligible immigration status.
 - A signed declaration of eligible immigration status.
 - A United States Citizenship and Immigration Service (USCIS) card or other USCIS document.
 - A signed verification consent form.

DOCUMENTATION REQUIRED

CFR 5.512

- PHA documents:
 - Declaration of Section 214 Status
 - Verification Consent Form
 - Listing of Non-contending Family Members
 - Notice of Section 214 requirements.
- Eligible immigration status must be verified.
 - Verification of eligible immigration status may be obtained through accessing the Systematic Alien Verification for Entitlements (SAVE) Program's Automated Status Verification System (ASVS) online.
 - <http://uscis.gov/graphics/services/save.htm>

Section 4: Restriction on Assistance to Noncitizens

TIMEFRAME FOR SUBMISSION

- | | |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>CFR 5.508(g) and (h)(3)</i> | <ul style="list-style-type: none">• Applicants present documents at final eligibility determination. Extensions for submission of required documents shall not exceed 30 days. |
| <i>CFR 5.508(g)(1)</i> | <ul style="list-style-type: none">• For applicants:<ul style="list-style-type: none">- At any stage of the application process, but not later than the date the PHA verifies other eligibility factors. |
| <i>CFR 5.508(g)(3)</i> | <ul style="list-style-type: none">• New occupants joining an assisted family:<ul style="list-style-type: none">- At the first interim or regular reexam following their occupancy. |
| <i>CFR 5.508(h)(2)</i> | <ul style="list-style-type: none">• A time extension may be granted in writing by the PHA if needed for the individual to obtain the needed documentation. |
| <i>CFR 5.508(g)(5)</i> | <ul style="list-style-type: none">• For each family member this is a one-time requirement. If the family moves between units or between programs and the PHA has previously obtained the required verification, the family is not required to produce the documentation again. |

Section 5 Income Limits

The income limits for the PBV program are the same as the income limits for the HCV program. Tenants participating in the PBV program must have incomes that are initially at or below the applicable income limits.

24 CFR 5.603

The PHA compares a family's total household annual income to the income limit as a test for initial eligibility. There are three income limit levels:

24 CFR 982.201(a) and (b)

- **Extremely low-income limit:** The family's annual gross income does not exceed the higher of 30 percent of area median income or the federal poverty level for the family size.
- **Very low-income limit:** The family's annual gross income does not exceed 50 percent of the area median for the family size.
- **Low-income limit:** The family's annual gross income does not exceed 80 percent of area median.

To be eligible for the program, a family must be either very low-income (generally 50 percent of area median income); OR low-income (generally 80 percent of area median income) and meet one of the following additional criteria:

- Continuously assisted under the public housing, housing choice voucher, project-based rental assistance, or other housing program under the Housing Act of 1937. Non-purchasing households in the following homeownership programs: HOPE 1, HOPE 2, or other HUD-assisted multifamily home ownership programs covered under 24 CFR 284.173;
- Displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on "eligible low-income housing," as defined in 24 CFR 248.101. Note that these displaced families are also eligible if they have moderate income (between 80 and 95 percent of median area income).

Section 5: Income Limits

- A criterion set by the PHA to address essential local housing needs. For example, a PHA may administer its HCV program in a jurisdiction that offers locally funded assisted housing to low-income families. The PHA may include a policy in its administrative plan stating the low-income limit will be applied when determining income eligibility for families transitioning from locally funded assisted housing.

Because income limits are established by family size, a change in family composition while on the waiting list may affect the family's eligibility for admission. Applicants on the waiting list who have an increase in income above the applicable income limit may not be admitted.

It is the responsibility of the PHA to ensure that participants are income-eligible prior to admission to the PBV program. In addition, if there are other types of funding within the property, there will most likely be income limits required by those programs, such as the low-income housing tax credit (LIHTC) program, bond issues, or other governmental programs.

The PHA must keep the property-specific income limits in mind when selecting families from the waiting list and screening them for admission to a PBV property. When housing choice voucher income targeting, LIHTC, and other governmental programs' income requirements must be met, the PHA may need to skip applicants to qualify the highest-ranking family on the waiting list that meets the income criteria.

Once a family is admitted (leased), it is no longer subject to income limits.

INCOME TARGETING REQUIREMENTS

*24 CFR 5.603,
24 CFR 982.201(b)(2)(i)*

In each PHA fiscal year, at least 75 percent of a PHA's new admissions to the housing choice voucher program must have incomes that do not exceed 30 percent of the area median as published by HUD, with adjustments for smaller and larger families. Admissions to the PBV program count against this targeting requirement. In-place families are exempt from the income targeting requirement.

Section 6 Student Status

RESTRICTIONS ON ASSISTANCE

- HUD has determined that the new rule does not apply to students residing with their parents receiving or applying for HCV assistance.
- CFR 5.612*
- No assistance shall be provided to any individual who is enrolled (full time or part time) as a student at an institution of higher education who is:
 - Under 24
 - Not a U.S. veteran
 - Unmarried
 - Does not have a dependent child, unless:
 - The student is eligible, and the student's parents (individually or jointly) are income eligible for the program.
 - In other words, students and parents both have to be income eligible unless the student can demonstrate absence or independence from their parents.
- FR Notice 4/10/06, FR Notice 9/21/16*
- The PHA's administrative plan must define situations where the parents' income will not be used for purposes of program eligibility. The criteria may include, but is not limited to:
 - Student must be of legal contract age per state law
 - Student must have established separate household for at least one year or must meet Dept. of Education definition of "independent student"
 - Independent Student: a student must meet one or more of the following criteria:
 - At least 24 years old by December 31 of the award year for which the aid is sought
 - Be an orphan, in foster care, or ward of court, or have been an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

Section 6: Student Status

- Be or have been immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
- Be a veteran of the U.S. Armed Forces or currently serving on active duty in the Armed Forces for other than training purposes
- Be a graduate or professional student
- Be married
- Have has one or more legal dependents other than a spouse (e.g., dependent children or an elderly dependent parent)
- Have been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
 - A local educational agency homeless liaison
 - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
 - A financial aid administrator
 - Be a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances
- Student must not be claimed as a dependent on another person's tax return
- Student must obtain parental certification of the amount of support that will be provided by parents (including if no financial assistance will be provided).
- If the PHA determines that an individual meets the definition of a vulnerable youth, such a determination is all that is necessary to determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance.

Section 6: Student Status

- A vulnerable youth is an individual who meets the U.S. Department of Education’s definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16, specifically:
 - Being an orphan, in foster care, or a ward of the court, or having been an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
 - Being or having been immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s state of legal residence
 - Having been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by a local educational agency homeless liaison, the director or designee of the director of a program funded under the McKinney-Vento Act, or a financial aid administrator.
- The PHA must deny or terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.

CFR 982.552 (b)(5)

Learning Activity 8-1: Eligibility

A recently married full-time student couple is income qualified under the HCV income limit. The husband is 29 years old, and the wife is 23 years old. The wife does not have eligible immigration status, but the husband is an American citizen who was born in the U.S.

1. Is the couple eligible for the PBV program?

2. Why?

The Brown family consists of six citizens (a mother, father, and four children), and a nephew who is an ineligible non-citizen.

1. Is the family eligible for the PBV Program?

2. Why?

Section 6: Student Status

Mark Spellman and Peter Assad apply for PBV assistance as a household. Mark, age 30, works full-time and Peter, age 23, is a full-time student. They are both eligible immigrants. Their combined income does not exceed the PBV income limit. Peter has provided documentation proving that he meets the PHA's criteria for an "independent student."

1. Do they qualify for the PBV program?

2. Why?

Section 7 Forms

FORM HUD-92006

Notice PIH 2009-36

Form HUD-90026, Supplement to Application for Federally Assisted Housing, must be provided to families “at the time of application.” The form gives the family the option to provide contact information for a friend, family member, organization, or advocate that can assist in providing services or special care to the family, and in resolving any tenancy issues that may arise. The family is not required to provide the information. The PHA should give the family the opportunity to revise or remove contact information at admission, annual reexamination, or at any other time.

RELEASE FORMS

Before requesting any verifications, PHAs must obtain signed consent forms from family members authorizing release of information.

One such consent form must be consistent with the regulations at 24 CFR 5.230.

Form HUD-9886, Authorization for Release of Information/Privacy Act Notice (see page 2-99), is consistent with these regulations and therefore is the easiest form for PHAs to use.

PHAs must also use other consent forms to request verification of information not covered by this form.

Because of privacy act issues, PHAs are advised to use specific, rather than generic, consent forms.

AUTHORIZATION FOR RELEASE OF INFORMATION/ PRIVACY ACT STATEMENT (FORM HUD-9886)

Form HUD-9886 must be signed by:

- All adult family members-i.e., those 18 years or older (24 CFR 5.230(a))
- The family head and spouse regardless of age (24 CFR 5.230(a)).

Section 7: Forms

This form can be used between regular reexaminations to verify unreported income.

- The form is valid for 15 months after the date it was signed. (24 CFR 5.230(c)(4))

HUD-9886 may be used by PHAs to obtain the following information only:

- Wage and unemployment compensation from state wage information collection agencies (SWICAs)
- Salary and wage information from current and former employers
- Unearned income from financial institutions.

EIV User's Manual

PHA staff may not view private information [available through HUD's Enterprise Income Verification System - EIV] unless there is a signed Authorization for the Release of Information and Privacy Act Notice (form HUD-9886) in the household's file for the head of household and the spouse of the head of household, or cohead, regardless of age, and for each adult family member in the household.

FORM HUD-52675

Notice PIH 2018-18

The Form HUD-52675, Debts Owed to Public Housing Agencies and Terminations notice, must be signed by all adult household members including live-in aides. PHAs are required to provide this notice to all applicants and program participants. Each adult household member must sign this form.

Debts owed to PHAs and termination information reported in EIV originates from the PHA. If a current or former tenant disputes this information, s/he should contact the PHA (who reported the information) directly in writing to dispute this information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the PIH program.

Section 7: Forms

The PHA must have policy in its administrative plan on how the PHA will handle debts owed by applicants and participants.

Prior to admission, PHA must search for each adult household member in the Debts Owed module. In addition, the PHA must search for all household members in the Existing Tenant Search module. The PHA must provide the family a copy if requested. At no time may any family member receive duplicative assistance.

Section 8 Tenant Screening and Selection

PHA SCREENING REQUIREMENTS

*Notice PIH 2012-28,
24 CFR 982.553 and
983.255(a)*

A PHA is not required but may opt to screen applicants for family behavior or suitability. Any screening done by a PHA must be stated in its administrative plan.

HUD requires a PHA deny admission if any of the following apply:

- If any member fails to sign consent forms for obtaining information.
- If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
- No individual or family applying for assistance may receive assistance prior to the verification of U.S. citizenship or the eligible immigration status of at least one member of the family.
- A household member was evicted from federally assisted housing for drug-related criminal activity within the past three years. However, the PHA may consider mitigating circumstances and may permit the removal of the offending family from the household
- The PHA has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug and alcohol use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member was convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing
- If any member of the household is subject to a lifetime registration requirement under a state sex offender registration program

Section 8: Tenant Screening and Selection

The PHA may deny assistance in accordance with PHA policy based on applicant screening for family behavior or suitability for tenancy. The PHA may deny program assistance on any of the following grounds:

- The family violates any family obligation under the program
- If any family member has been evicted from federally assisted housing in the last five years
- If a PHA has ever terminated assistance under the program for any family member
- If any family member committed fraud, bribery, or another corrupt or criminal act regarding any federal housing program
- If the family currently owes rent or other amounts to any PHA in connection with HCV or public housing assistance, including either:
 - Not having reimbursed any PHA for amounts paid to an owner on behalf of the family
 - Breaching a repayment agreement with the PHA
- If the family has engaged in or threatened abusive or violent behavior toward PHA personnel
- If a welfare-to-work (WTW) family fails, willfully and persistently, to fulfill obligations under the WTW program
- If a family has been engaged in violent criminal activity, other criminal activity, or alcohol abuse that threatens the health and safety of other residents and persons in the near vicinity of the property

24 CFR 984.101(d)

Note that PHAs are not allowed to withhold or terminate assistance for failure to comply with the obligations of the Family Self-Sufficiency (FSS) contract of participation.

A family that is denied admission because of the PHA's screening criteria must be offered the right to an informal review.

Section 8: Tenant Screening and Selection

CONSIDERATION OF CIRCUMSTANCES

- When determining whether to deny admission because of action or failure to act by members of the family, the PHA has the discretion of considering circumstances including:
 - The seriousness of the case
 - The extent of participation or culpability of family members
 - Mitigating circumstances relating to the disability of a family member
 - The effect that denial of admission would have on other members of the family who were not involved in the action or failure to act.
- For an admission decision based on illegal use of drugs or alcohol abuse by a family member who no longer engages in such behavior, the PHA may consider whether the member:
 - Has successfully completed a rehabilitation program
 - Is currently participating in a rehabilitation program
 - Has otherwise been successfully rehabilitated.
- The PHA may also require the family member to submit evidence of such rehabilitation.
- PHA denial decisions for a family that includes a disabled person are subject to consideration of reasonable accommodations (in accordance with CFR Part 8).
- PHA denial decision must also be consistent with fair housing and equal opportunity provisions (see CFR 5.101).
- OGC Guidance 4/4/16 addresses how the discriminatory effects and disparate treatment methods apply in FHA cases where PHA denies or terminates based on an individual's criminal history
- OGC states that since disproportionate arrest, conviction and incarceration rates exist for Black Americans and LatinX (creating a disparate impact), the FHA applies to criminal records

Section 8: Tenant Screening and Selection

- The OGC guidance underscores HUD’s de-emphasis in the use of criminal histories in housing decisions
- Decision should not be made solely on basis of arrest
- But it does NOT forbid the consideration of such information
- PHAs must establish policies that distinguish between “criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not.”

REJECTED APPLICANTS RIGHT TO AN INFORMAL REVIEW

24 CFR 982.554

Applicants denied admission to the PBV program are entitled to an informal administrative review with an impartial person, i.e., a person other than the person who made or approved the decision to deny, or a subordinate of that person. The PHA must use the procedures in its administrative plan in conducting the informal review. Informal reviews are not required for established policies and procedures, such as:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Determination of the family unit size under the PHA subsidy standards

24 CFR 5.514, 24 CFR 982.555

An applicant denied due to failure to submit evidence of citizenship and eligible immigration status by the date specified is entitled to request an informal hearing, a more formal appeals process.

Section 8: Tenant Screening and Selection

OWNER SCREENING CRITERIA

The owner determines each property's specific tenant screening and selection criteria that are applied in addition to the minimum criteria specified by PHA, subject to PHA approval. Such criteria must adhere to local, state, federal, and any PHA-specific requirements and the owner must apply the same screening criteria to all tenants at a property, regardless of PBV assistance.

Such criteria must include the target population and income limits required by low-income tax credits, bond issues or other governmental programs for each development. For supportive housing, the criteria must include any local certification requirements such as those from a local department of human services. Tenant selection and screening criteria may include a review of the applicants' credit history, a criminal background check, drug testing, housekeeping or home visits, verification that the family will benefit from supportive services available at a property, and an evaluation of a resident's employment and economic self-sufficiency record. For properties that include other sources of governmental funding, the tenant selection plan (TSP) required by the local or state financing agency may meet the PBV tenant screening and selection criteria.

DISAPPROVAL BY OWNER

If an owner rejects a family for admission, such rejection generally does not affect the family's position if they are on other PHA waiting lists. The PHA may review the owner's rejections to ensure that it meets the property's tenant screening and selection criteria and does not conflict with local, state, and federal law.

Should the PHA determine that an owner is rejecting families without good cause or in violation of the law, the PHA must require corrective actions. If the owner's actions appear to be discriminatory, the PHA may suspend or terminate the PBV HAP contract.

Section 8: Tenant Screening and Selection

FAMILY REJECTION OF UNIT OFFER

Upon selection of a family from the project-based waiting list and determination of family eligibility, the PHA refers the family to the appropriate development for screening by the owner.

If the family declines the first offer of a PBV unit, the PHA may make additional offers as established in its administrative plan.

If an applicant declines additional offers of PBV units, the PHA may remove the family's name from the project-based waiting lists.

The PHA does not remove the family's name from the project-based waiting list if the family's refusal of offers is based on good cause. Examples of good cause are: a unit lacks accessibility features required by a person with disabilities, a unit is not convenient to public transportation or childcare needed for the family to work, or a serious illness, hospitalization, or death of a family member.

Section 9 Chapter 8 Post Test

1. A family may have both a cohead and a spouse.
 - a. True
 - b. False
2. Applicants must disclose and document SSNs for all household members, except noncontending persons.
 - a. True
 - b. False
3. PHAs are required to screen families for both eligibility and suitability.
 - a. True
 - b. False
4. Households include live-in aides; families do not.
 - a. True
 - b. False
5. Once a family is admitted to a PBV property, they must stay within the low-income limit of 80 percent of area median income during their tenancy.
 - a. True
 - b. False
6. A PHA has the option of denying admission to an applicant who has been convicted for manufacturing methamphetamine on the premises of a federally assisted unit.
 - a. True
 - b. False
7. A PHA can use the HUD-9886 form to verify welfare and child support.
 - a. True
 - b. False
8. A family where some members are U.S. citizens, and some are eligible noncitizens is an example of a mixed family and would have their rent prorated.
 - a. True
 - b. False

Section 9: Chapter 8 Post Test

9. If an owner rejects a family, the rejection does not affect the family's position on the PHA's tenant-based waiting list.
 - a. True
 - b. False
10. The student rule would not apply to:
 - a. Students living with their parents
 - b. A 28-year-old college student
 - c. A high school student
 - d. All of the above
11. Any family occupying a PBV unit must be an extremely low-income family.
 - a. True
 - b. False

CHAPTER 9 Working with Families

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Identify lease and tenancy addendum requirements
- Outline key family responsibilities
- List the family briefing requirements
- Specify PBV inspection requirements
- Explain the family's right to a tenant-based voucher after one year of occupancy
- List the requirements surrounding moves
- State when and how a PHA may terminate a family's participation in the PBV program
- Outline reasons why an owner may evict a family

OVERVIEW

Working with families is paramount to the success of the PBV program. Until a family leaves the PBV program, the PHA will interact with the family regularly for administrative reasons such as reexaminations. This chapter provides a summary of rules and best practices in working with families in the PBV program.

Section 2 Determining Unit Size

SUBSIDY STANDARDS

Federal Register Notice

12/22/98

Notice PIH 2014-25

24 CFR 982.4, 982.54(d)(9),

982.402, and 983.253

The PHA's subsidy standards determine the appropriate unit size for PBV-assisted families. HUD does not prescribe specific policies PHAs must implement when determining unit size in PBV. The unit size must be appropriate for the family under the PHA's subsidy standards, which are the criteria established by the PHA for determining the appropriate number of bedrooms for families of different sizes and compositions. Each PHA must establish subsidy standards in its administrative plan.

Since PBV follows the same regulations as the tenant-based program for setting subsidy standards, most PHAs use the same subsidy standards for their PBV and HCV programs.

24 CFR 982.402(b)

The subsidy standards must:

- Provide for the smallest number of bedrooms needed to house the family without overcrowding
- Comply with HQS space requirements
- Be applied consistently for all families of the same size and composition

HQS allows two persons per bedroom or living/sleeping room. Each sleeping room must have:

- A window (which must be openable if so designed)
- Two working electrical outlets or one working electrical outlet and one working permanently installed light fixture

If circumstances are justified, the PHA may grant an exception based on:

- Age
- Sex
- Health
- Disability
- Relationship of family members
- Other personal circumstances

Section 2: Determining Unit Size

HOUSEHOLD MEMBERS

When establishing unit size for the family, the PHA:

- Must count children who are added to the family by birth, adoption, or court-awarded custody only after these events have occurred
- Should establish a policy on whether children in the process of being adopted will be counted
- Should also establish a policy defining *temporarily absent* family members
 - The HCV Guidebook states that family members who are permanently confined to a nursing home or hospital on a permanent basis are no longer part of the assisted household.
 - The regulations do not specifically address students who are absent from a household.
- Should establish a policy on whether dependents subject to joint custody arrangements will be considered part of the family
 - The PHA should consider whether the family has primary custody and the amount of time dependents subject to a joint custody arrangement actually live in the household.
 - Many PHAs state that children must live in the unit either 50 percent or more of the time, or 51 percent of the time, in order to be considered a member of the resident family.

When establishing subsidy standards, the PHA should also consider:

24 CFR 982.402(b)(7)

- A single person who is not a remaining family member, disabled, or elderly must get only a zero or one bedroom unit and is not eligible for an exception.

24 CFR 982.201(c)(5)

- A child temporarily absent because of placement in foster care is considered in determining family size.

Section 2: Determining Unit Size

- With PHA approval, families may have foster children or foster adults live with them if it would not result in overcrowding.
 - PHA policy states when PHA approval may be given or denied.
- 24 CFR 982.402(b)(5)*
- A family that consists of only a pregnant woman (with no other persons) must be treated as a two-person family.
 - Any live-in aide must be counted in determining unit size.
 - 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, PHAs 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.
 - PHAs must consider such requests for an exception to the established subsidy standards on a case-by-case basis, provide the exception where necessary as a reasonable accommodation, and document the justification for all granted exceptions.

Section 3 Filling Vacancies

24 CFR 983.254(a)

The owner and the PHA both play critical roles in filling vacancies. The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

In order to maintain high occupancy rates, the PHA and owner must establish an effective vacancy turnover strategy for each property. PHAs and owners should monitor the number and types of vacancies by bedroom size, the amount of vacancy turnover time necessary to prepare the units for re-occupancy, the number of applicants necessary to fill a vacancy, and the average processing time.

PHAs should process families and owners should screen families so that there is a pool of eligible tenants ready to occupy units as they become available for occupancy. Owners should report an anticipated vacancy to a PHA upon receiving a tenant's notice of intent to vacate or an expected eviction. Waiting until a unit is actually vacant is frequently too late to minimize vacancy loss.

Many new construction and rehabilitation properties for families and mixed populations have low turnover rates because frequently it is the most desirable housing in a community.

On the other hand, some supportive housing properties serving special needs populations such as homeless persons, disabled persons or those in substance abuse recovery have high turnover rates.

UNITS WITH ACCESSIBLE FEATURES

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer to the owner families who require such features. When an accessible unit is vacant, the owner must advise the PHA of the accessibility features that exist so the PHA may select and refer the appropriate families from its waiting list.

VACANCY PAYMENTS

24 CFR 983.352

While HAP may typically only be paid for a unit that is leased to and occupied by an eligible family, vacancy payments allow the PHA to pay HAP on a unit that is not occupied. At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault. The PHA may only make vacancy payments if all of the following apply:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; **and**
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation that the PHA requires to determine the amount of any vacancy payment.

The vacancy payment to the owner may last for a maximum of two months and are determined by the PHA. They cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment may cover only the period the unit remains vacant.

Important note: PHAs that opt not to make vacancy payments must also check the appropriate block in the HAP contract and cross out the language pertaining to such payments.

If a PHA opts to make vacancy payments, such payments count toward budget utilization, but not unit lease-up goals. In VMS, the vacancy payments are counted as housing assistance payments. Another way of looking at it is that a vacancy payment is for a vacant unit as opposed to rental assistance for a family.

BRIEFING

24 CFR 983.252

After selection of a family for a PBV unit, the PHA must:

- Brief the family orally on the program requirements and the responsibilities of the family and owner. Briefings may be conducted in-person or remotely, depending on PHA policy. See Notice PIH 2020-32 for the requirements regarding conducting remote oral briefings.

PIH 2010-15

- For PHA owned units, the PHA must provide the family with contact information for the independent entity who will conduct the PHA's HQS complaint inspections
- Provide the family with a written briefing packet that includes information explaining:
 - How the tenant payment is calculated
 - The family's obligations under the program
 - Fair housing
 - Violence against Women Act (VAWA)
 - Termination of assistance
 - Rights to and how to obtain an informal hearing
- Explain that the subsidy is tied to the property, but the family may be eligible for a tenant-based voucher after one year of occupancy
- Obtain the family's signature on the PBV Program Statement of Family Responsibility, maintain a copy for the tenant file, and provide a copy to the family
- Take appropriate steps to ensure effective communication in conducting briefings and in providing written information for persons with disabilities

Section 3: Filling Vacancies

- Take reasonable steps to ensure meaningful access to the housing by persons with limited English proficiency
- (Optional) Provide the family with lead-based paint hazard information if the housing was built prior to 1978 except for zero-bedroom dwellings, or housing designated for the elderly or persons with disabilities (unless a child less than six is expected to live such designated housing).

Section 4 Leases

LEASE REQUIREMENTS

24 CFR 983.256

A PHA may review the owner's lease to determine that it complies with HUD, and state and local laws. A PHA may reject the lease if it does not comply. The lease must specify:

- Name of owner and tenant
- Unit rented
- Term of the lease (initial and renewal)
- Amount of tenant rent to owner
- Specification of what services, maintenance, equipment, and utilities are provided by the owner
- Amount of charges for food, furniture, or supportive services
 - Charges for food, furniture, and supportive services are not grounds for termination of assistance with one exception. In assisted living developments, nonpayment of such charges may be grounds for termination of assistance.

LEASE TERM

The initial lease term must be for at least one year and may not begin prior to the PBV HAP contract execution date. Unlike in the HCV program, the initial term of the lease agreement is not tied to the HAP contract.

TENANCY ADDENDUM

Form HUD-52530c

In addition, the PHA must prepare a PBV tenancy addendum for execution by each family and owner. The PHA may use form HUD-52530c, Tenancy Addendum Section 8 Project-based Voucher Program, or a PHA document that includes the addendum language word-for-word. The terms of the tenancy addendum prevail over other provisions of the lease.

The Addendum provides the:

- Names of family members authorized to live in the unit
- Identification of the unit rented (address and apartment number)
- The term of the lease
- Initial term and end of initial term
- Amount of the initial contract rent, HAP payment, and tenant rent, and a provision that it is subject to change in accordance with HUD requirements
- Utilities and appliances to be provided by owner and tenant

The tenancy addendum reiterates owner and family responsibilities that are in the HAP contract and Statement of Family Responsibility such as the reasonable rent requirements, advance approval by PHA of lease changes and allocation of utility and appliance responsibilities, and tenant absence from the unit.

In July 2019, HUD released an updated version of the PBV tenancy addendum to bring the form current with all recent guidance and regulatory requirements. The updated form must be used for all new tenancies. For existing tenancies, the PHA must ensure that the updated form is executed no later than the family's next annual reexamination.

PBV STATEMENT OF FAMILY RESPONSIBILITY

Form HUD-52578b

Each family must sign a PBV Statement of Family Responsibility before leasing a PBV unit. This form also informs families of their right to move. By signing this form, the family is obligated to:

- Supply any information required by the PHA or HUD to determine eligibility and rent, e.g., social security numbers, evidence of citizenship and eligible immigration status, and income
- Notify and provide information regarding family absence from the unit for an extended time
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice
- Notify the PHA and the owner in writing before moving out of the unit or terminating the lease
- Use the unit as the sole residence by eligible family members only
- Promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child
- Request PHA written approval to add any other family member
- Promptly notify the PHA in writing if any family member no longer lives in the unit
- Give the PHA a copy of any owner eviction notice
- Pay utility bills or provide working appliances that are the family's responsibility
- Not own or have any interest in the unit
- Not commit any serious or repeated violation of the lease
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with the program
- Not engage in drug-related, violent, or other criminal activity or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of other residents and persons
- Not sublease or let the unit, or assign the lease or transfer the unit
- Not receive project-based voucher assistance while receiving another housing subsidy

- Not reside in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the family; unless the PHA has determined that it is acceptable as a reasonable accommodation for a family member who is a person with disabilities
- Not damage the unit or allow guests to damage the unit

Form HUD 52578-B was updated in July 2019. As with the updated tenancy addendum, the updated form must be used for all new tenancies. For existing tenancies, the PHA must ensure that the updated form is executed no later than the family's next annual reexamination.

SECURITY DEPOSITS

24 CFR 983.258

The owner may collect a security deposit from the tenant. The PHA's administrative plan may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of a PBV-assisted unit the owner may, subject to state and local law, use the security deposit, including any interest accrued on the deposit, in accordance with the lease, as reimbursement for any unpaid rent, damages to the unit, or other amounts owed by the tenant under the lease.

The PHA does not have a liability to the owner for amounts owed by the family to the owner.

Section 5 Inspections

PRE-HAP CONTRACT INSPECTIONS

24 CFR 983.103(b)

The PHA must inspect each contract unit before execution of the HAP contract. Unless optional changes under HOTMA are adopted, the PHA may not enter into a HAP contract covering a unit until the unit fully complies with the HQS.

ANNUAL/BIENNIAL INSPECTIONS

*24 CFR 983.103(d),
FR Notice 6/25/14,
FR Notice 2/2/20*

Within 24 months of the contract anniversary date, the PHA must inspect a representative sample of 20 percent of the assisted units in each building in the development for compliance with Housing Quality Standards (HQS). PHAs still have the option to inspect every unit annually.

If more than 20 percent of the inspected units in a building have failed the inspection, the PHA must inspect 100 percent of the units in that building.

Small rural PHAs (i.e., PHAs administering fewer than 550 combined vouchers and public housing units operating in a rural area as defined in the notice) have the flexibility to conduct inspections at least once every three years, or triennially, rather than biennially.

For the PBV program, the inspection includes the property as a whole, including common areas as well as the contract units. Best practice is to schedule the inspections 90-120 days before the contract anniversary to not only meet the inspection requirement, but also ensure completion of repairs, the failure of which could inhibit a rent increase request by the owner.

Inspectors must use the HUD inspection form the HUD HQS Inspection Forms 52580 (short-form) or 52580A (long-form), or an electronic format that includes all HQS rating criteria. Further, it is preferable to have an owner's representative and/or a maintenance person available who can make repairs during the inspection process.

HUD rules are silent on inspection notification requirements. Consistent with practices for public housing and other multifamily housing programs, a best practice is to make the owner responsible for notifying families of annual/biennial inspections. The PHA may also notify families, but the primary notification responsibility generally rests with the property owner.

HQS CHANGES UNDER HOTMA

Under the Housing Opportunity through Modernization Act of 2016 (HOTMA), PHAs may choose to approve occupancy and execution of a PBV lease and make payments for units that fail the initial HQS inspection if deficiencies are not “life threatening.”

- Life-threatening is defined in the HOTMA implementation guidance, published in the Federal Register, January 18, 2017, and further clarified in Notice PIH 2017-20.

PHAs may opt into this provision for either all or a portion of initial inspections.

- PHAs exercising this option must amend their administrative plans
- PHAs must use the newly adopted list of life-threatening conditions in ongoing all HQS inspections and enforcement activities even if adopting the provision for only a portion of initial inspections

There is a 30-day timeline for correcting “fail” items under this option.

- After notification to the owner

HAP must be withheld if the unit cannot pass HQS after 30 days.

- The maximum abatement period is determined by PHA policy but cannot exceed 180 days

PHAs may also choose to permit occupancy prior to HQS inspection if the unit has passed an “alternative inspection” within the last 24 months.

- E.g., HOME, tax credit, and HUD inspections (provided the PHA is able to obtain results from the inspection)
- HUD approval would be required for other alternatives

PHAs that adopt either of these two optional policies under HOTMA must notify owners and families.

- A list of life-threatening deficiencies must be provided to the family.

PHAs must also notify HUD at least 30 days before adopting such policies.

Specific requirements apply depending on whether the PHA adopts one or both of the above provisions. Further guidance can be found in Notice PIH 2017-20.

ALTERNATIVE INSPECTIONS

As with the Housing Choice Voucher program, the owner must make required repairs within 24 hours for exigent health and safety violations and 30 days (or a PHA-approved extension) for other violations. If the damage is tenant-caused, the owner must work with the tenant to correct the conditions. Even when the damage is tenant-caused, the owner must ensure the repairs are made within the corrective action timeframes.

If a participant or government official reports a life-threatening condition, the PHA must inspect the unit within 24 hours. Life-threatening conditions are those which the PHA would require the owner to correct within 24 hours.

For properties that are subject to review by a State Housing Finance Agency, a PHA may coordinate the inspections and perform a conjoint review with the funding agency. Doing so reduces confusion and the inconvenience to residents who might otherwise be required to make their unit available for inspection multiple times.

The current HUD regulations allow PHAs to rely on alternative inspection methods such as those performed by HUD or conducted for other housing programs such as the HOME or the low-income housing tax credit (LIHTC) programs. The PHA has the option in a mixed-finance property that is assisted under the PBV program and is also financed under a federal, state, and/or local housing program to rely on inspections conducted using alternative inspection methods that happen no less than triennially (both LIHTC and HOME units are inspected by the state allocating agency/participating jurisdiction (PJ) at least once every three years).

If the PHA relies on alternative inspections, the PHA must obtain inspection reports and other data from the entity conducting the inspection within five business days of the inspection. Reports must be available for HUD inspection for at least three years from the date of the latest inspection.

The PHA must identify the alternative standard to be used in the administrative plan and, if the PHA is using an inspection standard other than those used under LIHTC, HOME or one performed by HUD, the PHA must first submit a certification to the local HUD Field Office. Inspections under the HOME or LIHTC program, as well as inspections performed by HUD may be relied on provided the property receives a passing score. If the property receives a failing score, the PHA may not rely on the inspection and must conduct its own HQS inspection. Since the LIHTC program does not use a pass/fail methodology, the PHA must review the list of deficiencies to determine whether the cited deficiencies would result in a failing score under HQS. If so, the PHA must conduct an HQS inspection within a reasonable period of time. Inspection reports must be retained for at least three years.

We recommend that the PHA develop a summary of the individual inspection reports that can be compared with past and future inspection results.

REINSPECTIONS, TURNOVER, COMPLAINT, AND SUPERVISORY INSPECTIONS

A PHA must perform follow-up reinspections to units that do not meet HQS. In addition, a PHA must perform turnover and complaint inspections.

Unlike the tenant-based voucher program, the inspection of the turnover units is not triggered by a request for tenancy approval (RFTA). Instead, the units may be inspected upon the owner's notification to the PHA that the unit is ready for occupancy. It is important to perform these inspections quickly to reduce vacancy loss to the owner, reduce the PHA's liability for vacancy loss payments, maintain high lease-up rates for the property, and for the PHA score under SEMAP.

The PHA must inspect the unit within 15 days of receiving notification from the owner or family. For complaint inspections, it is important for the PHA to determine if the family or other party registering the complaint has informed the owner and if the owner has failed to respond. Sometimes a phone call to the owner will result in repairs being made to both the family and owner's satisfaction. Other times, the family may not have notified the owner of the repair needs or is making the complaint inspections serve as a means of getting the PHA involved in owner-tenant disputes or pending eviction actions. In any event, a PHA should establish policies and procedures for the handling of complaint inspections that will save administrative time and costs while ensuring that the units meet HQS.

A PHA must perform supervisory (quality control) inspections on a sample number of units in the PHA's HCV program. PBV units should be included in the PHA's sample.

*24 CFR 982.405(f), Notice PIH
2016-05*

REINSPECTION FEES

The PHA may not charge the owner for inspections prior to the initial term of the lease or for the first annual or biennial inspection. The PHA may establish a policy for charging the owner a reasonable fee for failed reinspections in two situations:

- If the owner notifies the PHA that repairs have been made, but the previously identified deficiencies have not been corrected
- If the time allowed for repairs has elapsed and the deficiencies have not been corrected.

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.

The PHA must also ensure that such a fee is not prohibited by state or local law.

In the case of PHA-owned units, for any inspection performed by a HUD-approved entity other than the PHA, the details of any reinspection fee must be spelled out in the contractual agreement between the PHA and the entity.

INSPECTION OF PHA-OWNED UNITS

*24 CFR 983.59 and 983.103(f),
PIH 2010-15*

An independent entity must perform all initial and subsequent inspections including pre-selection, pre-HAP contract, turnover, annual/biennial and other inspections such as complaint inspections. The independent entity must immediately notify the PHA of any deficiencies and must report findings for all inspections to the PHA and the local HUD Field Office. If the family contacts the PHA with a complaint, the PHA must receive the complaint, inform the independent entity of the complaint, and provide the family with contact information for the independent entity who must conduct the complaint inspection. When HQS violations are noted, the independent entity must conduct follow-up inspections to determine if the PHA has corrected violations. If the independent entity has tried to resolve HQS deficiencies with the PHA, but the PHA has not taken necessary action, the independent entity must contact the local HUD Field Office, in which case, HUD will intervene.

Section 6 Reexaminations

ANNUAL REEXAMINATIONS

Annual reexaminations for PBV families are conducted by the PHA, in accordance with the PHA's administrative plan. The HCV regulations at 24 CFR Part 982 apply for verification at annual and interim recertification.

The PHA must complete the annual reexamination at least 30 days prior to the anniversary date of the initial move-in date, and in subsequent years, at least 30 days prior to the annual reexamination anniversary date. Reexaminations may be conducted in-person or remotely under certain circumstances, depending on PHA policy.

For efficiency and convenience for families, some PHAs perform annual reexaminations at the PBV property site, align reexamination dates with those required by other funding providers, or request the owner to seek authorization for other funders to realign family reexamination dates to be the same as those of the PHA. Especially in the case of supportive housing and subject to privacy restrictions, PHA staff should work closely with the managers and service providers who may assist families to obtain required information.

Moreover, a PHA may consider alternative annual family reexamination anniversary dates requested by an owner. For example, in properties for the elderly and/or the disabled, a PHA may consider basing the recertification anniversary date on the date for social security cost of living adjustments or other assistance programs. Another example is that for coordination purposes, owners may request that the PHA set the reexamination anniversary date for all tenants to be the same as the anniversary date of the HAP contract for the property. Of course, a PHA should specify any provision for alternative reexamination anniversary dates in its administrative plan.

Section 6: Reexaminations

CFR 982.516

The PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third-party verification was not available:

- Reported family annual income
- The value of assets
- Expenses related to deductions from annual income
- Other factors that affect the determination of adjusted income

The PHA may establish policies for streamlining the verification process for assets and/or for fixed sources of income.

- For families with assets valued at \$5,000 or less, the PHA may accept self-certification of the value of and expected income from assets.
- For fixed sources of income, such as Social Security benefits and pensions, PHAs opting for streamlining verification policies would use a published cost of living adjustment (COLA) to determine income.
- In both cases, third-party verification must be obtained at admission and at least once every three years thereafter.
- Streamlining policies are optional. PHAs may instead require third-party verification at each annual reexamination.

The PHA must establish procedures that are appropriate and necessary to assure that income data provided by families is complete and accurate.

INTERIM REEXAMINATIONS

CFR 982.516

- Interim examinations must be conducted in accordance with policies in the PHA administrative plan.
- The PHA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition.
- At any time, the PHA may conduct an interim reexamination of family income and composition.
- At any time, the family may request an interim determination of family income or composition because of any changes since the last determination.
 - The PHA must make the interim determination within a reasonable time after the family request.
- While regulations no longer require the PHA to conduct an interim reexamination to add a new member to an assisted family, the PHA must determine eligibility for the new member.
 - An individual being added to the family is considered a program applicant, and is therefore subject to all applicant requirements, such as:
 - Signing consent forms,
 - Disclosing and verifying social security numbers,
 - Submitting evidence of citizenship or eligible immigration status requirements,
 - Criminal background checks.
- The PHA must adopt policies stating how to determine the effective date of a change in the housing assistance payment resulting from an interim redetermination.

*CFR 982.551 and
CFR 982.552*

Failure to report required changes or to supply any information requested by the PHA for use in an interim reexamination of family income and composition is grounds for termination of assistance

RENT CHANGES

24 CFR 983.353

A PHA must notify families and owners when tenant rent changes as a result of any reexamination. The PHA's notice should contain any new amounts and effective dates of the contract rent, utility allowance, and tenant rent payable to the owner. When the tenant rent changes because of a reexamination, the notice must mention the family's opportunity for an informal hearing. PHA policy states when tenant rent changes are effective. Any changes in the total tenant payment (TTP) and tenant rent will be effective on the date stated in the PHA notice to the family and owner.

Generally, a contract rent change does not affect the tenant rent. However, any associated utility allowance change does affect the tenant rent.

A PHA may change the family's utility allowance to reflect any revised utility allowance schedule when the contract rent changes, or it may change the utility allowance at the time of the family's annual reexamination of income. How a PHA treats changes in the utility allowance should be stated in the PHA's administrative plan.

Section 7 Moves

24 CFR 983.352

If a family assisted under the PBV program moves out of the unit, the owner must notify the PHA in accordance with timely notification requirements in the administrative plan. The owner may keep the housing assistance payment for the calendar month when the family moves out unless the owner is responsible for causing the vacancy. An example of the owner causing a vacancy is refusal to make repairs the unit.

If the owner is responsible for a vacancy, the owner is not entitled to the HAP payment for the remainder of the month after the family vacates. The PHA may offset the repayment amount against the next month's and future PBV HAP payments to the owner. If an offset is not possible, the PHA may require the owner to repay the amount in accordance with the policies in the PHA administrative plan.

FAMILY RIGHT TO MOVE

24 CFR 983.260

A family may request a tenant-based voucher after one year of occupancy at the property if the family continues to reside at the property. In other words, if a family moves from the property before requesting, they are not entitled to a tenant-based voucher. To trigger the right to move, the family must give the owner advance written notice of intent to vacate (with a copy to the PHA) in accordance with the lease. In order to preserve their tenancy at a PBV property and their right to move, families must contact the PHA to see if a voucher is available prior to giving notice to the owner. The PHA must provide the voucher if one is available or provide the next available voucher to such a family. If more than one PBV family is requesting a voucher, the PHA should maintain a "mobility" list by date and time of the families' requests. The PHA must issue vouchers to the PBV families as they become available.

WRONG SIZE OR ACCESSIBLE UNITS

24 CFR 983.260

The PHA has several options if the unit size is inappropriate or if the family is occupying a unit with accessibility features that the family does not need (and another family does need the accessible features). A determination of “wrong size unit” is based upon the PHA’s existing subsidy standards.

In this situation, the PHA must offer the family continued assistance in another unit. Continued housing assistance can be offered as either tenant-based rental assistance under the voucher program or another form of continued housing assistance. Other forms of continued housing assistance include:

- PBV assistance in an appropriate-sized unit (in the same project or in another project);
- Other project-based housing assistance, such as public housing; or
- Other comparable public or private tenant-based assistance.

If the PHA offers the family tenant-based rental assistance under the voucher program, the PHA must terminate the PBV HAP payments for the overcrowded, under-occupied or accessible unit at the earlier of the following two dates:

- The expiration of the term of the family’s tenant-based voucher (including any extensions granted); or
- The date upon which the family vacates the unit.

If the family fails to move out of the overcrowded, under-occupied or accessible unit by the earlier of the dates above, the PHA must remove the unit from the PBV HAP contract.

If the PHA offers the family another form of continued housing assistance, other than tenant-based rental assistance under the voucher program, and the family does not accept the PHA’s offer, or does not move out of the PBV unit within a reasonable time (as determined by the PHA) or both, the PHA must terminate the PBV HAP payments for the overcrowded, under-occupied or accessible unit at the expiration of the reasonable period and must remove the unit from the PBV HAP contract.

Section 8 Terminations

PHA TERMINATION OF OVER-INCOME FAMILIES

24 CFR 983.211

Similar to the tenant-based voucher program, if upon reexamination, the PHA has determined that a family's tenant rent equals the full contract rent to the owner, the family pays the full contract rent to the owner. In the PBV program, the PHA must remove the over-income family's unit from the PBV HAP contract 180 days following the last housing assistance payment paid to the owner on behalf of the family. In such cases, the PHA may approve the substitution of the unit with a comparable unit in the property for occupancy by another eligible family in need. In addition, if the family has resided in a PBV unit for one year, then the PHA may issue a housing choice voucher to the family to move to another unit for which there will be HAP. In fully assisted projects, the PHA may reinstate the unit to the HAP contract once the ineligible family moves out.

PHA TERMINATIONS FOR NONCOMPLIANCE WITH PROGRAM RULES

A PHA may terminate a family from the PBV program that violates the family obligations. Prior to doing so, the PHA must notify the family of its proposed action and give them an opportunity to appeal the proposed action via an informal hearing.

The informal hearing is an administrative "fair hearing" conducted in accordance with due process standards. A fair hearing means the family requesting the appeal has:

24 CFR 982.551 to 982.553

- An opportunity to be heard
- The right to confront witnesses (cross-examination)
- The right to representation
- An impartial decision-maker
- A decision based only on the evidence presented at the hearing (no contacts with the hearing officer outside the hearing about the case)
- A decision that includes the reasons and evidence relied on

If the PHA decides to terminate the family, the PHA's action alone does not result in an eviction. An owner must evict a family in a local court of law for violation of its lease.

TERMINATION OF TENANCY AND EVICTIONS

24 CFR 983.256(f)(2)

The lease must provide for automatic renewal after the initial term of the lease. The lease may provide either:

- For automatic renewal for successive, definite terms. In other words, year-to-year or month-to-month; or
- For automatic indefinite extension of the lease term

24 CFR 983.256(f)(3)

The term of the lease automatically terminates if any of the following occurs:

- The owner terminates the lease for good cause;
- The tenant terminates the lease;
- The owner and the tenant agree to terminate the lease;
- The PHA terminates the PBV HAP contract; or
- The PHA terminates assistance for the family.

24 CFR 983.257(c)

An owner may evict a family for violation of the lease through court action. The owner may pursue eviction through a judicial court for noncompliance with their lease. If the owner evicts the tenant for a serious, repeated violation of the lease, the PHA must terminate the family from the PBV program. Informal hearing requirements apply.

EXEMPT UNIT TERMINATIONS

24 CFR 983.262

With PHA approval, families that initially qualified for occupancy based on elderly, or disabled family status in the case of pre-HOTMA PBV HAP contracts, may continue to reside in an excepted unit when circumstances beyond the family's control (such as death or long-term or permanent hospitalization or nursing care) lead to the elderly or disabled family member no longer residing in the unit. In this instance, once the family vacates the unit, the unit must be made available to and occupied by a qualifying family in order to continue as an excepted unit. Otherwise, the PHA may require the family to move. The regulations state that the PHA must determine a "reasonable period" in which a family must move out of a PBV unit when they no longer meet the definition of qualifying family.

EXEMPT UNIT TERMINATIONS (HAP CONTRACT FIRST EFFECTIVE ON OR AFTER 4/18/17)

*FR Notices 1/18/17 and
7/14/17, Notice PIH 2017-21*

If a family chooses to participate in a supportive service and completes the objective, the unit continues to count as an excepted unit for as long as the family resides in the unit even though the family is no longer eligible for the service.

However, if the family is no longer eligible for the supportive services for any reason other than successfully completing the objective, the unit will no longer be considered an excepted unit. The family must be ineligible for all supportive services made available at the project in order for this to apply. The PHA may reduce the number of excepted units, substitute the unit for a non-excepted unit, or temporarily remove the unit from the HAP contract and provide the family with a tenant-based voucher.

- HUD encourages PHAs to consider how the structure of their supportive services package may impact a family's continued eligibility for the supportive services and the unit's excepted status. Examples and strategies are provided in Notice PIH 2017-21.

Section 9

Chapter 9 Post Test

1. PBV units must be inspected:
 - a. Annually
 - b. Biennially
 - c. Annually or biennially depending on PHA policy
2. Vacancy payments are _____ for the PHA.
 - a. Mandatory
 - b. Optional
3. If the PHA does not have available vouchers to issue to PBV families wishing to move they must:
 - a. Deny all requests for tenant-based assistance
 - b. Establish a mobility waiting list and issue to families in order of request
 - c. Terminate the family
 - d. None of the above
4. Who collects the security deposit?
 - a. The PHA
 - b. The owner
5. If a unit is PHA-owned, the PHA may conduct pre-HAP contract inspections but may not conduct annual/biennial inspections themselves.
 - a. True
 - b. False
6. The PHA may perform annual reexams for the PBV program in the same way as it does for the HCV program or may perform them onsite or aligned with dates for other funders.
 - a. True
 - b. False
7. Contract rent changes are processed at the time of each family's income reexamination.
 - a. True
 - b. False

Section 9: Chapter 9 Post Test

8. When are briefings conducted in the PBV program?
 - a. When the family applies for assistance
 - b. When the family is pulled from the waiting list
 - c. After the family is determine eligible and selected
9. PHA policy says when a change as a result of an interim reexam is effective.
 - a. True
 - b. False
10. The initial lease term is:
 - a. One year
 - b. 6 months
 - c. At the discretion of the owner

Notes

CHAPTER 10 Public Housing Repositioning and Blended Occupancy

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Explain at an introductory level the basics of the rental assistance demonstration (RAD) program
- Distinguish between the RAD PBV program and the regular PBV program
- Understand other types of public housing repositioning such as demolition/disposition and streamlined voluntary conversions
- Identify some basic requirements for working with combined funding/blended occupancy properties

OVERVIEW

According to a 2011 HUD analysis, it would take about \$26 billion to repair public housing developments that provide shelter for over two million residents. Meanwhile the federal budget for housing assistance fell by over six percent or \$2.5 billion between 2010 and 2012. Given inflation, little financial improvement is expected in the near future.

Today, funding for development, preservation, and maintenance of affordable housing requires strong public, private, and community partnerships. Funding is not available from one single source for rent subsidies, new construction, rehabilitation, repairs, and replacement of major fixtures and equipment such as roofs, windows, heating and cooling systems, gutters, and plumbing systems that have reached the end of their useful lives. Each funding source may have different regulatory and administrative requirements.

Section 1: Learning Outcomes and Overview

HUD has made various strategies available to public housing agencies (PHAs) to reposition public housing developments. This change can help PHAs preserve affordable housing units, address rehabilitation and physical needs, and place properties on a more stable financial foundation. The PBV program has become an increasingly important tool for PHAs who are attempting to convert their public housing to Section 8 for long-term preservation purposes. Repositioning options that allow PHAs to move units from the public housing to the PBV platform include:

- Rental Assistance Demonstration (RAD) program;
- Section 18 Demolition/Disposition;
- Streamlined Voluntary Conversion; and
- Section 32 Homeownership Program

Frequently, project-based voucher properties have multiple sources of funding. Consequently, successful administration and management of the PBV program requires a working knowledge of an intricate regulatory labyrinth.

Leveraging Section

A Guide to Public Housing Repositioning

How does converting Public Housing funding to a Section 8 contract rent allow a PHA to leverage private debt?

A property under a Section 8 contract approaches the repair and replacement of capital needs in fundamentally different ways from a property under Public Housing. In the Public Housing program, PHAs rely on direct Federal grants through the Public Housing Capital Fund and allocate that pot of funds across their Public Housing stock through capital planning across a portfolio.

An owner of property under a Section 8 contract analyzes the capital needs of the property, establishes and funds a capital replacement reserve from project revenue, and draws down from these funds for routine repairs and replacements. Periodically, the owner also accesses debt, equity, and other conventionally available capital sources to make more significant improvements to the property, modernizing it for the next 10-20 years. Debt is tied to the specific property and repayment of the debt is supported by the property's revenue.

The HAP contract establishes a "contract rent" that is the revenue the owner will receive through a combination of tenant rents and housing assistance payments. The contract rent remains constant: If tenant rents go down in any year, the HAP subsidy goes up. If tenant rents rise, the HAP subsidy goes down. The Section 8 contract provides a reliable, consistent source of revenue for the property to support its expenses, replacement reserve deposits, and debt service.

These contract rents form a reliable and steady source of revenue that affordable housing lenders and investors can underwrite when financing capital investments. Combined with significantly fewer restrictions on third party liens than in the Public Housing Program, properties under a Section 8 contract have readily and safely accessed commonly available debt and equity products for decades.

The fundamental question for any PHA assessing repositioning options and attempting to preserve or redevelop a property is whether the Section 8 contract rents are enough for the property to cover operating expenses, make deposits to a replacement reserve, and support any upfront financing needed to bring the property into good physical condition.

Section 2 The Rental Assistance Demonstration Program

WHAT IS THE RENTAL ASSISTANCE DEMONSTRATION PROGRAM?

RAD is intended to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance (note, all Rent Supplement properties and Rental Assistance Payments (RAP) programs have now been fully converted under RAD). The program's objectives are to preserve and improve public and other assisted housing and promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs and residents will have increased housing choice.

In order to participate in the RAD program, a PHA must submit an application to HUD. To be eligible, the PHA must be classified as a standard or high performer under the Public Housing Assessment System (PHAS) or Section 8 Management Assessment Program (SEMAP).

- If classified as “troubled,” the PHA may still be eligible, but it must be making substantial progress under its recovery agreement, action plan, corrective action plan (CAP), or memorandum of agreement (MOA), and HUD must have determined that the factors resulting in the PHA’s troubled status will not affect its capacity to carry out a successful RAD conversion. HUD must have determined that the factors resulting in the PHA’s troubled status will not affect its capacity to carry out a successful conversion under this demonstration.

Section 2: The Rental Assistance Demonstration Program

The submission of a RAD application is a significant change to the agency five-year plan. Therefore, a PHA must obtain input from the resident advisory board and take all other mandatory steps to meet agency plan amendment requirements. At the same time, a PHA must submit any required amendments to its administrative plan and admissions and continued occupancy policy. HUD provides a checklist for RAD-Specific Significant Amendment Submissions as Attachment 1D of Notice PIH 2019-23. In October 2014, HUD published a “quick reference guide” for projects converting to PBV under RAD. The guide’s primary purpose is to specify PBV requirements that differ under RAD conversions.

The PHA can select one of two major sub-programs under RAD: project-based rental assistance (PBRA) and project-based vouchers (PBVs). HUD’s Office of Multifamily Housing Programs administers the PBRA component, whereas HUD’s Office of Public and Indian Housing administers the PBV component. As is true with many new programs, the details for RAD are evolving. Keep your ears pricked, as HUD will be providing a lot more guidance as we begin implementation of this exciting demonstration.

DEFINITIONS FOR THE RAD PROGRAM

Notice PIH 2019-23

For the purpose of this training session, the partial list of definitions below focuses on terms that are used in the administration of the RAD program. Definitions pertaining to conversion, construction, rehabilitation, and financing are not discussed in this training and not included in this section.

Commitment to Enter into a HAP Contract (CHAP): The selection notification from HUD that includes the HUD-approved terms and conditions for conversion of assistance and lays out milestones that a PHA must meet prior to the execution of the RAD PBV HAP contract. A project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing, even in cases where the conversion will entail only modest repairs.

Choice–Mobility: For residents of RAD projects, the option to obtain a housing choice (tenant-based) voucher from a PHA after a defined period of residency.

Contract Administrator: HUD or a PHA that executes a HAP contract with a project owner or to which HUD assigns the HAP contract and is responsible for monitoring and reporting to HUD on activities related to the HAP contract.

Family Self-Sufficiency (FSS) Funding and Program: HUD funding for PHAs to hire a program coordinator who links residents with training opportunities, job placement organizations, and local employers. Residents enter into a five-year contract of participation that outlines goals related to seeking, obtaining, and maintaining employment. During the period of participation, residents may earn an escrow credit, based on increased earned income.

Mixed-Finance Project: A public housing project that has been developed with a combination of private financing and public housing development funds.

Operating Cost Adjustment Factor (OCAF): An operating cost adjustment factor established by HUD that is applied to the existing contract rent, less the portion of the rent paid for debt service.

Public Housing Assessment System (PHAS): The system used to measure the performance of PHAs administering the public housing program.

Project-Based Rental Assistance (PBRA): Rental assistance under Section 8(C) of the Act provided by HUD to owners according to the terms of a HAP contract for the provision of housing to eligible tenants. The PBRA program is administered by HUD's Office of Housing.

RAD Conversion Commitment (RCC): The contract executed by HUD, the PHA and, as applicable, the post-conversion project owner. The RCC follows HUD approval of the financing plan and describes the terms and conditions of the conversion.

RAD Use Agreement (HUD-52625): The document specifying the affordability and use restriction on the covered project, which will be coterminous with the HAP contract and must be recorded in a superior position to any new or existing financing or other encumbrances on the project.

Resident Opportunity and Self-Sufficiency Service

Coordinators (ROSS-SC): HUD grants funding to hire and maintain service coordinators who assess the needs of residents of conventional public housing and coordinate available resources in the community to meet those needs. These services should enable participating families to make progress toward achieving economic independence and housing self-sufficiency, or, in the case of elderly or disabled residents, help improve living conditions and enable residents to age in place.

FINANCING SOURCES FOR RAD CONVERSIONS

Properties converting to PBRA or PBVs under the RAD program may involve a multitude of layers of financing such as:

- Public housing program funds
- FHA Section 223(f) mortgage insurance
- FHA Section 221(d)(4) construction and permanent loan with FHA-insurance
- Community development block grant
- HOME (HOME investment partnership program)
- Low -income housing tax credits (LIHTC)

For each conversion property with multiple financing sources, it is a good idea for PHAs to outline the overlapping regulatory requirements that must be followed for each property.

REQUIREMENTS FOR RAD PBVs

INCOME LIMITS

Income limits for new admissions are 50 percent or 80 percent of AMI as stated in the PHA's administrative plan. Income limits do not apply to in-place residents at the time of conversion.

WAITING LIST

Notice PIH 2019-23

For PBV RAD conversions, PHAs must follow the requirements at 24 CFR 983.251 for establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the covered project will be admitted.

- These provisions will apply unless the project is covered by a remedial order or agreement specifying the type of waiting list and other waiting list policies.

PHAs must consider the best measures by which to transition applicants from the current public housing waiting list, including:

- Transferring an existing site-based waiting list to a new site-based waiting list.
- Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

Section 2: The Rental Assistance Demonstration Program

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the covered project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD.

A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).

- Note: For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

Be aware that PHAs must always maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

To facilitate the uniform treatment of residents and units at covered projects, any non-RAD PBV units located in the same project are subject to the same terms of this provision.

See Notice PIH 2019-23, Section 1.6.D.4. for further details on waiting list provisions under RAD PBV conversions.

MANDATORY INSURANCE COVERAGE

Public housing properties must maintain adequate property and liability insurance to protect the project from financial loss and promptly restore, reconstruct, and repair any damaged or destroyed project property.

RIGHTS OF EXISTING TENANTS IN RAD CONVERSIONS

Notice PIH 2019-23

As a guiding principle, PHAs and property owners may NOT permanently displace or relocate any households or subject them to an immediate rent increase as a result of the conversion. Many of the provisions of the RAD notice also apply to non-RAD PBV units in the project. See Notice PIH 2019-23 for more details.

When Total Tenant Payment Exceeds Contract Rent.

Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP contract only if the unit's occupants are eligible for housing assistance payments. Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit. Since the rent limitation under RAD regulations may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the converting project prior to conversion and who will return to the covered project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP contract when TTP equals or exceeds the gross rent. Further, HUD is establishing the alternative requirement for RAD PBV conversions that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of:

- The family's TTP, less the utility allowance, or

Section 2: The Rental Assistance Demonstration Program

- Any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules will apply.

For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. The lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease.

- **Earned Income Disregard.** Public housing tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in. Instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. To facilitate the uniform treatment of residents and units at covered projects, any non-RAD PBV units located in the same project are subject to the same terms of this provision.
- **Tenant Screening.** Existing tenants are grandfathered into the RAD program. A PHA may NOT rescreen such tenants upon conversion to RAD PBVs. However, families in properties converting from rental assistance payments must meet low-income eligibility criteria. To facilitate the uniform treatment of residents and units at covered projects, any non-RAD PBV units located in the same project are subject to the same terms of this provision.
- **Right to Return.** Tenants who are relocated from the property have a right to return when rehabilitation is completed. To facilitate the uniform treatment of residents and units at covered projects, any non-RAD PBV units located in the same project are subject to the same terms of this provision.
- **Phase-In of Rent Increases for Public Housing Conversions.** If the amount a tenant would pay for rent and utilities would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase must be phased in over a period of three to five years. A PHA must create a policy setting the length of the phase-in period and must notify affected tenants in writing.

*24 CFR Part 245 and PIH
Notice 2016-17*

- **Under-Occupied Units.** If a family is in an under-occupied unit at the time of conversion, the family may receive PBV assistance and remain in their unit. When an appropriate-sized unit becomes available at the property, the family must move within a reasonable period of time. To facilitate the uniform treatment of residents and units at covered projects, any non-RAD PBV units located in the same project are subject to the same terms of this provision.

RESIDENT ORGANIZATIONS

*Notice PIH 2019-23
24 CFR Part 245*

Residents of public housing units that are converted to PBV have the right to establish and operate a resident organization for addressing issues related to their living environment and be eligible for resident participation funding.

Project owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit per year must be made available to “legitimate” resident organizations at the covered property. A “legitimate” resident organization is one that meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the project owner, management, and their representatives.

The project owner must make resident participation funds available to residents for organizing activities. Residents must make requests for these funds in writing to the project owner and the requests are subject to approval by the project owner.

REVIEW OF PROJECT’S ANNUAL OPERATING BUDGET

The owner must submit to the administering PHA’s board the operating budget for the covered project annually. The PHA’s board must confirm that the project owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the covered project.

FAMILY SELF-SUFFICIENCY PROGRAM

*Notice PIH 2019-23,
Notice PIH 2016-08*

Public housing residents that are currently FSS participants will continue to participate in the PHA's FSS program once their housing is converted under RAD. The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve PH, HCV and/or PBRA participants in its FSS program.

Under the FY 2014 Appropriations Act, the public housing and Housing Choice Voucher FSS programs merged and combined funding streams, and this merger continued into the FY 2015 Appropriations Act. For this reason, no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

PHAs should note that there are certain FSS requirements that still apply differently depending on whether the FSS participant is a public housing resident or participating under the HCV program, and PHAs must follow these requirements accordingly. However, regardless of the program, forfeited escrow account funds must be used for the benefit of FSS participants, as specified at 24 CFR 984.305(f)(2).

All PHAs are required to administer the program in accordance with the FSS regulations at 24 CFR Part 984, the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice published December 29, 2014. For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08.

CURRENT RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY SERVICE COORDINATORS GRANTEES

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants, which, by statute, can only serve public housing residents. At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local Resident Association and this consequence of a RAD conversion may impact those entities.

TERMINATION NOTIFICATION RIGHTS

Public housing properties converted to PBV have termination notice requirements in addition to the regulations at 24 CFR 983.257. The PHA must incorporate these rights into both the Section 8 administrative plan and the owner's lease. The property manager must provide adequate written notice of termination of the lease that may not be less than:

- A reasonable period of time, but not to exceed 30 days if the health or safety of other tenants, project owner, employees, or persons residing in the immediate vicinity of the premises is threatened; or in the event of any drug-related or violent criminal activity or any felony conviction;
- Not less than 14 days in the case of nonpayment of rent; and
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period shall apply.

GRIEVANCE PROCESS

In addition to reasons that require an opportunity for an informal hearing conducted by the PHA/CA per standard PBV rules, an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a project owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD specifies additional requirements that include:

1. An opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a project owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
 - a. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
 - b. For any additional hearings required under RAD, the project owner will perform the hearing.
2. There is no right to an informal hearing for class grievances or to disputes between residents not involving the project owner or contract administrator.
3. The project owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
4. The project owner provides an opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 administrative plan.

RAD PROJECT-BASED VOUCHER PROGRAM

The project-based voucher rules in 24 CFR Part 983 apply to the RAD PBV program, with a few exceptions. HUD makes an additional allocation of vouchers available for PHAs selected for participation in the program, which are designated for project basing. The units do not have to be taken from a PHA's HCV inventory and do not count against the PHA's maximum 20 percent of HCV budget authority for PBV.

Administrative Fees

PHAs earn administrative fees in the same manner as they do for the HCV program. However, administrative fees are not earned until January 1 following the date of the conversion.

RAD RULES THAT VARY FROM REGULAR PBV RULES FOR TENANTS

Initial Contract Rents

For public housing conversions, the initial contract rents cannot exceed the lower of: (1) the reasonable rent, or (2) up to 110 percent of the applicable FMR (or applicable exception payment standard or rent cap approved in an MTW plan), minus any utility allowance, or (3) the rent requested by the owner.

Contract Rent Adjustments

The PHA may adjust the rents on the project's HAP contract anniversary date based on the operating cost adjustment factor (OCAF), published annually in the Federal Register, and subject to the availability of appropriations each year of the contract term. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator. For PHA-owned units, the independent entity must determine the OCAF adjustment.

Rents may not be adjusted below initial rents to owner under the initial HAP contract.

**Excerpt from OCAF published 10/4/2021;
Effective 2/11/22**

Operating Cost Adjustment Factors for 2022	
Alabama	3.1
Alaska	2.5
Arizona	3.0
Arkansas	3.4
California	3.5

RAD Contract Rent Adjustment, Public Housing (RAD-1)s

Contract Rent Adjustment for RAD PBV Public Housing and Moderate Rehabilitation Conversions (Alabama)			
<i>Bedroom Size</i>	<i>1BR</i>	<i>2BR</i>	<i>3BR</i>
Current Contract Rents	\$645	\$745	\$850
Adjusted Rents (OCAF at 3.1%)	\$665	\$768	\$876
Reasonable Rent	\$700	\$780	\$900

For rent decreases, standard PBV rent adjustment rules apply, except the PHA has discretion on limiting rent decreases to the initial contract rent. The PHA must reduce the rent below the initial contract rent to correct errors, comply with subsidy layering requirements, or for changes in the distribution of utility responsibilities. HUD encourages PHAs to consider their individual markets, number of families served, annual budget authority, and factors that may influence funding amounts, and any other local concerns prior to electing to establish the initial contract rent as the rent floor.

Contract Terms

For public housing conversions, the initial contract term is for a minimum of 15 years and up to 20 years.

Additionally, contract renewals are mandatory.

For all other conversions, the contract term may be set from one year up to 20 years at the discretion of the contract administrator.

Limitations

Conversion units do NOT count against the PHA's maximum 20 percent of HCV authorized units for PBV.

For RAD PBV contracts executed on or after January 12, 2017, there is no cap on the number of PBV units in a project. Projects that converted prior to this date are subject to a 50 percent program cap, unless certain exceptions are met.

Choice Mobility (Family Right to Move)

Existing PBV mobility requirements apply. Families may request a voucher to move after 12 months of occupancy in the PBV property, and the PHA must offer the family the opportunity for continued tenant-based rental assistance, either in the form of a voucher or other comparable tenant-based rental assistance.

In order to mitigate the number of a PHA's turnover vouchers used to assist RAD PBV families who wish to exercise mobility, HUD is establishing an alternative requirement where the total number of PBV units under HAP contract exceeds 20 percent of the PHA's authorized units under its HCV ACC, eligible voucher agencies would then not be required to provide more than three-quarters of their turnover vouchers in a single year to residents of covered projects.

- This provision, which HUD is providing at 24 CFR 983.261(c), is applicable to RAD only.

Floating Units

Notice PIH 2019-23

Upon the request of the owner to the voucher agency, HUD will allow PHA assistance to float among unoccupied units within the project having the same bedroom size.

Units that float are not specifically designated under the HAP contract, meaning that the requirements in 24 CFR 983.203(c) that the HAP contract provide the location and area of each contract unit are waived. Rather, the HPA contract must specify the number and type of units in the property designated as RAD units, including any excepted units.

RAD Program **Differences From Regular PBV Rules**

Topic	PBV Rules	RAD PBV Rule	PBV RAD Regulation Waivers	RAD Citations in Notice PIH 2019-23
Cap on PBV units in a project	The greater of 25 units or 25% of units in a project	REV-2: 50% of units in a project REV-3 & REV-4: No cap	24 CFR § 983.56, as modified by HERA is waived	1.6.B.2
Choice Mobility (Right to Move)	After 12 months of occupancy	PBV rules, except a cap may be implemented	N/A	1.6.D.8
Contract Extension	Optional, up to 20-year extension	Mandatory contract renewals	24 CFR 983.205(b)	1.6.B.2
Contract Format	PBV HAP contract forms	PBV HAP contract with RAD Rider	N/A	RADblast! 11/17/17
Contract Rent Adjustments	Same as initial rents	OCAF on contract anniversary date No decrease below initial contract rent with exceptions	24 CFR §§ 983.301 (as amended by HERA) and 983.302	1.6.B.6.

Topic	PBV Rules	RAD PBV Rule	PBV RAD Regulation Waivers	RAD Citations in Notice PIH 2019-23
Contract Rents– Initial	Except for certain tax credit units, lowest of: (a) reasonable rent; (b) up to 110% of applicable FMR (or exception rent), minus utility allowance; or (c) the rent requested by the owner	Lowest of: (a) current funding; (b) reasonable rent; (c) up to 110% of applicable FMR (or exception rent), minus utility allowance; or (d) rent requested by owner	24 CFR 983.205(a) as modified by HERA	Attachment 1C of Notice PIH 2019-23
Contract Term– Initial	Minimum: 1 year Maximum: 20 years	Minimum: 1 years Maximum: 20 years	24 CFR § 983.205 (a) as modified by HERA	1.6.B.1.
Earned Income Disregard (EID)	Only disabled individuals are eligible	Participating individuals continue EID participation after conversion, even if they are not disabled.	24 CFR §960.255	1.6.C.7.

Topic	PBV Rules	RAD PBV Rule	PBV RAD Regulation Waivers	RAD Citations in Notice PIH 2019-23
Family Self-Sufficiency	PHA may not withhold or terminate assistance if family does not complete FSS contract [24 CFR 984.101(d)].	Continuation of participation in HCV FSS program. PHA must establish a program if one does not exist. Families may not be terminated if they do not complete FSS contract.	FR Notice 12/29/14	1.5.H. 1.6.C.4.
Income Limits	50% or 80% AMI based on admin plan	Do not apply to in-place families For new move-ins, standard PBV rules apply	24 CFR § 982.201	RAD FAQs
Income Targeting (existing tenants only)	75% of new admissions for HCV (including PBV) must be at or below 30% AMI	Does not apply to existing tenants For new move-ins, standard PBV rules apply	24 CFR § 982.201(2) is waived for existing tenants only	1.6.C.1.
Informal Hearing	Same as HCV	Same as HCV Plus evictions and any dispute about resident's rights, obligations, welfare, or status.	24 CFR § 982.555 24 CFR § 982.555(b) is waived in part	1.6.C.7.ii.

Topic	PBV Rules	RAD PBV Rule	PBV RAD Regulation Waivers	RAD Citations in Notice PIH 2019-23
Lease Termination Notices	Notice in accordance with State and local law	<p>Additional requirements for public housing only:</p> <ul style="list-style-type: none"> • 14-day notice for nonpayment of rent • Reasonable period but not more than 30 days for activities that threaten others or for drug related or violent criminal activity and felony convictions <p>30 days or period required by State or local law for other lease violations</p>	24 CFR § 983.257 applies, with additional RAD requirements	1.6.C.7.ii.
Mandatory Insurance Coverage	Flood Insurance required for new construction/rehab properties if in flood zone	Mandatory flood and liability insurance	N/A	1.6.D.5

Topic	PBV Rules	RAD PBV Rule	PBV RAD Regulation Waivers	RAD Citations in Notice PIH 2019-23
Overhoused Existing Tenants	Families must be offered appropriate size unit at project, a comparable assisted unit, or a voucher to move. Family must move within time frame established by PHA	PBV rules	24 CFR §983.259(b)(1)(2) and (c).	
Parties to Contract	PHA and Owner	PBV rules	N/A	
Phase-In of Rent Increases for Existing Tenants	N/A	If at conversion, tenant rent increases more than 10% or \$25, must be phased in over 3 years. PHA may extend to 5 years.	CFR § 983.3 and 983.353(b)(1) waived for this purpose only	1.6.C.3.
Resident Organizations	N/A	PHA must budget \$25 per occupied unit per year, \$15 of which goes to legitimate resident organizations.	N/A	Attachment 1B of Notice PIH 2019-23

Topic	PBV Rules	RAD PBV Rule	PBV RAD Regulation Waivers	RAD Citations in Notice PIH 2019-23
Screening of Existing or In-Place Tenants	PHAs and owner cannot project-base units where existing tenants are over-income. PHA may screen in-place tenants.	No rescreening	24 CFR § 982.201 waived for existing tenants	1.6.C.1. 2.5.F.
Security Deposit	An amount consistent with the private market.	Same as PBV, except for existing tenants, the security deposit paid at move-in transfers and no additional payments are required. If in-place tenants at RAD conversion were not previously required to provide a security deposit, the owner may collect a security deposit at initial lease execution.	N/A	
Special Fees	None	None	N/A	

Topic	PBV Rules	RAD PBV Rule	PBV RAD Regulation Waivers	RAD Citations in Notice PIH 2019-23
TTP Exceeds Contract Rent	If tenant is receiving zero HAP for 180 days, unit must be removed or swapped with another unit in the building. If project is 100% PBV, unit can be placed back on the contract once family moves out.	Existing families are protected from 180-day zero HAP rule. Also, may be admitted with zero HAP. Existing family must pay greater of: <ul style="list-style-type: none"> • TTP minus UA • Max tax credit rent New admissions: standard PBV rules apply unless PHA has waiver to treat all families in the RAD building the same	Section 8(o)(113)(h) and 24 CFR 983.301	1.6.C.9
Vacancy Payments	Optional HAP contract provision: up to monthly rent to owner for up to 2 months if requirements are met.	Same as PBV	N/A	

Section 3 Public Housing Repositioning Through Section 18

OVERVIEW OF SECTION 18 (DEMO/DISPO)

24 CFR 970; Notice PIH 2021-07; A Guide to Public Housing Repositioning

The Section 18 program refers to Section 18 of the United States Housing Act of 1937 which governs HUD approvals for the demolition and disposition of public housing units that meet certain criteria. Demo/dispo removes the public housing units from the PHA's annual contributions contract (AC) and from PIC and allows the PHA to remove the declaration of trust (DOT) from the property. In order to protect existing families, the PHA may then request Tenant Protection Vouchers (TPVs) for any vacant unit occupied by an assisted household within the past 24 months.

In order to reposition public housing units through Section 18, the PHA must apply to HUD's Special Application Center (SAC) which reviews each application to ensure that it meets program requirements. Notice PIH 2021-07 describes seven separate ways that public housing units can qualify under Section 18. They include:

- Obsolescence
- Health and safety
- Infeasible operation
- Scattered sites
- 50 or fewer public housing units
- RAD/Section 18 blends
- More efficient/effective housing
 - Under this option, HUD caps a PHA's TPV eligibility at 25 percent of TPV-eligible units in the project being disposed
 - The actual number of units that the PHA will create is negotiated between the PHA and HUD on a case-by-case basis.

Section 3: Public Housing Repositioning Through Section 18

Under Section 18, the PHA may either issue TPVs to affected households as tenant-based vouchers under the HCV program or project-base the TPVs back into the project to preserve the project as long-term affordable housing. When the PHA project-bases these vouchers, the units are considered standard PBV units and, once leased up, follow the requirements for the standard PBV program. PHAs that do not have their own HCV program will need to partner with a PHA that does have an HCV program to administer the TPVs, since HUD does not authorize PHAs without an existing HCV program to establish one.

As the name implies, in the case of disposition, the units must actually be disposed of, which can be accomplished by transferring the asset to a PHA-related entity for nominal value in order to support affordable housing.

Section 18 also qualifies the PHA for certain phase-out funding under the public housing operating and capital programs.

In many communities (but not all) the TPVs result in rents that are higher than the RAD rents and so many PHAs opt to dispose of units through Section 18 rather than RAD or opt to reposition through a RAD/Section 18 blend. Section 18 differs from the RAD program in the following ways.

There is no provision to protect current tenants who might be over-income or otherwise ineligible for Section 8. All existing public housing residents must be rescreened for Section 8 eligibility in order to receive a TPV or benefit from a PBV. The PHA would use the low-income (80 percent of AMI) to qualify families for the TPV since the family is considered “continually assisted”. Continually assisted means that the family is already receiving assistance under any 1937 Housing Act program when they are admitted to the voucher program.

- If a household is over-income for Section 8, the PHA must find a way other than Section 8 to provide comparable assisted housing.
- There is also no required capital needs assessment (CNA) or submission of a financing plan to HUD.

Section 3: Public Housing Repositioning Through Section 18

- Section 18 does not itself contain a mechanism for the units to become PBV the way RAD does.
 - If a PHA wishes to project-base former public housing units following a Section 18 action, the PHA must follow the standard PBV rules. The PHA sets the terms for what the project will be used for, the number of units to be assisted, or income-mixing.

This link is to the information for the FAQ's on HUD's website:

- https://www.hud.gov/program_offices/public_indian_housing/repositioning/faqs

RAD/SECTION 18 BLENDS

*Notice PIH 2021-07;
RAD/Section 18 (75/25) FAQs*

PHAs are eligible to “blend” PBV assistance through a conversion that combines a RAD conversion for some units in the project with a conversion through Section 18 for others. Units converting under RAD may convert either to PBV or PBRA. The units processed under Section 18 may only result in a PBV contract. Although processed as one transaction, there will be two HAP contracts at closing — a RAD HAP contract for the RAD units (PBRA or PBV) with rents set per standard RAD rules and a separate, standard PBV HAP contract for the units removed through Section 18 with rents set per standard PBV rules.

PHAs may choose a RAD/Section 18 blend because the rents for project-based TPVs converted through Section 18 are often higher than the RAD contract rents. This is because rent setting for the TPV/PBV units follows requirements for the standard PBV program (where rent is often based on 110 percent of FMR) whereas RAD rents are typically based on a calculation using former public housing funding.

- This type of blend may increase the project’s net operating income and increases the amount of debt that the project can support. This also increases the tax credit leverage, assuming it is also a leveraged transaction.

Section 3: Public Housing Repositioning Through Section 18

To qualify, the replacement units must either be new construction or substantially rehabilitated, and the project may not utilize nine percent LIHTCs.

- “Substantially rehabilitated” is defined as hard construction costs, including general requirements, overhead and profit, and payment and performance bonds, in excess of 60 percent of housing construction costs as published by HUD for a given market area.

Units must be replaced with project-based units. The aggregate number of “hard” units (RAD and PBVs), replacement units, must meet the RAD “substantial conversion of assistance” requirements.

For small PHAs with 250 or fewer public housing units under which up to 80 percent of the PHA's units in a RAD converting project may be disposed of under Section 18, provided that the PHA must submit a repositioning plan to HUD for removal of its remaining units from the public housing program.

The RAD relocation requirements described in PIH/Housing Notice 2016-17 apply to residents of the Section 18 units, in lieu of the relocation requirements under 24 CFR part 970.

To facilitate the uniform treatment of residents and units at a covered project, any non-RAD PBV units located in the same covered project are subject to protections outlined in Section 1.6.C of Notice PIH 2019-23, including:

- The prohibition against rescreening
- A right of return
- A rent “phase-in”
- Continued participation in ROSS, FSS, Jobs Plus, and EID
- Resident participation rights and funding in accordance with Attachment 1B of the RAD notice
- Termination notification
- Grievance procedures
- Choice mobility

Section 4 Public Housing Repositioning Through Section 19

*Notice PIH 2019-05; A Guide
to Public Housing
Repositioning*

In 1998, Congress added Section 22 of the United States Housing Act of 1937, allowing any PHA to replace public housing with vouchers whenever it could demonstrate that it was no more expensive to provide each family with a tenant-based voucher. This was known as a voluntary conversion. However, the associated methodology and cost test has proven extremely challenging for PHAs to execute, especially for small PHAs. Therefore, in early 2019, HUD issued Notice PIH 2019-05 providing for a streamlined approval for voluntary conversion with no cost test. This process is only applicable to PHAs with 250 or fewer units. Section 19 is commonly referred to as streamlined voluntary conversions (SVC). SVC requires a commitment by the PHA to close out its public housing program.

In order to reposition units through Section 19, the PHA applies to SAC which reviews each application to ensure that it meets program requirements. Like with demo/dispo, under SVC a PHA may request TPVs for each vacant unit occupied by an assisted family during the 24 months prior to approval of the PHA's application. The vouchers must be offered to the residents in the form of tenant-based assistance. If the property will continue as rental housing after the conversion, the PHA must give residents the choice to:

- Move with tenant-based assistance (with the PHA paying for the moving expenses),
- Stay in their units using tenant-based assistance, or
- Stay in their units using PBV assistance.

If the PHA wants to project-base units in the property using the TPVs, impacted families must voluntarily provide informed written consent. This means the PHA must conduct briefings prior to seeking the family's consent and provide the family with at least 30 days to decide. The briefing must include a representative from the local HUD Public Housing Office (either in person or over the phone).

Section 4: Public Housing Repositioning Through Section 19

If a resident leaves with tenant-based assistance at the time of the conversion, the PHA can project-base that unit using its existing voucher resources rather than the TPV. If a resident decides to stay at the property with tenant-based assistance rather than allowing the PHA to project-base the unit, the PHA must exclude that unit from the PBV HAP contract until the resident either voluntarily leaves the unit or consents to have their unit project-based.

PHAs that do not have their own HCV program need to partner with a PHA that does have an HCV program to administer the TPVs, since HUD does not authorize PHAs without an existing HCV program to establish one.

While residents must be fully protected with the opportunity to be reside in comparable housing, including costs covered for relocating to such comparable housing, unlike in RAD, there is no provision to protect current tenants who might be over-income or otherwise ineligible for Section 8. The family must independently meet HCV eligibility requirements for admission to the HCV program, including income eligibility, to qualify for the TPV. The PHA would use the low-income (80 percent of AMI) to qualify families for the TPV since the family is considered “continually assisted”. Continually assisted means that the family is already receiving assistance under any 1937 Housing Act program when they are admitted to the voucher program.

Section 5 Blended Occupancy/Combined Funding Properties

WHAT IS A BLENDED OCCUPANCY/COMBINED FUNDING PROPERTY?

Aging housing stock, dwindling funding for preservation, redevelopment, and new development have lead housing authorities, owners, and developers to seek multiple funding programs to finance the construction, rehabilitation, or acquisition of affordable housing.

These blended/mixed finance properties, also known as blended occupancy or combined funding properties, are becoming more and more common. Housing authorities, private owners, and public/private partnerships are leveraging various funding sources to rehabilitate, rebuild, or develop housing that will be viable for years to come.

In many communities, blended occupancy properties comprise the majority of new construction and rehabilitation project-based voucher properties. Since such properties have various funding sources, multiple compliance requirements apply.

Funding sources for such properties encompass a diverse range of public and private sources. A property with a PBV HAP contract may have units funded as public housing, low-income housing tax credits, and HOME that are not under the PBV program. PBV and PBRA units may also be HOME and tax credit units.

These differing regulatory requirements can affect every function, from initial application through deciding who moves into a vacant unit. Program rules can be identical and can overlap or may be completely different. PHA staff should understand the requirements for each property as they influence the management of the waiting list, initial eligibility determinations, and other administrative tasks in the PBV program. The PHA's ability to negotiate effectively through the maze of requirements and restrictions is critical to the overall success of the property. If a property does not comply with its funding requirements, it can be very costly—in time, money, and consequences to the property owners and the local community.

For combined funding/blended occupancy properties, families must be both program eligible and project eligible. A general rule is that the most restrictive program rules win!

MTW initiatives may not be applicable in blended occupancy developments. The property manager must know the requirements for all non-Section 8 programs.

SUMMARY OF ELIGIBILITY REQUIREMENTS IN BLENDED OCCUPANCY PROJECTS

Eligibility requirements for projects with multiple funding/subsidy sources vary. A summary of eligibility requirements comparing PBV, RAD PBV, PBRA, LIHTC, and HOME is below for your reference.

Summary of Eligibility Requirements

	Standard PBV and RAD PBV	LIHTC	HOME
Income eligibility	PBV 50% or 80% AMI per admin plan Eighty percent for continuously assisted families to receive a TPV in SVC or demo/dispo RAD PBV does not apply to in-place families. For new admissions, same as standard PBV	50% AMI, 60% AMI, or Income Averaging for Minimum Set-Aside Elections made for projects after March 23, 2018. State HFA may require lower set-asides in Regulatory Agreement. Project may also be deep-rent skewed (40%)	80% or 50% AMI, or 60% if elected by the PJ
Citizenship status requirements	Does not apply to in-place families in RAD PBV. One family member must have eligible immigration status in order to be eligible	None	None

	Standard PBV and RAD PBV	LIHTC	HOME
Social Security Number requirements	Does not apply to in- place families in RAD PBV. All household members (except noncontending) must disclose and document SSNs	None	None

	Standard PBV and RAD PBV	LIHTC	HOME
Student status	<p>Section 8 student rule: No assistance to full or part-time student unless parent income is considered:</p> <ul style="list-style-type: none"> - Under 24 - Not a U.S. veteran - Unmarried - Not a student with disabilities who was receiving HCV assistance as of 11/30/05 - Does not have a dependent child - Is not independent of parental income per DoED guidelines, e.g., emancipated minor or formerly in foster care <p>Student living with eligible parents may receive assistance.</p>	<p>LIHTC student rule: Units comprised entirely of full-time students do not qualify. <i>Full-time:</i> 5 calendar months during a calendar year.</p> <p>Exemptions:</p> <ul style="list-style-type: none"> - Receives TANF - Previously under foster care - Enrolled in a program under the Job Training Partnership Act or similar federal, state, or local laws - Single Parent and dependents - Married couples that file a joint tax return or are eligible to file a joint tax return 	<p>Section 8 student rule: No assistance to full or part-time student unless parent income is considered:</p> <ul style="list-style-type: none"> - Under 24 - Not a U.S. veteran - Unmarried - Not a student with disabilities who was receiving HCV assistance as of 11/30/05 - Does not have a dependent child - Is not independent of parental income per DoED guidelines, e.g., emancipated minor or formerly in foster care <p>Student living with eligible parents may receive assistance.</p>
Required denials of admission	Does not apply to in-place families in RAD PBV. Yes – per admin plan and CFR	None	None

Section 5: Blended Occupancy/Combined Funding Properties

	Standard PBV and RAD PBV	LIHTC	HOME
Verification time frames	Dated within 60 days of the reexam or request per Notice PIH 2018-18	120 days before effective date of the Tenant Income Certification	6 months before executing a HOME lease agreement

Learning Activity 10-1: Determining Eligibility in Blended Properties

Karen Brown, an otherwise qualified LIHTC individual, with income below 30% of AMI, occupies an LIHTC unit in June 2011. She just turned 18, and was previously an emancipated minor under the state's foster care program. She attended a qualifying educational organization from March to June. She returned to the qualifying education organization from October 2011 to December 2011.

1. Is this LIHTC unit in compliance? Why?

-
2. Is this a qualified PBV household? Why?

Olivia and Charlotte Johnson, twins who are both 19, attend college full time, and work part time. They share a LIHTC unit with Noah Johnson, their older brother, age 22, who works full time and is not enrolled at the college. The combined household incomes qualify them under the LIHTC income limit. Olivia and Charlotte are not independent of their parents and their parents are claiming them as dependents on their tax statements since they are currently in school. The parents' combined income is \$425,000 annually.

1. Is this a qualified LIHTC household? Why?
-

2. Is this a qualified PBV household? Why?

A recently married full-time student couple is income qualified under the LIHTC income limit. They are eligible to file a joint tax return but have not yet filed the return.

1. Is this a qualified LIHTC household? Why?

-
2. Is this a qualified PBV household? Why?

Hanna and Scott Garcia reside in a public housing property that was converted to RAD PBV assistance this year. The Garcia's combined income is \$1,000 over the 80 percent AMI income limit for their family size.

1. Is the family qualified for the RAD PBV unit? Why?
-

Section 6 Chapter 10 Post Test

1. Emma Bowman and her household are on the general PBV waiting list. The PHA's HCV income limit is set at 80 percent of AMI. A unit of appropriate size becomes available at Presidio Gardens, where all PBV units are low-income housing tax credit units with a 50 percent AMI income limit. After verifying the household's annual gross income, the PHA determines that Bowman's family is eligible for a PBV unit. However, you have determined that the Bowman's household is \$175 over the LIHTC maximum income limit. Which of the following is true?
 - a. The household is eligible to reside in Presidio Gardens because the PHA has determined them PBV eligible
 - b. The household is eligible to reside in Presidio Gardens in a LIHTC only unit
 - c. The household is eligible to reside in Presidio Gardens with an income waiver from the PHA
 - d. The household is not eligible to reside at Presidio Gardens because their household income exceeds the LIHTC income limit
2. Citizenship must be verified for which programs:
 - a. HOME and PBV
 - b. LIHTC and PBV
 - c. LIHTC, HOME, and PBV
 - d. PBV only
3. The 180-day rule on zero HAP does not apply to existing families who converted to a RAD PBV unit:
 - a. True
 - b. False

Section 6: Chapter 10 Post Test

4. Under choice mobility, a family may be able to request a tenant-based voucher to move:
 - a. After one year of occupancy in the PBV unit
 - b. After 24 months of occupancy in the RAD PBV unit, based on the date of the HAP contract execution
 - c. If in a RAD PBV unit, 24 months of occupancy from date of HAP execution, date of completion of initial repairs, 24 months after move-in
 - d. The family is not eligible for a choice mobility voucher until their name is called from the HCV waiting list
5. Only PHAs with _____ units or less may apply for a streamlined voluntary conversion.
 - a. 100
 - b. 250
 - c. 500
6. A PHA may use both demo/dispo and RAD in the same project to convert public housing units to Section 8.
 - a. True
 - b. False
7. Which of the following reposition options guarantees residents a right to return?
 - a. Demo/dispo only
 - b. RAD only
 - c. SVC only
 - d. SVCs and demo/dispo
 - e. Demo/dispo, SVCs, and RAD
8. The contract rent adjustment process is the same for which types of programs?
 - a. The standard PBV program and Moderate Rehab RAD conversions
 - b. The standard PBV program and all RAD project conversions
 - c. The HCV program
 - d. None of the above

Section 6: Chapter 10 Post Test

Notes

CHAPTER 11 Program Administration

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

Upon completion of this chapter, you should be able to:

- Discuss the importance of planning and developing timelines for PBV properties
- Describe how PBV units and inspections are incorporated into Section 8 Management Assessment Program (SEMAP) scores
- Develop a regular monitoring review process for PBV projects
- Identify and avoid Office of Inspector General (OIG) and other audit findings
- Complete form HUD-50058, Family Report, for families participating in the PBV program
- Recognize how PBV data is captured in the Voucher Management System (VMS) report that is electronically submitted to HUD on a monthly basis
- Discuss the reasons that collaboration, coordination, and good working relationships with other governmental entities and stakeholders are important
- Identify staff training needs and arrange for appropriate training

OVERVIEW

Sound local administration is essential for the success of the project-based voucher program. A PHA must establish an organizational structure that facilitates the achievement of the PBV program goals, both nationally and locally, while complying with statutory and HUD requirements. This chapter explores some PBV reporting requirements and fundamental administrative tasks that a PHA must address.

Section 2 Action Plan For The PBV Program

Planning your agency's PBV program implementation is critical to its success. A project timeline is a central component in any good project management plan. Even if your timeline is a rough estimate, it is still a useful tool that provides information to PHA staff and partner agencies on when resources are needed, actions expected, and due dates. An example of a PBV timeline is provided below.

Example: Timeline for PBV Properties from Planning RFP to Occupancy		
Event	Elapsed Time Required	Projected Completion Date
Develop RFP	14 days	January 14
Notify HUD of additional PBV's	7 days	January 21
Advertise RFP	7 days	January 28
Pre-proposal Meeting	14 days after advertised	February 11
Set Up Review Panel	3 days, may be prior to advertising	February 14
Proposals Due	30 days after advertised	February 28
Review Proposals for Threshold Requirements	2 to 7 days	March 7
Reject Ineligible Proposals	1 day	March 9
Perform Site Reviews	2 to 5 days	March 16
Review and Evaluate Proposals	30 days from due date	March 28
Request Additional Information	7 days	April 4
Select Proposals	1 day	April 5
Submit Report for Board Approval	1 day	April 6
Board Approval Date	Next board meeting	April 29
Publish Notice of Projects Approved	Within 5 days of board approval	May 4
Preliminary Award Letter	Same day as public notice	May 4
Subsidy Layering Review Completion, if required	45 days from selection	June 19
Environmental Review, if required	Varies, 45 days to 60 days from selection	June 19 to July 14
Set Initial Rents for Existing Properties	15 days after award	May 19

Section 2: Action Plan For The PBV Program

Example: Timeline for PBV Properties from Planning RFP to Occupancy		
Event	Elapsed Time Required	Projected Completion Date
Set Initial Rents for New Construction/Rehabilitation Properties	7 days after SLR completed	June 26
AHAP for New Construction/Rehabilitation	15 days after SLR and ER complete	July 5 to July 29
Lease-up Meeting for Existing Housing	Within 15 days after award	May 19
Lease-up Meeting for New Construction/Rehabilitation	5 months before project completion date	TBD for each property
Initial HQS Inspections for Existing Housing	Within 21 days after award	May 26
Process Families for Occupancy in Existing Housing	Immediately after award	Begin May 4
Process Families for Occupancy New Construction/Rehabilitation	120 days before completion	TBD for each property
HAP Contract for Existing Housing	30 days after award	June 4
HAP Contract for New Construction/Rehabilitation	Within 5 days after initial inspection	TBD for each property

Another tip, if the PBV property has marketing materials, obtain the material to distribute to families when accepting applications for the waiting list and processing the family for eligibility.

After the PBV HAP contract is executed, successful managers develop and follow action plans for each property that includes timelines for:

- Annual/biennial inspections
- Reexaminations
- Property reviews
- Courtesy notification to owners regarding rent increase requests
- Contract rent adjustments
- Contract extensions

Section 3 Reporting Requirements

FUNDING

Again, there are no special funding allocations for project-based vouchers. Therefore, PHAs must manage their resources to ensure that they can honor the commitments of PBV HAP contracts. In order to project PBV funding needs, a PHA should monitor each property monthly for voucher utilization, by both number of units leased and funding amounts.

In terms of utilization, voucher units are counted in the PHA's overall lease-up and budget utilization figures for the Voucher Management System (VMS) as well as for the Section 8 Management Assessment Program (SEMAP). Consequently, we underscore the importance of reviewing property vacancy rates and developing plans to achieve quick lease-up of turnover units. In addition, if a PHA opts to make vacancy payments, such payments count toward budget utilization, but not unit lease-up goals. In VMS, the vacancy payments are counted as housing assistance payments. Another way of looking at it is that a vacancy payment is for a vacant unit as opposed to rental assistance for a family.

While a PHA must make sure that it has funds to honor PBV commitments, a PHA is well advised to forgo setting aside units for new construction and rehabilitation housing when they are under construction. Such set asides may be used after execution of the HAP contracts. The PHA should monitor its voucher turnover rates to forecast that it will have the necessary units and dollars to meet contractual commitments when the project is ready for occupancy, without over-leasing or over-expending above its budget authority.

SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

Project-based vouchers are counted in SEMAP, with one exception: HUD adjusts its database in the Information Management System/Public and Indian Housing Information Center (IMS/PIC) to remove all PBV units from the annual inspection indicator #12. The reason is that the PBV basic inspection requirement calls for a random sample of 20 percent of the units in each property.

PBV units are included in data population for all other criteria. PHAs are encouraged to include an appropriate percentage of PBV units in their quality control reviews, including supervisory quality control inspections (See 24 CFR 983.102 (e)(3), Inspecting Units).

PURPOSE OF SEMAP

SEMAP was created to:

- Objectively measure in key areas
- Identify management capabilities/deficiencies
- Improve HUD risk assessment for each problem identification
- Provide a self-assessment tool for PHAs

KEY PERFORMANCE INDICATORS

Indicator	Possible Points
1 Selection from the Waiting List	15
2 Reasonable Rent	20
3 Determination of Adjusted Income	20
4 Utility Allowance (UA) Schedule	5
5 HQS Quality Control Inspections	5
6 HQS Enforcement	10
7 Expanding Housing Opportunities	5
8 Payment Standards	5
9 Annual Reexaminations	10
10 Correct Tenant Rent Calculations	5
11 Pre-Contract HQS Inspections	5
12 Biennial HQS Inspections	10
13 Lease-Up	20
14 Family Self-Sufficiency (FSS)	10

SEMAP CERTIFICATION

SEMAP certification based on the 14 key performance indicators and the bonus indicator must be completed:

- Annually by each PHA with 250 or more allocated units (unless Troubled)
- Biennially by each non-troubled PHA with less than 250 allocated units, unless the PHA elects to have its performance assessed annually

Indicators 1–7 will not be rated if the PHA expends less than \$300,000 a year in federal awards and its Section 8 programs are not audited for compliance with regulations by an independent auditor. A PHA that expends less than \$300,000 in federal awards in a year must still complete the certification for these indicators.

Small PHAs with less than a year of operation are required to certify but will not be rated.

PHAs are required to submit SEMAP certifications electronically within 60 days after fiscal year end (FYE).

PHAs that do not submit their certifications within 60 days of their FYE will be rated troubled.

Section 3: Reporting Requirements

SEMAP TIMELINE

<i>Within</i> 60 calendar days of PHA's fiscal year end (FYE)	Agency SEMAP certification is due
60 calendar days from FYE	IMS/PIC runs an overnight process establishing a zero-rating profile for each PHA that failed to submit their SEMAP certification; PHAs that do not submit on time are rated 'troubled'
Within 120 calendar days of FYE	HUD must issue SEMAP score notification letters to PHAs; SEMAP score available online
30 days from notification	PHA may appeal its overall performance rating; must provide justification for the appeal. PHA can only appeal if the result will change the overall designation <ul style="list-style-type: none"> • <i>Troubled to Standard</i> • <i>Troubled to High</i> • <i>Standard to High</i>
45 days from notification	If a PHA receives a rating of zero on any indicator, PHA must report in writing to HUD on how it corrected the deficiency; field office (FO) may require a corrective action plan within 30 days of HUD notice
30 days from submission of a PHA's appeal	HUD must notify PHA of decision in writing
30 days after HUD's denial of an appeal	PHA may appeal to PIH Assistant Secretary at HUD headquarters for final determination
Within 90 days of notifying a PHA of their troubled status	HUD must conduct a review to determine the seriousness and magnitude of noncompliance with program requirements (onsite for large PHAs; may be onsite for small PHAs [<250 units]) and provide report of findings to PHA
Within 30 days of receiving results of review	PHA must submit a corrective action plan to HUD
Within 30 days of receiving PHA's corrective action plan	HUD to approve corrective action plan
Within 9 months of FYE	Annual audit report must be submitted to HUD. HUD FO determines whether report indicates PHA's certifications on indicators 1-7 were inaccurate; must modify score if the report shows different level of performance than certified. FO generates a letter; must explain why the score was modified. FO must assign a rating of troubled if the last audit report indicates the auditor is unable to provide an opinion on the PHA's financial statements.

PROCESSING HUD-FORM 50058—FAMILY REPORT

*HUD-form 50058 Instruction
Booklet*



The Form HUD-50058: Family Report captures information on families participating in public housing programs. PHAs must submit a form electronically to HUD's Information Management System/Public and Indian Housing Information Center (IMS/PIC), for each family, at:

- Admission to the voucher program
- Transfers between the tenant-based and project-based programs
- Moves
- Reexaminations
- Terminations

This section describes how to record the PBV program on the 50058.

Program Type: Because the PBV program is part of the Housing Choice Voucher program, line 1c must be coded VO for both regular project-based vouchers and VASH vouchers.

PBV Program Code

1c. Program	P=Public Housing, CE= Sec. 8 Certificates, VO= Sec. 8 Vouchers, MR= Sec. 8 Mod Rehab	  1c.
-------------	--------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Type of Action: If a family is participating in the tenant-based voucher program and moves to project-based assistance and vice versa, the action code for line 2a is “7—Other Change of Unit.” Such moves are within the housing choice voucher program. However, the family's rent is calculated in different sections of the 50058, i.e., Section 11 for project-based vouchers and Section 12 for tenant-based vouchers.

Action Code for Moves

2. Action		
2a. Type of action	7	2a.

Remember that moving from one voucher type to another is not a program termination nor is it a new admission to the voucher program! Do not report an End of Participation or a New Admission for families moving between Section 8 housing choice voucher programs.

Section 3: Reporting Requirements

Other Special Programs: For families participating in the VASH PBV program, PHAs must indicate VASH on line 2n: Other Special Programs. Follow PBV rules for completing all other sections of the 50058, including calculating rent in Section 11.

Inspections: For PBV units, a PHA does not report the last date the unit passed inspection on line 5i. Likewise, a PHA does not report the date of the last annual/biennial inspection on line 5h.

PBV Inspections

5. Unit to be Occupied on Effective Date of Action

5h. Date (mm/dd/yyyy) unit last passed HQS inspection (Section 8 only, except Homeownership and Project-based Vouchers)	5h.
5i. Date (mm/dd/yyyy) of last annual HQS inspection (Section 8 only, except Homeownership and Project-based Vouchers)	5i.

Rent Calculations: Under the PBV program, a PHA calculates tenant rent in Section 11 as opposed to Section 12 for Housing Choice Vouchers: Tenant-Based Vouchers.

PBV Rent Calculations

11. Section 8: Project Based Certificates and Vouchers

50058 Reporting to IMS/PIC

Action/Section	Comments
Section 11	Must be completed for all PBV units (lines 11b to 11an)
Section 12	-Do not use for PBV -If used in error, correct no later than the family's next recertification -Errors must be corrected from the time the incorrect reporting began -The family must be reimbursed if rent was overcharged
Action Code 10	- <i>Issuance of a Voucher</i> does not apply to PBV when a family initially moves into a unit -Must be used when a family begins receiving HCV assistance after receiving PBV assistance -Continue to record participant as VO on line 1c -Do not enter an EOP
Action Code 11	<i>Expiration of a Voucher</i> does not apply to PBV
Payment Standard	Does not apply to PBV
Action Code 4	<i>Portability Move-In</i> does not apply to PBV
Action Code 5	<i>Portability Move-Out</i> does not apply to PBV

REPORTING PBV IN THE VOUCHER MANAGEMENT SYSTEM (VMS)

The Voucher Management System's (VMS's) primary purpose is to provide a central system to monitor and manage PHAs' use of vouchers. The VMS collects PHA data that enables HUD to fund, obligate, and disburse funding in a timely manner, based on actual PHA use. PHAs must electronically submit VMS data for the PBV program information monthly. In accordance with Notice PIH 2011-67, HUD will compare the PHA's actual costs to funds disbursed for the quarter to determine if there is an over or underpayment for the period under review.

Administrative fee disbursements will be reconciled in the same quarterly manner and will be based on PHAs' leasing reported in the VMS compared to administrative fee disbursements for the same time period.

More information on VMS reporting requirements can be found in the Voucher Management System User Manual. Effective August 2019, PBV units and expenses are itemized in VMS on the form HUD-52681-B as delineated below.

Effective April 2019, PBV units and expenses are itemized in VMS. This information is no longer reported in the comments field. VMS has added data fields for PBV units and additional fields for RAD PBV units. Administrative fees will be based on units under contract as reported in VMS.

PROJECT BASED VOUCHER REPORTING REQUIREMENTS IN VMS

- **Number of PBVs Under AHAP and Not Under HAP:** Total number of PBVs under AHAP only. These units are not reported in any other field.
- **Number of PBV units under HAP and Leased:** Total number of PBVs under HAP contract and leased. These units and associated expenses are also reported in the field that best describes the vouchers being used (Tenant Protection, AOV, etc.).
- **Number of PBV Units under HAP and Not Leased:** Total number of PBVs that are under a HAP contract that are not leased and are not receiving vacancy payments. These vouchers are not reported in any other field but are eligible for administrative fees.

Section 3: Reporting Requirements

- **Number of PBVs under HAP and Not Leased with Vacancy Payment and Associated Vacancy HAP Expense:** Total number of PBVs that are under a HAP contract and are not leased but are receiving vacancy payments. These vouchers are not reported in any other field but are eligible for administrative fees.
- **HAP Expenses -Number of PBVs Under HAP and Not Leased with Vacancy Payment and Associated Vacancy HAP Expense:** Total HAP expense associated with PBVs under HAP contract and not leased with vacancy payments. These expenses are also reported in the new All Other Vouchers HAP expense field.

RAD PBV REPORTING REQUIREMENTS IN VMS

RAD PBV units must be reported separately in VMS but also included in the total PBV unit count and reporting.

- RAD-1 Number of Vouchers Leased
- RAD-1 Total HAP Expenses (HAP)
- RAD-2 Number of Vouchers Leased
- RAD-2 Total HAP Expenses (HAP)

Additionally, HUD has added a new field for PHA-Owned Units Leased:

- **PHA-Owned Units Leased:** Number of PHA-owned units that are under HAP contract for the month. This data has previously been reported by PHAs in the Comments section at the end of the 52681B form. Due to the large number of PHAs with data to report, and to make the reporting easier for PHAs, this field has been added. As previously advised, this number is NOT deducted from the unit- months leased that are reported in the various categories in the leasing section of the VMS report. If a PHA has 1000 units leased in the All Other Voucher category, and 50 of them are in PHA-owned units, the PHA would report 1000 in the All Other Voucher category and would report 50 in the PHA-Owned Units Leased category.

Section 4 Administrative Management

PBV PROPERTY MONITORING REVIEWS

24 CFR 983.56 (b) (2)(C)

HUD does not require PHAs to monitor the management of PBV properties. The only regulatory PHA monitoring requirement pertains to a family's continued receipt of supportive services. The PHA administrative plan must state the form and frequency of such monitoring.

Nonetheless, as a sound management practice, a PHA may establish additional monitoring requirements in its administrative plan. Such monitoring helps to ensure that PBV properties continue to be well managed, reduces risks of default of the HAP contract, and allows the PHA to work with the owner in resolving issues early on, among other reasons. While it may be prudent for a PHA to review the properties, it may not be practical in these times of administrative fee shortages. Therefore, PHAs should keep it simple. Key areas that a PHA may consider monitoring annually or biannually include:

- Payment of utilities
- Payment of property taxes and property insurance
- Payment of flood hazard insurance, required of new construction and rehabilitation housing throughout the life of the HAP contract
- Financial solvency and payment of loans
- Maintenance records and response times
- Replacement needs
- Reviews by other funding providers such as State Housing Finance Agencies and HOME program administrators
- Crime rates at the property
- Neighborhood relationships
- Complaints
- Overall compliance with the HAP contract

Again, there are no specific requirements for PHA monitoring of PBV properties. Nonetheless, such monitoring may provide information to assist in the determination of rent increase requests and renewal of the HAP contract.

AUDITS

We all learn lessons through unfortunate experiences of other public housing authorities. Therefore, below is a synopsis of audit findings that PHAs should avoid in implementing a PBV program.

Since 2006, HUD's Office of Inspector General (OIG) issued audit findings against various public housing authorities for their administration of the project-based voucher program. The findings include:

- PBV program administration did not comply with provisions of PHA administrative plans.
- Administrative plans did not include required policies related to the program size and housing types.
- Documentation of the proposal selection process was inadequate.
- Properties were selected without satisfactory competition.
- Documentation of compliance with program requirements was weak.
- PHAs did not appropriately document that properties met the exception criteria for the 25 percent cap per property.
- PHAs did not have adequate documentation of or did not conduct proper rent reasonableness determinations, housing quality standards (HQS) inspections, subsidy-layering reviews, deconcentration of poverty reviews, and environmental reviews.
- PHAs did not monitor the program routinely.
- Rules were not followed regarding PHA-owned units.
- Required forms were not used or were incorrectly completed, such as the AHAP, HAP, and tenancy addendum.
- PHAs paid funds to owners prior to the execution of HAP contracts.
- PHAs did not report complete and accurate information to HUD IMS/PIC, the Voucher Management System (VMS), or in their agency plans.

HUD required many of the audited PHAs to reimburse funds for unsupported PBV expenditures, including HAP payments.

Section 4: Administrative Management

To avoid such findings, perform quality control reviews of your PHA's PBV program implementation. Ask yourself these questions, and take corrective actions if your answer is no.

- Does the PHA administrative plan contain all of the essential PBV policies and procedures?
- Is staff following the policies and procedures?
- Is there adequate documentation of the PBV selection process?
- Did the process comply with HUD rules, and is it well documented?
- Did the PHA document and maintain as a permanent record the site selection review, initial rent reasonableness determination, subsidy layering review, environmental review, initial HQS inspections, and basis for exceptions to the 25 percent cap?
- Does the PHA have adequate documentation of rent adjustments?
- Are all HAP contract execution dates and effective dates prior to the first HAP payment?
- Do all of the units for which HAP payments have been made match the units in the HAP contract? Or, have appropriate amendments to the HAP contract been made to add or substitute units?
- Are the AHAP, PBV HAP contracts, and tenancy addendums completed correctly?
- Are the HUD forms 50058 completed correctly for families participating in the PBV and VASH programs?
- Do the number of PBV units leased reported in VMS match the number of units reported in IMS/PIC?

Section 4: Administrative Management

2/3/2014 PBV Waiver Letter

PBV REGULATORY WAIVER REQUESTS

On February 3, 2014, HUD issued a “waiver letter” to PHA Executive Directors for the PBV program. Addressing PHA requests for retroactive regulatory waivers, the letter advises that:

- Regulatory waivers are not intended to correct regulatory violations after the fact, but rather to provide prospective relief from regulatory requirements, upon a showing of good cause, prior to PHA or owner action that would create a regulatory violation.

Therefore, HUD will not approve waivers requested after a regulatory violation has already occurred. Instead, the violation will be treated as an enforcement issue. Exceptions may be made on a very limited basis due to factors beyond the PHA's control such as natural disasters.

REQUESTS FOR PBV TECHNICAL ASSISTANCE

Questions or requests for technical assistance on PBV issues are to be submitted in writing to the local HUD field office. Field office staff will relay the questions to PIH headquarters if necessary. PHAs are also reminded to consult available PBV resources such as regulations, PBV forms, Notices, and any other relevant HUD-directives before requesting assistance.

MTW ALLOWABLE WAIVERS

- Increase PBV program cap (up to 50%)
- Increase PBV project cap (up to 100%)
- Elimination/alternative PBV selection process
- Alternative PBV unit types
- Increase PBV HAP contract length (50 years)
- Increase PBV rents (rent reasonableness applies)
- Limit tenant-based voucher issuance (24 months)

The MTW Waivers can be found at:

- <https://www.hudexchange.info/programs/mtw/mtw-expansion-training/all-available-mtw-waivers/9-project-based-voucher-program-flexibilities/>

COORDINATION WITH OTHER GOVERNMENTAL ENTITIES AND PUBLIC AND PRIVATE STAKEHOLDERS

Implementation of a quality PBV program requires effective coordination, collaboration, and positive working relationships with a variety of other governmental entities and public and private stakeholders such as:

- The local HUD Field Office
- The local land-use planning department
- The “responsible entity” for conducting environmental reviews
- The local Continuums of Care
- The local agency that puts together the Consolidated Plan, which provides the framework for affordable housing priorities
- The city or state agency that allocates low-income housing tax credits
- The local housing credit agency (HCA) that performs subsidy layering reviews
- Affordable housing trust funds
- Social service and health care providers
- The local Veterans Affairs medical facility
- Non-profit affordable housing developers and managers
- Private developers and owners of multifamily or single-family home projects
- Families participating in the PBV program
- Low-income families in the community

Keep them informed about the PHA’s PBV program. Obtain their input on PBV policies. Seek out opportunities for combining resources and sharing expertise. Align PBV solicitations’ timeframes so that they complement and do not conflict with and other affordable housing initiatives. Network with them.

Section 4: Administrative Management

The potential benefits are many. Examples of such benefits are:

- A joint commitment to the PBV program
- Knowing the people to contact when issues arise
- Innovative generation of ideas and approaches
- Pooling of resources
- Mitigation of delays in obtaining required information and reviews
- Memorandums of understanding (MOUs) that promote expedient processing of PBV-related requests and approvals
- Sharing of property monitoring review and inspection information
- Collaborative problem solving of property dilemmas

STAFFING AND TRAINING NEEDS

Administration of the project-based voucher program is a blending of HCV tenant-based administration and project-based administration. Staff that work with the program require specialized knowledge of the program, as neither tenant-based nor project-based administrative models fit perfectly.

PBV is a specialty program. Therefore, a PHA should consider designating specific positions or teams to work with the PBV program. Specialization offers better control over the application of PBV administrative policies and procedures, sharpened ability to monitor the PBV program, and opportunities to view and evaluate projects as a whole. If a PHA is unable to do so, it should designate at least one staff person as the PBV subject matter specialist who stays current on PBV requirements and performs quality control functions. In addition, staff should be assigned to review PBV property data all together, including lease-up, vacancies, inspections, and HAP expenses. All staff who works with the program should have sound knowledge of PBV regulations and other HUD PBV requirements.

Section 4: Administrative Management

If a PHA selects experienced staff with the HCV program to administer the PBV program, such staff needs a strong foundation of knowledge in how the PBV rules and processes differ from those for HCV. PBV staff must comprehend the HAP contract, understand how to calculate income, how to complete the HUD form 50058, how to fill vacancies with families from the waiting lists, how to adjust contract rents and utility allowances, and understand inspection requirements, all in the manner unique to the PBV program. Further, such staff must have a good working understanding of how to review property information and communicate with the property manager about issues requiring correction. Such staff should also be required to stay current on changes in HUD regulations.

Contracting Administrative Functions

Given the multitude of tasks that a PHA must perform and their corresponding administrative costs, a PHA may consider outsourcing some of the administrative responsibilities through agreements with service providers, owners, and/or sponsors. For example, when supportive housing has a high turnover rate, service providers, and owners may be willing to assume responsibilities for interviewing and qualifying new applicants in accordance with PHA requirements and briefing families on the program. In such cases, the PHA may share or pass along a percentage of its administrative fee to defray the costs of administration.

In formal solicitations, the willingness to administer some or all of the administrative tasks is often one of the evaluation criteria used in the proposal process the PHA uses to award contracts for project-based vouchers.

Section 4: Administrative Management

If your agency decides to outsource administrative tasks to owners or sponsors, there are several factors which should be carefully considered:

- Your PHA remains fully responsible for compliance with HUD regulations and requirements. Therefore, designated staff of the PHA must be well-versed on the PBV tasks that are outsourced and perform monitoring reviews.
- It is imperative that project owners or sponsors have well-trained staff who understand the assigned tasks (eligibility, income, assets, deductions, rent portion calculation, inspectors, rent reasonableness, data transmission) and the various reporting deadlines that your agency must follow.
- Your housing authority must perform monitoring of the tasks assigned to the project owners or sponsors. When HUD staff schedule monitoring reviews or program audits, your PHA will be expected to have full knowledge of the site operations and work completed by the project owner or sponsor. Any errors or failure to complete tasks will become your responsibility to explain and rectify.

Section 5 Chapter 11 Post Test

1. SEMAP reporting requirements applicable to the PBV program include:
 - a. Lease-up, waiting list, and annual/biennial HQS inspections
 - b. Waiting list, tenant rent calculation, and lease-up
 - c. Tenant rent calculation, lease-up, waiting list, and annual/biennial HQS inspections
2. The PBV program is reported as which program type on the form HUD-50058?
 - a. Project-based voucher
 - b. Voucher
 - c. Moderate rehabilitation program
 - d. Section 8 certificate
 - e. Special program
3. In the Voucher Management System (VMS), PBV units and HAP expenses are itemized.
 - a. True
 - b. False
4. HUD regulations do not require PBV property reviews.
 - a. True
 - b. False
5. If a PHA contracts out administrative tasks, the contractor is then responsible for program compliance, not the PHA.
 - a. True
 - b. False

Notes

CHAPTER 12 Case Study: Stanton Gardens

STANTON GARDENS PROFILE

Total Units	250
Affordability	Mixed-Income
Buildings	10 with 25 units each
Ownership	Stantonville Housing Corporation, LLC, a non-profit organization in which Stantonville PHA has a controlling interest
Building Types	9 buildings comprised of one-story and townhouse units and a three-story elevator building designated for seniors
Unit mix	<ul style="list-style-type: none"> • 75 PBV units, including 25 senior units in elevator building. The PBV units are also LIHTC units for families at or below 50% of AMI • 25 LIHTC units for families at or below 50% of AMI • 150 market rate family units
PBV unit distribution in buildings	<ul style="list-style-type: none"> • 25 PBV units in senior building • 4 buildings with 5 PBV units each • 5 buildings with 6 PBV units each
Expected Construction Completion	6 months from today's date
Anticipated PBV HAP contract effective date	_____ 15, 202__
504 Compliance	Each building has 3 wheelchair accessible units and 2 units for persons with hearing or vision impairments. All units incorporate adaptable and adjustable accessibility features.

PHA-OWNED UNITS

1. Does this property meet the definition of PHA-owned?

2. What additional property selection criteria are required if Stantonville Gardens meets PHA-owned criteria?

PROPERTY-BASED WAITING LIST

The owner requests a property-based waiting list, an option that is included in the SHA's administrative plan. SHA honors the request. For other PBV properties, the SHA has traditionally referred families from its HCV waiting list.

1. Which families must be provided an opportunity to be placed on the property-based list?

2. Describe the steps you would take to ensure that such families are informed of the opportunity.

3. How would you document that the actions taken comply with PBV rules?

4. Where would you file such documentation?

INCOME ELIGIBILITY

Stantonville PHA's HCV income limit is 80 percent AMI. The PBV units at Stanton Gardens are all under the LIHTC program. The LIHTC income limit is 50 percent AMI.

Mr. and Mrs. Walnut Berry, age 78 and 85, require wheelchairs for mobility. Stanton Gardens' wheelchair accessible units meet their needs. The PHA rejects their application for the Stanton Gardens property-based waiting list because their combined income is \$200 over the 50% LIHTC income limit. They request an exception to the income limits and an informal hearing. They write letters appealing their situation to the Mayor, Chairman of the Board of Commissioners, their Congressman, and HUD.

1. How would you handle this matter?

2. May the PHA make an exception to the regulations as a reasonable accommodation to meet the family's needs? Why or why not?

3. Is the Berry family entitled to an informal hearing? Why or why not?

REEXAMINATIONS

It's now two years after initial occupancy of Stanton Gardens. Families in the elderly building complain that reexaminations are too frequent. They do not distinguish between the LIHTC reexam and the one for PBV. They say that it is a hardship to go to the PHA for appointments.

1. What options might you propose to resolve this complaint?

APPLICATION FOR ADDITIONAL PBV UNITS

Two and half years after the PHA selected the property for the PBV program, the owner requests PBV assistance for the 25 LIHTC units.

1. Does the owner need to submit a new RFP proposal? Why or why not?

2. Will SHA be in compliance with PBV regulations if it adds 25 non-elderly LIHTC units to the contract? Why or why not?

ANNUAL/BIENNIAL INSPECTIONS

1. What is the minimum number of units that must be inspected at least every 24 months to comply with PBV rules?

2. If the property is not PHA-owned, how would you select and schedule the units for inspection?

3. If the property is PHA-owned, how must the inspection be conducted?

4. Four units in the senior building fail the annual/biennial inspection. What are the consequences?

REASONABLE ACCOMMODATION

Mrs. Geraldine Ramsey lives in a three-bedroom PBV assisted townhouse unit with her three children. She is recovering from an automobile accident. Her mobility is impaired temporarily and this is expected to last for five months. She does not need a wheelchair, but uses a scooter and crutches. A nurse submits a request that Mrs. Ramsey be accommodated in a unit that will assist her recovery. A three-bedroom wheelchair accessible unit is now available for occupancy, and Mrs. Ramsey requests that she be allowed to move into the wheelchair accessible unit for five months and then return to her townhouse unit. The SHA is processing several applicants who need wheelchair accessible units.

1. Does Ms. Ramsey meet the definition of a person with disabilities for purposes of reasonable accommodation?

2. What factors must the SHA consider in determining whether to grant the accommodation?

3. Would you grant the accommodation request? Why or why not?

4. If you deny the accommodation request, what other alternative accommodations might you provide?

Notes

CHAPTER 13 Case Study Answers: Stanton Gardens

STANTON GARDENS PROFILE

Total Units	250
Affordability	Mixed-Income
Buildings	10 with 25 units each
Ownership	Stantonville Housing Corporation, LLC, a non-profit organization in which Stantonville PHA has a controlling interest
Building Types	9 buildings comprised of one-story and townhouse units and a three-story elevator building designated for seniors
Unit mix	<ul style="list-style-type: none"> • 75 PBV units, including 25 senior units in elevator building. The PBV units are also LIHTC units for families at or below 50% of AMI • 25 LIHTC units for families at or below 50% of AMI • 150 market rate family units
PBV unit distribution in buildings	<ul style="list-style-type: none"> • 25 PBV units in senior building • 4 buildings with 5 PBV units each • 5 buildings with 6 PBV units each
Expected Construction Completion	6 months from today's date
Anticipated PBV HAP contract effective date	_____ 15, 202__
504 Compliance	Each building has 3 wheelchair accessible units and 2 units for persons with hearing or vision impairments. All units incorporate adaptable and adjustable accessibility features.

PHA-OWNED UNITS

1. Does this property meet the definition of PHA-owned?
Yes. PHA-owned is defined as the PHA having a controlling interest in the property per PIH Notice 2017-21.
2. What additional property selection criteria are required if Stantonville Gardens meets PHA-owned criteria?
HUD or a HUD-approved independent entity must review the selection process and determine that the selection was made in accordance with procedures in the SHA's administrative plan.

PROPERTY-BASED WAITING LIST

The owner requests a property-based waiting list, an option that is included in the SHA's administrative plan. SHA honors the request. For other PBV properties, the SHA has traditionally referred families from its HCV waiting list.

1. Which families must be provided an opportunity to be placed on the property-based list?
Families on the HCV waiting list.
2. Describe the steps you would take to ensure that such families are informed of the opportunity.
No specific answer.
3. How would you document that the actions taken comply with PBV rules?
Copies of the notice provided to all families on the HCV waiting list.
4. Where would you file such documentation?
PBV contract file.

INCOME ELIGIBILITY

Stantonville PHA's HCV income limit is 80 percent AMI. The PBV units at Stanton Gardens are all under the LIHTC program. The LIHTC income limit is 50 percent AMI.

Mr. and Mrs. Walnut Berry, age 78 and 85, require wheelchairs for mobility. Stanton Gardens' wheelchair accessible units meet their needs. The PHA rejects their application for the Stanton Gardens property-based waiting list because their combined income is \$200 over the 50% LIHTC income limit. They request an exception to the income limits and an informal hearing. They write letters appealing their situation to the Mayor, Chairman of the Board of Commissioners, their Congressman, and HUD.

1. How would you handle this matter?

No specific answer. A compassionate response that includes referrals to other housing opportunities with higher income limits such as the HCV program, HOME-funded properties, public housing, and other PBV properties.

2. May the PHA make an exception to the regulations as a reasonable accommodation to meet the family's needs? Why or why not?

No. Income eligibility requirements for the LIHTC program cannot be waived.

3. Is the Berry family entitled to an informal hearing? Why or why not?

They are entitled to an informal review as applicants to the PBV program, but not an informal hearing. There are no hearing requirements for the LIHTC program.

REEXAMINATIONS

It's now two years after initial occupancy of Stanton Gardens. Families in the elderly building complain that reexaminations are too frequent. They do not distinguish between the LIHTC reexam and the one for PBV. They say that it is a hardship to go to the PHA for appointments.

1. What options might you propose to resolve this complaint?

Perform PBV reexaminations on site or via mail.

For families which have a single source of income

like social security, use annual cost of living

adjustment factor. Coordinate with the property

manager who performs the LIHTC reexams so that

PBV reexams may be coordinated and scheduled

during the same period.

APPLICATION FOR ADDITIONAL PBV UNITS

Two and half years after the PHA selected the property for the PBV program, the owner requests PBV assistance for the 25 LIHTC units.

1. Does the owner need to submit a new RFP proposal? Why or why not?

No, units may be added at any time.

2. Will SHA be in compliance with PBV regulations if it adds 25 non-elderly LIHTC units to the contract? Why or why not?

No, they will not be in compliance if they add 25

non-elderly (non-exempt) units to the project.

Project cap is $250 \times 25\% = 62$ units or 25 units.

25 units are elderly and exempt; 50 units apply

toward project cap. SHA could only add 12 non-

exempt/non-elderly units to the project.

ANNUAL/BIENNIAL INSPECTIONS

1. What is the minimum number of units that must be inspected at least every 24 months to comply with PBV rules?
19, which includes 5 units in the senior building, 1 unit in each building with 5 units, and 2 units in each building with 6 PBV units.
2. If the property is not PHA-owned, how would you select and schedule the units for inspection?
Must use a random selection methodology to select units. The units must be inspected and pass inspection prior to the HAP contract anniversary date. Therefore, to ensure that the property meets Housing Quality Standards before any contract rent adjustment, SHA should perform inspections 90 to 120 days prior to the contract anniversary date.
3. If the property is PHA-owned, how must the inspection be conducted?
The inspection must be conducted by an independent entity approved by HUD.
4. Four units in the senior building fail the annual/biennial inspection. What are the consequences?
Four units are more than 20% of the units inspected. Therefore, all PBV units must be inspected. Units must be repaired in accordance with policies in the SHA administrative plan. Rents must be abated for units that are not repaired within the timeframes set by SHA to comply with PBV rules.

REASONABLE ACCOMMODATION

Mrs. Geraldine Ramsey lives in a three-bedroom PBV assisted townhouse unit with her three children. She is recovering from an automobile accident. Her mobility is impaired temporarily and this is expected to last for five months. She does not need a wheelchair, but uses a scooter and crutches. A nurse submits a request that Mrs. Ramsey be accommodated in a unit that will assist her recovery. A three-bedroom wheelchair accessible unit is now available for occupancy, and Mrs. Ramsey requests that she be allowed to move into the wheelchair accessible unit for five months and then return to her townhouse unit. The SHA is processing several applicants who need wheelchair accessible units.

1. Does Ms. Ramsey meet the definition of a person with disabilities for purposes of reasonable accommodation?

Yes. For the purpose of reasonable

accommodation, the definition of a person with

disabilities is broader than the HUD definition for

program eligibility and income calculations.

Temporary impairments may qualify.

2. What factors must the SHA consider in determining whether to grant the accommodation?

The relationship between the disability and the

requested accommodation; if the requested

accommodation alters the fundamental nature of

the program or constitutes an undue

administrative or financial burden; suitable

alternative ways to provide the accommodation.

3. Would you grant the accommodation request? Why or why not?

No. Mrs. Ramsey does not need the wheelchair accessibility features of the unit. The property does not enter into short-term leases. Families on the waiting list require the features of the unit.

4. If you deny the accommodation request, what other alternative accommodations might you provide?

Explore ways to modify her unit to meet identified needs. Activate the adjustable and adaptable features in her current apartment. Designate a parking space near her unit.

Notes

CHAPTER 14 Post Test Answer Keys

Chapter 2: Project-Based Voucher Basics3

1. a	8. Family roles are on pages 2-24 & 2-25
2. Advantages are listed on page 2-2.	9. b
3. a	10. c
4. b	11. a
5. b	12. b
6. PHA roles are on pages 2-22 & 2-23	13. a
7. Owner roles are on pages 2-23 & 2-24	

Chapter 3: HCV and PBV Similarities and Differences

1. b	4. b
2. b	5. a
3. No maximum initial rent based on family income; No family share calculations; Payment standards not used; No exception rents as a reasonable accommodation; No rent negotiations between the family and owner	6. Both b and c
	7. b
	8. b

Chapter 4: Owner Proposal Selection Process

1. d	6. e
2. d	7. b
3. a	8. a
4. c	9. b
5. a	10. b

Chapter 5: Setting Rents in PBV Units

1. d	4. a
2. b	5. b
3. a	6. a

Chapter 6: Project-Based Voucher Contracts

1. a	6. b
2. a	7. a
3. c	8. c
4. b	9. July 1
5. a	10. October 8, 2041

Chapter 7: Wait List Management

1. a	4. b
2. b	5. b
3. b	

Chapter 8: Eligibility

1. b	7. b
2. a	8. b
3. b	9. a
4. a	10. d
5. b	11. b
6. b	

Chapter 9: Working with Families

1. c	6. a
2. b	7. b
3. b	8. c
4. b	9. a
5. b	10. a

Chapter 10: Public Housing Repositioning and Blended Occupancy

1. d	5. b
2. d	6. a
3. a	7. b
4. a	8. a

Chapter 11: Program Administration

1. b	4. a
2. b	5. b
3. a	

Notes