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CHAPTER 1 Project-Based Voucher Basics

Section 1 Learning Outcomes and Overview

COURSE LEARNING OUTCOMES

Based on HUD regulations and guidance, develop and master the skills needed to successfully manage standard project-based voucher (PBV) properties. Upon completion of the Fundamentals of Project-Based Voucher Management seminar, you should be able to:

- Identify the basic elements and requirements for project-based voucher properties
- Describe the role of HUD, the PHA, owners, and families in the PBV program
- 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 project selection for the PBV program
- Describe and explain the various project-based voucher contracts
- Discuss the general requirements for eligibility, waiting list management, tenant screening and selection criteria, and ongoing PHA responsibilities related to occupancy
- Develop a regular monitoring review process for PBV projects
- Discuss and understand reporting requirements for the PBV program

PURPOSE OF THE SEMINAR

This course focuses on the concepts that you need to master in order to successfully 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 as well as the rules that are unique to the PBV program provides a foundation for a successful program.

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 (PHAs) 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 seminar.

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 webpage to jump directly to the references. No login information is required.

CHAPTER LEARNING OUTCOMES

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

- Describe what a project-based voucher property is
- Review the timeline for the PBV program
- Understand the key relationships in the PBV program
- Identify requirements for PHA-owned units
- List key program documents
- Review the PHA plan process
- Differentiate between the tenant-based voucher rules that apply to the PBV program and those that apply only to the PBV program

Section 2 Overview of the PBV Program

24 CFR 983.5

The Project-Based Voucher (PBV) program is an optional component of a PHA's tenant-based Housing Choice Voucher (HCV) program. A PHA that already administers the tenant-based voucher program under its consolidated annual contributions contract (ACC) may decide to operate a PBV program. If so, the PHA's PBV program is funded with a portion of the appropriated funding (budget authority) available under the PHA's voucher ACC. This funding is used to pay housing assistance for both tenant-based and project-based voucher units. Likewise, the administrative fee funding made available to a PHA is used for the administration of both tenant-based and project-based voucher assistance.

Unlike in the HCV program where assistance is tied to the family, in the PBV program, assistance is "attached to the structure," which may be a multifamily building or single-family building. The PHA enters into a HAP contract with an owner (which may be the PHA) for units in existing, newly constructed, or rehabilitated housing. During the term of the HAP contract, the PHA makes housing assistance payments to the owner for units leased and occupied by eligible families on the program.

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 may 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.

Section 2: Overview of the PBV Program

- 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.
- Moving families off the public housing platform through repositioning in order to preserve affordable units, address rehabilitation and physical needs, and place properties on a more stable financial foundation.

Project-based vouchers may also be used when a PHA repositions its public housing projects. This may occur when a PHA converts public housing to PBV under the Rental Assistance Demonstration (RAD) program, which follows special program rules unique to RAD and is outside the scope of this seminar. A PHA may also project-base units by using Tenant Protection Vouchers (TPVs) the PHA receives for certain public housing actions such as a Section 18 Demolition/Disposition (demo/dispo). In both cases, a PHA may project-base TPV assistance through the PBV program, subject to the requirements of the particular program. When PBV units are created in this way, they must comply with the PBV statute and all PBV program requirements. In other words, these PBV units are governed by the rules for the standard PBV program, which are discussed in this seminar.

Section 3 PBV Program Timeline

The PBV program was enacted in 1998, as part of the statutory merger of the certificate and voucher tenant-based assistance programs under the Quality Housing and Work Responsibility Act (QHWRA) of 1998. 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 and a comprehensive set of new regulations to implement the project-based voucher program, which were codified 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. 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 July 29, 2016, the Housing Opportunity Through Modernization Act (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the Public Housing and Section 8 programs, including sweeping changes to the PBV program.

On January 18, 2017, HUD published an initial notice implementing certain provisions of HOTMA 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 (Notice PIH 2017-21) was published on October 30, 2017. This notice governed the operation of the program for several years.

Section 3: PBV Program Timeline

On May 7, 2024, HUD published a final rule implementing streamlining changes to the HCV and PBV programs, codifying certain provisions in Sections 101, 105, 106, and 112 of HOTMA, as well as incorporating changes from the final rule implementing the National Standards for the Physical Inspection of Real Estate (NSPIRE). The rule made changes to over 100 program regulations, most of which impacted the PBV program. The rule is known as the “HOTMA voucher final rule.”

The effective date of the HOTMA voucher final rule was June 6, 2024. While the compliance date for certain provisions of the rule is the same as the effective date, the compliance date for other provisions is not until 90 days, 180 days, or one year after the effective date. Further, many new changes to the regulations described in the HOTMA voucher final rule require changes to the PHA’s administrative plan. PHAs must make all revisions needed to bring existing policies into compliance with the final rule no later than June 6, 2025 (one year after the effective date). However, if a PHA wishes to use program flexibilities requiring adoption of new local policies not already present in the PHA’s administrative plan, the PHA must add those policies to the administrative plan prior to using those program flexibilities. Further, the delayed compliance date for policies of June 6, 2025, does not authorize delayed compliance with the provisions of the rule. PHAs that choose not to bring their policies into compliance with the rule until June 6, 2025, must still implement each provision on its compliance date.

NSPIRE AND HQS

The PHA must determine that the rental unit is in safe and habitable condition at certain times prescribed by the regulations. The current applicable inspection standards for the HCV and PBV programs are the Housing Quality Standards (HQS). On May 11, 2023, HUD published a final rule implementing the National Standards for the Physical Inspection of Real Estate (NSPIRE), a new approach to defining and assessing housing quality across multiple HUD programs. The regulation at 24 CFR 5.703 describes the NSPIRE standards, including variations for the HCV and PBV programs. Notice PIH 2023-28 (later issued as Notice PIH 2024-26) finalized the administrative procedures for NSPIRE as they pertain specifically to the HCV and PBV programs. Collectively, this is known as “NSPIRE-V.”

The compliance date for NSPIRE-V is no later than October 1, 2025, at which point the HQS inspection standard will sunset. PHAs may, however, implement NSPIRE-V prior to October 1, 2025, provided they do so in accordance with requirements in FR Notice 7/5/24.

However, even once the HQS inspection standard has sunset, the regulations at 24 CFR Part 982 and 983 governing the HCV and PBV programs will continue to use the terms *HQS* and *housing quality standards* rather than NSPIRE. This is because the definition of *housing quality standards (HQS)* at 24 CFR 982.4 means the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA. As such, this workbook uses the term *housing quality standards* whenever applicable regulations use this term.

Section 4 Project-Based Voucher Terminology

24 CFR 983.3

The PBV program frequently uses terminology that is not common to the HCV 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). If the family is not already a tenant-based voucher participant, the date of admission for the Project-Based Voucher program is the first day of the initial lease term (the commencement of the assisted tenancy) in the PBV unit. 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 written contract between the PHA and the owner in the form prescribed by HUD. The agreement defines requirements for development activity undertaken for units to be assisted under this section. When development is completed by the owner in accordance with the agreement, the PHA enters into a HAP contract with the owner. The agreement is not used for existing housing.

Area where vouchers are difficult to use: An area where a voucher is difficult to use is: (1) A census tract with a poverty rate of 20 per-cent or less, as determined by HUD; (2) A ZIP code area where the rental vacancy rate is less than 4%, as determined by HUD; or (3) A ZIP code area where 90% of the small area FMR (SAFMR) is more than 110% of the metropolitan area or county FMR.

Section 4: 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: A residence facility (including a facility located in a larger multifamily property) that meets all of 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; and (3) The facility provides separate dwelling units for residents and includes common rooms and other facilities appropriate and available to provide supportive services for the residents.

Comparable tenant-based rental assistance: A tenant-based subsidy to enable a family to obtain decent, safe, and sanitary housing in the PHA jurisdiction, which meets the following minimum requirements: (1) The family's monthly payment is not more than 40% of the family's adjusted monthly gross income; (2) The rental assistance contains no limitation as to the length of time the family may receive the assistance; (3) The family is not required to be employed, to seek employment, or to participate in supportive services in order to receive the rental assistance; and (4) The family is able to use the rental assistance in one or more other PHAs' jurisdictions.

Contract units: The housing units covered under a HAP contract.

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 4: Project-Based Voucher Terminology

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.

Development activity: New construction or rehabilitation work done after the proposal or project selection date in order for a newly constructed or rehabilitated housing project to be covered by a PBV HAP contract, including work done pursuant to a rider to the HAP contract in accordance with 24 CFR 983.157.

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.

Excepted units: Units in a project not counted toward the project cap because they exclusively serve or are made available to certain families.

Excluded units: Units in a project not counted toward the program cap or project cap because they meet certain criteria.

Section 4: Project-Based Voucher Terminology

Existing housing: A project that meets the following criteria: (1) All the proposed contract units in the project either fully comply or substantially comply with HQS on the proposal or project selection date, as determined per 24 CFR 983.103(a). (The units must fully comply with HQS at the time required by 24 CFR 983.103(c)). The units substantially comply with HQS if: (a) The units only require repairs to current components or replacement of equipment and/or materials by items of substantially the same kind to correct deficiencies; and (b) The PHA determines all deficiencies can reasonably be corrected within a 30-day period, taking into consideration the totality of the deficiencies in the project. (2) The PHA determines the project is not reasonably expected to require substantial improvement and the owner certifies it has no plans to undertake substantial improvement from the proposal submission date (for projects subject to competitive selection) or the project selection date (for projects excepted from competitive selection) through the first two years of the HAP contract.

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

In-place families (rehabilitation and existing housing only): A family residing in a proposed contract unit on the proposal or project selection date.

Section 4: Project-Based Voucher Terminology

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.

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).

Newly constructed housing: Housing that does not exist as of the proposal or project selection date and is developed after the date of selection for use under the PBV program.

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

Participant: A family that has been admitted and is currently assisted in the PBV (or HCV) program. If the family is not already a tenant-based voucher participant, the family becomes a participant on the effective date of the initial lease term (the commencement of the assisted tenancy) in the PBV unit.

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

Project: A project can be 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. In the admin plan, the PHA may establish the circumstances under which it will define a project as only one of the above.

Rehabilitated housing: A project which is developed for use under the PBV program, in which all proposed contract units exist on the proposal or project selection date, but which does not qualify as existing housing.

Section 4: Project-Based Voucher Terminology

Rent to owner. The total monthly rent payable by the family and the PHA to the owner under the lease for a contract unit. Rent to owner includes payment for any housing services, maintenance, and utilities to be provided by the owner in accordance with the lease. (Rent to owner must not include charges for non-housing services including payment for food, furniture, or supportive services provided in accordance with the lease.)

Responsible entity (for environmental review): The unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines that infeasible, the state.

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.

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.

Substantial improvement. One of the following activities undertaken at a time beginning from the proposal submission date (for projects subject to competitive selection) or from the project selection date (for projects excepted from competitive selection), or undertaken during the term of the PBV HAP contract: (1) Remodeling that alters the nature or type of housing units in a project; (2) Reconstruction; or (3) A substantial improvement in the quality or kind of equipment and materials. The replacement of equipment and/or materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does not constitute substantial improvement.

Tenant rent: The amount payable monthly by the family as rent to the unit owner, as described 23 CFR 983.353(b).

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 standard.

Section 5 Roles of HUD, the PHA, the Owner, and Families

CONGRESS

Congress created and continues to shape subsidized housing through laws and statutes. HUD implements the legislation and cannot waive laws or statutes. To further explain and implement legislation, HUD creates and publishes regulations. Congress establishes HUD's budget with a programmatic breakdown of funding.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

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 and PBV program funds to PHAs
- Providing technical assistance to PHAs on interpreting and applying HCV and PBV 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 that 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

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 of citizenship or eligible immigration status, Social Security numbers, and 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
- 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

Section 5: Roles of HUD, the PHA, the Owner, and Families

- 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

OWNERS

24 CFR 983.210

Owners are responsible for the day-to-day management and maintenance of the PBV properties and units. They must:

- Maintain the premises in accordance with housing quality standards
- Provide all the services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases with assisted families
- Ensure each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the PHA or selected from the owner-maintained waiting list in accordance with HUD requirements
- Ensure the lease is in accordance with the HAP contract and HUD requirements
- To the best of the owner's knowledge, ensure the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence

Section 5: Roles of HUD, the PHA, the Owner, and Families

- Ensure that the owner (including a principal or other interest-ed party) is not the spouse, parent, child, grandparent, grand-child, sister, or brother of any member of a family residing in a contract unit unless needed as a reasonable accommodation under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA), for a household member who is a person with disabilities
- Ensure the amount of the housing assistance payment is the correct amount due under the HAP contract
- Ensure the rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units
- Except for the housing assistance payment and the tenant rent as provided under the HAP contract, ensure the owner has not received and will not receive any payment or other consideration (from the family, the PHA, HUD, or any other public or private source) for rental of the contract unit
- Ensure the family does not own or have any interest in the contract unit. The certification required by this section does not apply in the case of an assisted family's membership in a cooperative
- 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
- Collect security deposits, rents, and any charges for tenant-caused damages
- Cooperate with the PHA for annual/biennial inspections
- Provide information and access to records as required by the PHA and HUD.

Section 5: Roles of HUD, the PHA, the Owner, and Families

- 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.
- If waiting lists are owner-maintained, accept applications from interested applicant families, and maintain waiting lists
- 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

PUBLIC HOUSING AUTHORITY

HUD contracts with public housing authorities, as authorized by state legislation, to administer the Housing Choice Voucher program and other housing programs. HUD provides funding to each PHA under the terms of an annual contribution contract (ACC). Under the terms of the ACC, the PHA establishes local policies that comply with federal, state, and local laws as well as HUD regulations. The PHA provides safe, habitable housing to low-income families at an affordable rent.

Section 5: Roles of HUD, the PHA, the Owner, and Families

In the PBV program, 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 (if not owner-maintained), calculating the family's share of the rent, and establishing utility allowances. PHAs are also responsible for executing, managing, renewing, and/or terminating the PBV contracts.

The PHA also:

- Establishes local policies for the PBV program in the administrative plan
- Selects proposals and/or projects for the PBV program in accordance with all PBV program requirements and policies in the PHA's administrative plan
- Notifies HUD of the intent to project-base vouchers and when the PHA executes, amends, or extends a HAP contract
- Submits required documents to HUD or local entities for reviews and/or approval such as environmental reviews and subsidy layering reviews
- Executes contracts with owners for specific units in properties
- If waiting lists are PHA-maintained, accepts applications from interested applicant families, maintains waiting lists, and places owner referrals on waiting lists
- If waiting lists are owner-maintained, provides oversight to ensure lists are administered in accordance with program requirements, including equal opportunity and nondiscrimination
- Determines PBV program eligibility and briefs families
- Informs families of program rules and ensures families sign the PBV statement of family responsibility
- Refers eligible families to owners for a suitability determination
- Inspects assisted units at appropriate times and ensures compliance with housing quality standards (unless units are PHA-owned)
- Calculates the family's tenant-rent
- Performs annual and interim reexaminations

Section 5: Roles of HUD, the PHA, the Owner, and Families

- Makes housing assistance payments to owners in a timely manner
- Monitors and ensures owners' compliance with the HAP contract
- If applicable, makes vacancy payments per contract and administrative processing procedures
- Terminates family assistance when necessary and provides informal reviews and hearings
- Provides families and owners with prompt, professional service
- Complies with all fair housing and equal opportunity requirements, HUD regulations and requirements, the annual contribution contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state, and local laws

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 housing 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 nonprofit 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 6 PHA-Owned Units

DEFINITION

24 CFR 982.4

A PHA-owned unit is a dwelling unit in a project that is:

- Owned by a PHA (including having a controlling interest in the entity that owns the project);
- 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 member or general partner.

A controlling interest is:

- Holding more than 50% of the stock of any corporation;
- Having the power to appoint more than 50% of the members of the board of directors of a non-stock corporation (such as a nonprofit corporation);
- Where more than 50% 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% of all managing member interests in an LLC;
- Holding more than 50% of all general partner interests in a partnership; or
- Equivalent levels of control in other ownership structures.

Notice PIH 2017-21

Units are 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 non-controlling interest in an entity that owns the unit or in the managing member or general partner of an entity that owns the unit.

HAP CONTRACTS FOR PHA-OWNED UNITS

24 CFR 983.204

Currently, for PBV projects containing PHA-owned units, prior to execution of the HAP contract, the PHA must establish a separate legal entity to serve as the owner. The separate legal entity executes the HAP contract with the PHA. The separate legal entity must have the legal capacity to lease units and must be one of the following:

- A nonprofit affiliate or instrumentality of the PHA;
- A limited liability corporation;
- A limited partnership;
- A corporation; or
- Any other legally acceptable entity recognized under state law

24 CFR 983.204(e)(2)

Under the HOTMA voucher final rule, PHAs that do not wish to create a separate legal entity for execution of a HAP contract will have the option to instead execute a HUD-prescribed PHA-owned certification in lieu of a HAP contract. The PHA-owned certification will serve as the equivalent of a HAP contract and subject the PHA to all of the same requirements. The PHA may not use the PHA-owned certification if the PBV project is owned by a separate legal entity from the PHA. The PHA must obtain the services of an independent entity prior to signing the PHA-owned certification. This provision is currently on hold.

DUAL ROLE

When the PHA project-bases units that are owned by the PHA, the PHA typically plays a dual role: that of contract administrator and that of management agent. The HAP contract is administered by the PHA (also known as the contract administrator) since HUD has entered into a voucher ACC with the PHA. As the contract administrator, the PHA is responsible for executing, managing, monitoring, renewing, and terminating the PBV contract, as well as for making payments due under the contract and performing the typical functions of the PHA such as determining eligibility and level of assistance.

The PHA (contract administrator) typically executes the PBV HAP contract with a separate legal entity and this entity becomes the owner/management agent for the project and is typically responsible for running the property day to day and performing the function of the owner under the regulations.

INDEPENDENT ENTITY

24 CFR 982.4

For units that meet the definition of PHA-owned, the PHA must identify and use an independent entity to perform certain functions for the PHA. An *independent entity* is defined as:

- The unit of general local government; however, if the PHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or
 - Example, if the PHA is the city or an agency of the city, then the county or state government may perform the functions without HUD approval.
- A HUD-approved entity that is autonomous and recognized under state law as a separate legal entity from the PHA. The entity must not be connected financially (except regarding compensation for services performed for PHA-owned units) or in any other manner that could result in the PHA improperly influencing the entity.

24 CFR 983.57(c)

The PHA may pay fees to the independent entity from its administrative fee (including fees credited to the administrative fee reserve) for services performed. The PHA may not use other program receipts to compensate the independent entity for such services. The PHA and the independent entity may not charge the family any fee or charge for the 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, review the selection process and determine that the PHA-owned units were appropriately selected in accordance with procedures in the PHA administrative plan.
- Determine rent to owner, including rent reasonableness and calculating any rent adjustments by an OCAF (where applicable).
- Perform unit inspections.
- When the owner carries out development activity under 24 CFR 983.152 or substantial improvement under 24 CFR 983.207(d) or 983.212, review the evidence and work completion certification submitted by the owner and determine if the units are complete in accordance with 24 CFR 983.156.
- Determine whether to approve substantial improvement to units under a HAP contract.

Section 7 Eligible Housing Types

A PHA may provide project-based assistance for existing, newly constructed, or rehabilitated housing.

24 CFR 983.3

Existing housing is a project that meets the following criteria:

- All the proposed contract units in the project either fully comply or substantially comply with housing quality standards on the proposal or project selection date. (The units must fully comply with HQS at this time or in accordance with the non-life threatening (NLT) or alternative inspection options listed at 24 CFR 983.103(c) if the PHA adopts those options). The units substantially comply with HQS if:
 - The units only require repairs to current components or replacement of equipment and/or materials by items of substantially the same kind to correct deficiencies; and
 - The PHA determines all deficiencies can reasonably be corrected within a 30-day period, taking into consideration the totality of the deficiencies in the project.
- The PHA determines the project is not reasonably expected to require substantial improvement and the owner certifies it has no plans to undertake substantial improvement from the proposal submission date (for projects subject to competitive selection) or the project selection date (for projects excepted from competitive selection) through the first two years of the HAP contract.

Newly constructed housing is a project containing housing units that do not exist on the proposal or project selection date and are developed after the date of selection for use under the PBV program.

Rehabilitated housing is a project which is developed for use under the PBV program, in which all proposed contract units exist on the proposal or project selection date, but which does not qualify as existing housing.

Section 8 Prohibition of Assistance for Certain Units

INELIGIBLE UNITS

24 CFR 983.52

A HAP contract must not be effective and no PBV assistance may be provided for any of the following:

- Shared housing units
- Units on the grounds of a penal reformatory, medical, mental, or similar public or private institution
- However, units made exclusively available to Veterans Affairs Supportive Housing (VASH) families on the site of a VA facility are an exception.
- Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities)
- Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; and transitional housing

FR Notice 8/13/24

Prior to HOTMA, manufactured homes were considered ineligible units. However, when the manufactured home is permanently attached to the ground, and the owner owns both the manufactured home and the land, PBVs may be attached to manufactured homes.

In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner of the housing. 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.

Before a PHA places a specific unit under a HAP contract, the PHA must determine whether the unit is occupied and, if occupied, whether the unit's occupants are eligible for assistance in accordance with 24 CFR 982.201. For a family to be eligible for assistance in the specific unit, the unit must be appropriate for the size of the family under the PHA's subsidy standards and the total tenant payment (TTP) for the family must be less than the gross rent for the unit. The PHA must not enter into a HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

SUBSIDIZED HOUSING

24 CFR 983.53

A HAP contract must not be effective and no PBV assistance may be provided in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, the PHA may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance; or
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements. For this purpose, housing subsidy does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

Section 9 Key Project-Based Voucher Program 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 9: Key Project-Based Voucher Program 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. 89 No. 89/ Tuesday, May 7, 2024/ Housing Opportunity Through Modernization Act of 2016-Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes
- Federal Register/Vol. 89 No. 156/ Tuesday, August 13, 2024/ Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program
- 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)

Section 9: Key Project-Based Voucher Program Documents

- 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
- Notice PIH 2020-30, Implementation of Section 290(b) of the Economic Growth, Regulatory relief, and Consumer Protection Act (Economic Growth Act)
- Notice PIH 2024-19, HOTMA HCV and PBV Final Rule - Guidance on Effective and Compliance Dates and PHA Implementation Preparation
- Notice PIH 2024-26, Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) Administrative Procedures for the Housing Choice Voucher (HCV) Programs, REVISION 1
- 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.

Section 9: Key Project-Based Voucher Program Documents

- 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. In the annual plan, the PHA must identify:
 - Its participation in the Project-Based Voucher program
 - Projected number of PBV units
 - General location of the units
 - How project-basing would be consistent with the pPlan
 - Statement of intent to select one or more projects for project-based assistance without competition, if anticipated
- 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. If a PHA exercises its discretion to operate a PBV program, the PHA's administrative plan must include all the PHA's local policies on PBV-related matters over which the PHA is exercising its policymaking discretion. At a minimum, the admin plan must cover PHA policies listed in 24 CFR 983.10.

Section 9: Key Project-Based Voucher Program Documents

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. 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.

HUD 52578-B

- The **Section 8 Project-Based Voucher Program Statement of Family Responsibility** is the document that is signed by the family after being selected from the PHA or owner waiting list and the PHA determines eligible for participation in the PHA's PBV program. This form functions much like the voucher in the tenant-based program in that it enumerates the family responsibilities on the PBV program.

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.
- Unlike in the tenant-based program, the PBV program does not use a Request for Tenancy Approval (RFTA) form.

Section 10 HCV and PBV: Similarities and Differences

HCV RULES THAT APPLY TO THE PBV PROGRAM

Many of the basic regulations for the tenant-based voucher program at 24 CFR Part 982 also apply to the Project-Based Voucher program. However, the PBV program has its own set of governing regulations at 24 CFR Part 983. These regulations begin with a description of the provisions of Part 982 that do not apply to PBV (see 24 CFR 983.2). The rest of part 982 applies to the PBV program, except in cases where the PBV regulations specifically state that they do not.

A PHA is not required to implement the PBV program in absolutely the same way as their HCV 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 day of the 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 that follows 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
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, sexual assault, 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 owner's 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.

Section 10: HCV and PBV: Similarities and Differences

HCV 24 CFR Rules that Apply to PBVs	Topic
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
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 program 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.

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> <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.</p> <p>“Subsidy” does not include the housing component of a welfare payment; a Social Security payment; or a federal, state, or local tax concession.</p>

Section 10: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982.352 (continued)	983.54 (continued)	In addition, a PHA is prohibited from attaching project-based voucher subsidies to units that are in the following types of housing: Public housing; Section 202 housing for non-elderly persons with disabilities or Section 202 supportive housing for the elderly; and Section 811 project-based supportive housing for persons with disabilities.
982.355	983.2(b)(2)	Portability Project-based vouchers are not portable as they are attached to specific units within a property.
982.401(a)(4)(ii)	983.101(e)	Additional PHA quality and design requirements 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.
982.401(j)	983.101(c) 24 CFR Part 35, subparts A, B, H, and R 40 CFR 745.227 Notice PIH 2017-13	Housing Quality Standards: Lead-Based paint 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. 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.

Section 10: 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>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 reoccupancy 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> <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>

Section 10: 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)	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. 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 Federal Register on January 13, 2017.
982.402(a)(3), (c), and (d)	983.253(b)	Subsidy standards 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.
982.403	983.260	Terminating contract when unit is wrong size 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.

Section 10: HCV and PBV: Similarities and Differences

Inapplicable 24 CFR HCV Rules	PBV Rule 24 CFR Citations	Topic
982.405(a)	983.103(b), (c), and (d)	Initial and annual/biennial inspections 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% of units in each PBV building and is not required to inspect each unit.
982.406	983.207(b)(2)	HQS enforcement 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.
982.455	No reference. No contract provision for such a termination.	Automatic termination of the contract The PBV contract does not automatically terminate 180 days after the last assistance payment on behalf of a family.

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:</p> <p>Payment standards and family share calculations are not used to determine the tenant rent.</p> <p>A family’s initial monthly rent is either:</p> <p>The greater of the following minus a utility allowance:</p> <ul style="list-style-type: none"> –30% of their adjusted income, –10% their monthly income, or –The PHA determined minimum rent (up to \$50) <p>OR</p> <p>The welfare rent if a family receives benefits in an “as paid” state.</p> <p>The owner and the family do not negotiate the rent.</p> <p>Rent reasonableness process is not on a unit-by-unit basis, but by contract unit size and type.</p> <p>PBVs must use the HCV utility allowance schedule.</p> <p>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 10: 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 11 PHA Plan Process

24 CFR 983.5(c)

While HUD approval is not required to operate a PBV program, the PHA must notify HUD of its intent to project-base its vouchers and when the PHA executes, amends, or extends a HAP contract.

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 PLAN (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.

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.

24 CFR 903.6(c)

If a PHA intends to select one or more projects for project-based assistance without competition in accordance with 24 CFR 983.51(c), the PHA must include a statement of this intent in its five-year plan (or an amendment to the five-year plan) in order to notify the public prior to making a noncompetitive selection.

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.

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.

24 CFR 903.7(r)

If a PHA participates in the project-based assistance program, the PHA's annual plan must include a statement of the projected number of project-based units, the general location of the project-based units, and how project-basing would be consistent with its annual plan.

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

THE PHA ADMINISTRATIVE PLAN

24 CFR 982.54

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.

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.

24 CFR 983.10

HUD regulations list the topics the PHA must include in its administrative plan if it operates a PBV program. The administrative plan must include all the PHA's local policies on PBV-related matters over which the PHA is exercising its policymaking discretion. At a minimum, the administrative plan must address the topics listed in 23 CFR 983.10.

Section 11: PHA Plan Process

Checklist for Administrative Plan Policies Check box if included in PHA plan	
Topic	(x)
The definition of “project”	
A description of the types and availability of services that will qualify units under the supportive services authority under the program cap	
The PHA’s policy limiting Family Unification Program (FUP) assistance normally available for eligible families and youth	
A description of the circumstances under which the PHA will use the competitive and noncompetitive selection methods and the procedures for submission and selection of PBV proposals	
A description of the types and availability of services that will qualify units under the supportive services exception from the project cap	
Timing of an initial inspection of existing housing	
Whether the PHA adopts for initial inspection of PBV existing housing the non-life-threatening deficiencies option, the alternative inspection option, or both, and whether the PHA adopts for periodic inspection of PBV housing the alternative inspection option. If so, state all policies as required by 24 CFR 982.(54)(d)(21)(ii) and (iii), as they relate to the PHA's PBV program	
The frequency of periodic inspections	
Any verification methods other than on-site inspection for different inspection types or for different HQS deficiencies	
A description of the circumstances (if any) under which the PHA will establish additional requirements for quality, architecture, or design of PBV housing at the time of initial rehabilitation or new construction	
The PHA’s standard for deconcentrating poverty and expanding housing and economic opportunities	
Site selection standards	

Section 11: PHA Plan Process

A description of the circumstances (if any) under which the PHA will enter a PBV HAP contract for newly constructed and rehabilitated housing without first entering into an agreement or execute an agreement after construction or rehabilitation that complied with applicable requirements of 24 CFR 983.153 has commenced	
The PHA's policy on the form and manner in which the owner must submit evidence and certify that work has been completed	
<p>Rehabilitated housing developed after HAP contract execution:</p> <ul style="list-style-type: none"> • A description of the circumstances (if any) under which the PHA will enter a PBV HAP contract for rehabilitated housing that allows for development activity to occur after HAP contract execution; • The timing of the initial inspection; • The form and manner of owner notifications of changes in the status of contract units; and • The period for compliance (if any) for development activity that has not been completed by the deadline. 	
The PHA's policy on amending PBV HAP contracts to substitute or add contract units	
A description of the circumstances (if any) under which the PHA will establish additional requirements for continued compliance with quality, architecture, or design of PBV housing during the term of the HAP contract	
The PHA's policy on the conditions under which it will withhold HAP and the conditions under which it will abate HAP or terminate the contract for units other than the unit with HQS deficiencies	
The PHA's policy on assisting families with relocating and finding a new unit	
A description of the PHA's waiting list policies for admission to PBV units, including any information on the owner waiting list policy	
A description of the PHA's policy on whether to conduct tenant screening and offer information to an owner	
The PHA's policy on continued housing assistance for a family that occupies a wrong-sized unit or a unit with accessibility features that the family does not require	
<p>The PHA's policy on a family's right to move:</p> <ul style="list-style-type: none"> • The form of tenant-based rental assistance that the PHA will offer families; and • The procedures for tenants to request tenant-based rental assistance to move. 	
The PHA's policy regarding which options it will take if a unit is no longer qualified for excepted status or the increased program cap	

The PHA's policy regarding continued occupancy of a unit under the increased program cap for supportive housing for persons with disabilities or elderly persons and units excepted based on elderly or disabled family status after a change in family composition removing the elderly family member or family member with a disability	
Reduction in HAP contract units due to vacancies	
The PHA's policy regarding the PHA-determined amount it will use to calculate rent to owner	
The PHA's policy on the required timing and form of owner requests for a rent increase	
The PHA's policy on providing vacancy payments, including the required form and manner of requests for vacancy payments	
The PHA's policy on utility reimbursements	
The PHA's policy on applying SAFMRs to its PBV program	

RESIDENT ADVISORY BOARD

24 CFR 903.13

To enable residents assisted by the PHA to provide advice on the plan, PHAs are required to establish one or more resident advisory boards (RABs). 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 resident advisory board must provide for reasonable representation of families receiving project-based assistance, in addition to families receiving tenant-based assistance.

Section 12 Chapter 1 Post Test

1. The PBV program is an optional component of the Housing Choice Voucher program.
 - a. True
 - b. False

2. While HUD approval is not required to operate a PBV program, what must the PHA notify HUD of related to its PBV program?

3. HUD's major role in the PBV program is to sign HAP contracts with owners of PBV projects.
 - a. True
 - b. False

4. When a project is PHA-owned, an independent entity must provide all of the following functions except:
 - a. Inspecting units
 - b. Signing leases with families on the program
 - c. Approving initial and redetermined rent to owner
 - d. Performing rent reasonableness

5. All of the following are applicable to the PBV program except:
 - a. 24 CFR 982
 - b. 24 CFR 983
 - c. The Housing Choice Voucher Guidebook
 - d. The PHA's administrative plan
 - e. The PHA's admissions and continued occupancy policy (ACOP)

6. Define *rehabilitated housing*:

7. Define *new construction housing*.

8. In its annual plan, a PHA must provide the number of units and the exact locations for project-basing units.
- a. True
 - b. False
9. 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
10. 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
11. The resident advisory board (RAB) must include reasonable representation of families receiving PBV assistance.
- a. True
 - b. False

Notes

CHAPTER 2 The PBV Program Cap and Project Cap

Section 1 Learning Outcomes

LEARNING OUTCOMES

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

- Review the program cap for the PBV program
- Identify units that qualify under the increased program cap
- Discuss units that are exempt from both the program cap and the project cap
- Understand the project cap in the PBV program
- Identify which units qualify as excepted units under the project cap and the requirements for those units

DEFINITIONS

The *program cap* is a limit on the percentage of authorized units a PHA can project-base. Certain units don't count toward the program cap.

The *project cap* is a limit on how many units in a particular project to which the PHA can attach PBVs. Certain units don't count toward the project cap.

Excepted units are units in a project not counted toward the project cap because they exclusively serve or are made available to certain families.

Excluded units are units in a project not counted toward the program cap or project cap because they meet certain criteria.

Section 2 Project-Based Voucher Program Cap

24 CFR 983.6

The PBV program is a discretionary component of a PHA's 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). Except for certain units discussed below, a PHA may commit project-based assistance to no more than 20% of its authorized voucher units, as adjusted at the time of commitment, with the ability to project-base an additional 10% of units that meet certain requirements. The program cap is 20% as adjusted and not a flat 20% because the PHA must remove certain units when calculating the program cap. Units previously subject to federally required rent restrictions or that received long-term rental assistance (which is discussed in more detail later in this chapter) do not count toward the program cap and are removed for purposes of calculating authorized units.

Prior to selecting a project for PBV assistance, the PHA is responsible for calculating the number of authorized units that it is permitted to project-base, determining the amount of budget authority that is available for project-based vouchers and for ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC. Appendix I of Notice PIH 2017-21 contains a sample PBV program cap calculation worksheet. If PBV units are already selected for project-based assistance either under an AHAP or a HAP contract, the PHA is not required to reduce the number of units if the number of authorized units is subsequently reduced. All PBV units that the PHA has selected (from the time of the proposal or project selection date) or that are under an agreement to enter into a HAP contract (AHAP) or HAP contract for PBV assistance count toward the 20% maximum or increased cap.

Section 2: Project-Based Voucher Program Cap

Program Cap Example

- The PHA had 100 authorized units and completed a public housing RAD conversion on 25 units
100 authorized units
+ 25 RAD PBV units
125 authorized units (beginning January the year following conversion)
- The PHA's 20% program cap and PBV 10% units are calculated based on 100 adjusted authorized units since the 25 RAD PBV units are excluded units and don't count towards the program cap.
- PHA's 20% program cap: 20% of 100 = 20 units
- PHA's PBV 10% units: 10% of 100 = 10 units
- 30 PBV units (20 regular and 10 PBV 10% exception) are allowed
- 25 RAD PBV + 30 PBV + 70 HCV = 125 authorized units

24 CFR 983.58

An analysis of impact must be conducted if a PHA is project-basing 50% or more of the PHA's authorized voucher units. The analysis should consider the ability of the PHA to meet the needs of the community across its tenant-based and project-based voucher portfolio, including the impact on families on the waiting list and eligible PBV families that wish to move under choice mobility. The analysis performed by the PHA must be available as part of the public record.

INCREASED PROGRAM CAP (PBV 10% UNITS)

24 CFR 983.6(d)

The PHA may project-base an additional 10% of its authorized voucher units above the 20% program limit, provided the units meet requirements outlined in 24 CFR 983.6(d)(1). The units may be distributed among one, all, or a combination of the categories described below, as long as the total number of units does not exceed the 10% cap. The PBV HAP contract must specify, and the owner must set aside, the number of units meeting the conditions to qualify for the increased program cap. To qualify for the increased program cap, the unit must be occupied by the type of family specified in the applicable paragraph below.

24 CFR 983.6(d)(1)

The following is applicable to:

- Units under a HAP contract that was first executed on or after April 18, 2017; or
- Units added on or after April 18, 2017, to a current HAP contract entered into prior to April 18, 2017

Units that meet the above criteria qualify under the increased program cap if the units meet at least one of the conditions below:

- 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;
 - A family qualifies if they were homeless at the time the family first occupies the unit.
- The units are specifically made available to house families that are comprised of or include a veteran.
 - A *veteran* is a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom;
 - A family qualifies if they included a veteran at the time the family first occupies the unit.

Section 2: Project-Based Voucher Program Cap

- The units provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403;
 - A disabled or elderly member of the family must be eligible for one or more of the supportive services at the time the family first occupies the unit. The member of the family may choose not to participate in the services.
 - *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 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.
 - The PHA's administrative plan must describe the type and availability of supportive services the PHA will consider as qualifying for the 10% increased cap.
- The units are located in areas where vouchers are difficult to use; or
- The units replace, on a different site, units listed in 24 CFR 983.59(b)(1) and (2) for which the PHA had authority under 24 CFR 983.59 to commit PBV assistance on the original site without the units counting toward the program cap or project cap.

24 CFR 983.6(d)(2)

The following is applicable to:

- Units that are part of a HAP contract executed on or after December 27, 2020: or
- Units added on or after December 27, 2020, to a current HAP contract entered into prior to December 27, 2020

Units that meet the above criteria qualify under the increased program cap if the units meet at least one of the conditions below:

- The units are exclusively made available to eligible youth receiving Family Unification Program (FUP) or Foster Youth to Independence (FYI) assistance; and

Section 2: Project-Based Voucher Program Cap

- If the units exclusively made available to eligible youth use FUP assistance that is normally available for eligible families and youth, the PHA determines and documents that the limitation of the units to youth is consistent with the local housing needs of both eligible FUP populations (families and youth) and amends its administrative plan to specify that FUP PBV assistance is solely for eligible youth.

Section 3 PBV Project Cap

DEFINITION OF A PROJECT

24 CFR 983.3

A project can be 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.

A PHA may, in its administrative plan, establish the circumstances under which it will define a project as only one of the following: a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

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

PROJECT CAP

24 CFR 983.54(a)

In general, the PHA may not select a proposal for units in a project or enter into an AHAP or a HAP contract to provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance is more than the greater of 25 units or 25% of the number of dwelling units (assisted or unassisted, as adjusted) in the 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% of 40 units). A total of 25 units may be project-based in ABC Project.

HIGHER PROJECT CAP

24 CFR 983.54(b)

The PHA may provide PBV assistance to the greater of 25 units or 40% of the number of dwelling units (assisted and unassisted, as adjusted) in the project if the project is located in an area where vouchers are difficult to use. An area where a voucher is difficult to use is defined as:

- A census tract with a poverty rate of 20% or less, as determined by HUD;
- A ZIP code area where the rental vacancy rate is less than 4%, as determined by HUD; or
- A ZIP code area where 90% of the small area FMR is more than 110% of the metropolitan area or county FMR.

EXCEPTIONS TO THE PROJECT CAP

24 CFR 983.54(c)

Certain units are removed from the number of dwelling units for purposes of calculating the project cap. These are known as excepted units, which are defined as units in a project not counted toward the project cap because they exclusively service or are made available to certain families.

The PHA determines the number of units in the project for which the PHA will provide project-based assistance, including whether and how many units will be excepted. The PBV HAP contract must specify, and the owner must set aside, the number of excepted units made available for occupancy by families who qualify for the exception. For a unit to be considered excepted, it must be occupied by a family who qualifies for the exception.

Which units are considered excepted differs depending on when the HAP contract was executed. Contracts executed prior to April 18, 2017, follow the “old” statutory PBV requirements for excepted units.

Section 3: PBV Project Cap

Projects where the HAP contract was executed on or after April 18, 2017, follow the new requirements. A project is not limited to a single exception category but may include excepted units from any of the exception categories. PBV units are not counted toward the project cap if the units are:

- Exclusively for elderly families;
- Exclusively made available to eligible youth receiving FUP or FYI assistance; or
- For households eligible for supportive services available to all families receiving PBV assistance in the project.

Excepted Units 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% 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).

PRE-HOTMA PROJECTS

Notice PIH 2017-21

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.

EXCEPTED UNITS: FUP/FYI UNITS

24 CFR 983.54(c)(ii)

When the PHA project-bases FUP or FYI units, the units are considered excepted units. If units are set aside for eligible youth receiving FUP or FYI assistance, since units are only available to eligible youth using FUP assistance that is normally available for families and youth, the PHA must:

- Determine that the limitation is consistent with local housing needs of both eligible populations
- Maintain documentation to support the determination
- Amend the admin plan to include the limitation

EXCEPTED UNITS: SUPPORTIVE SERVICES

24 CFR 983.54(c)(iii)

For the purpose of this exception, supportive housing means a project that makes supportive services available for all of the PBV-assisted families in the project, but the family may not be required to participate in the services as a condition of living in the excepted unit. The supportive services need not be provided by the owner or on-site but must be reasonably available to the family receiving PBV assistance in the project and must be designed to help families achieve self-sufficiency or live in the community as independently as possible. Supportive services must be made available to the family within a reasonable time as defined by the PHA, not to exceed 120 calendar days from the family's request.

A PHA that manages a Family Self-Sufficiency (FSS) program may offer FSS to meet the exception. Previously, HUD stated that the PHA could not rely solely on FSS as a supportive service. This is no longer the case. The PHA may also make the supportive services used in connection with the FSS program available to non-FSS PBV families at the project.

Section 3: PBV Project Cap

Notice PIH 2017-21

Supportive 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
- Childcare
- Educational and employment services
- Job training
- Counseling
- Other services designed to help the recipient live in the community as independently as possible

24 CFR 983.54(c)(iii)

If supportive services are offered, the PHA must include in the administrative plan:

- Types of services offered to families that will enable the units to qualify under the exception;
- The extent to which such services will be provided (length of time services will be provided to a family, frequency of services, and depth of services); and
- The reasonable time by which such services must be made available to the family.

Section 4 Units Excluded from the Program Cap and Project Cap (Excluded Units)

EXCLUDED UNITS

*FR Notice 1/18/17 and 24 CFR
983.59*

For HAP contracts that first became effective on or after April 18, 2017, the PHA may commit project-based assistance to units that meet the requirements below without the units counting toward the program cap (including the 10% exception) or project cap. These are known as excluded units and fall into two different categories:

- **Existing or rehabilitation units:** In the five years prior to the request for proposals (RFP) or the proposal or project selection date (in the case of selection without RFP), these units fall into one of the categories described below, provided that the units are removed from all categories prior to the effective date of the HAP contract. These units include units that received one of the following forms of HUD assistance:
 - Public Housing Capital or Operating Funds;
 - Project-Based Rental Assistance (Section 8), including units assisted under Section 8 Moderate Rehabilitation (Mod Rehab) and Mod Rehab Single-Room Occupancy (SRO) programs;
 - Housing for Elderly (Section 202);
 - Housing for Persons with Disabilities (Section 811);
 - Rental Assistance Program (RAP) (Section 236(f)(2) of the National Housing Act); or Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

Or the units have been subject to a federally required rent restriction under one of the following programs:

- The Low-Income Housing Tax Credit program (26 U.S.C. 42);
- Section 515 Rural Rental Housing Loans (42 U.S.C. 1485); or
- Section 236;
- Section 221(d)(3) Below Market Interest Rate;

Section 4: Units Excluded from the Program Cap and Project Cap (Excluded Units)

- Housing For the Elderly (Section 202 of the Housing Act of 1959);
 - Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);
 - Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments Act of 1978); or
 - Any other program identified by HUD through Federal Register notice subject to public comment.
- **Replacement units:** Newly constructed units developed under the PBV program are also considered excluded units if the primary purpose of the newly constructed units is or was to replace units that meet the criteria listed above. The newly constructed unit must be located on the same site as the unit it is replacing; however, an expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project is acceptable as long as a majority of the replacement units are built back on the site of the original project and any replacement units that are not located on the existing site are part of a project that shares a common border with, are across a public right of way from, or touch that site. In addition, in order for the replacement units to be excluded from the program and project caps, one of the following must be true:
 - Former residents of the original project must be provided with a selection preference that provides the residents with the right of first occupancy at the PBV newly constructed project when it is ready for occupancy; or
 - Prior to the demolition of the original project, the PBV newly constructed project must have been identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.

Section 5 Requirements for Excepted Units and/or Units under the Increased Program Cap

24 CFR 983.262(b)

In order to qualify as either excepted units or units under the increased program cap, units must be occupied by a family that meets the exception criteria applicable to the unit. Once the family vacates the unit, the PHA must select a new family from the waiting list via an admission preference, and the unit must be made available to and occupied by a family that meets the applicable exception.

Example 1

- A project has units set aside for homeless families.
- **Program cap:** The units house individuals and families that meet the definition of homeless under McKinney-Vento. Therefore, the units are subject to the increased program cap (PBV 10% units).
- **Project cap:** The units are subject to the project cap because they do not fall into any of the categories for excepted units.
- The PHA must have a waiting list preference for the units because they are PBV 10% units.

Example 2

- A project has units that offer optional supportive services for families that include a person with disabilities, but the family is not required to participate in the services as a condition of living in the unit.
- **Program cap:** The project makes optional supportive services available for families that include persons with disabilities. Therefore, the units are subject to the increased program cap (PBV 10% units).
- **Project cap:** The units offer optional supportive services. Therefore, they qualify as excepted units. They are excepted from the project cap.
- The PHA must have a waiting list preference for the units because they are both excepted units and PBV 10% units.

Section 5: Requirements for Excepted Units and/or Units under the Increased Program Cap

Example 3

- A project has units that offer optional supportive services to all families under the PHA's FSS program.
- **Program cap:** The project does not fall into one of the categories for the increased program cap. Therefore, the 20% program cap applies.
- **Project cap:** The units offer optional supportive services. Therefore, they qualify as excepted units. They are excepted from the project cap.
- The PHA must have a waiting list preference for the units because they are excepted units.

UNITS THAT NO LONGER QUALIFY: ELDERLY/DISABLED

Certain types of units require occupancy by either elderly or disabled family members. This is true for the following types of units:

- PBV 10% units for supportive housing for persons with disabilities or elderly persons
- Excepted units for elderly families
- Excepted units for disabled families (HAP contracts in effect prior to 4/18/17)

The PHA must state in its administrative plan whether it will allow a family that initially qualified for occupancy of an excepted unit or PBV 10% unit to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of family member or long term or permanent hospitalization or nursing care), the unit no longer qualifies.

24 CFR 983.262(b)(4)

In this case, the unit may continue to count as an excepted unit for as long as the family resides in that unit. However, the requirements of 24 CFR 983.260 concerning wrong-sized units apply.

Section 5: Requirements for Excepted Units and/or Units under the Increased Program Cap

If the PHA chooses not to exercise this discretion, the unit is no longer considered excepted or a PBV 10% unit (as applicable) and, if the family is not required to move from the unit, the PHA may use one of the options described below. The PHA must specify in its administrative plan which of the options below the PHA will take if a unit is no longer qualified:

- Substitute the unit for another unit if it is possible to do so in accordance with 24 CFR 983.207(a), so that the overall number of excepted units or units under the increased program cap in the project is not reduced.
 - The PHA may, in conjunction with such substitution, add the original unit to the HAP contract if it is possible to do so in accordance with 24 CFR 983.207(b), including that such addition does not cause the PHA to exceed the program cap or become noncompliant with the project cap.
- Remove the unit from the PBV HAP contract.
 - In conjunction with the removal, the PHA may provide the family with tenant-based assistance, if the family is eligible for tenant-based assistance. The family and the owner may agree to use the tenant-based voucher in the unit; otherwise, the family must move from the unit with the tenant-based voucher. If the family later vacates the unit, the PHA may add the unit to the PBV HAP contract in accordance with 24 CFR 983.207.
- Change the unit's status under the project cap or program cap, as applicable, provided that the change does not cause the PHA to exceed the program cap or become noncompliant with the project cap.

Section 5: Requirements for Excepted Units and/or Units under the Increased Program Cap

UNITS THAT NO LONGER QUALIFY: FUP YOUTH

24 CFR 983.262(e)

A unit is excepted from the project cap or qualifies under the increased program cap, as applicable, if the unit is occupied by an eligible youth receiving FUP assistance. The youth must vacate the unit once the FUP assistance has expired. The unit loses its excepted status or no longer qualifies under the increased program cap, as applicable, if the youth does not move from the unit upon the expiration of the FUP assistance.

SUPPORTIVE SERVICES

24 CFR 983.262(d)(3)(i)

For excepted units for supportive services, a unit is excepted if any member of the family is eligible for one or more of the supportive services even if the family chooses not to participate in the services.

24 CFR 983.262(d)(3)(ii)

If any member of the family chooses to participate and successfully completes the supportive services, the unit continues to be excepted for as long as any member of the family resides in the unit, even if the members that continue to reside in the unit are ineligible during tenancy for all available supportive services.

Example 1: Completion of Supportive Services

- Westview Terrace is a 30-unit PBV project.
- All 30 units are excepted units because they offer an optional job-readiness program.
- A family moves into the project which consists of:
 - Head of household Mandy Jones (age 35)
 - Her daughter Maria Jones (age 8)
- The family accepted supportive services, and Mandy enrolls in the job readiness program.
- After a year, Mandy successfully completes the job readiness program.
- Since Mandy successfully completed the supportive service, the unit remains excepted for as long as the family resides in the unit.

Section 5: Requirements for Excepted Units and/or Units under the Increased Program Cap

24 CFR 983.262(d)(3)(iii)

The unit loses its excepted status only if the entire family becomes ineligible during the tenancy for all supportive services available to the family. A family cannot be terminated from the program or evicted from the unit because they become ineligible for all supportive services during the tenancy.

Example 2: Ineligible for Supportive Services

- Garden Grove is a 25-unit PBV project.
- All 25 units are excepted units because they offer optional, disability-related supportive services, including accessible transportation services.
- A family moves into the project which consists of:
 - Head of household Barry Brand who is person with disabilities
 - Cohead Martha Brand who is not a person with disabilities
- The family accepted supportive services, and Barry regularly uses the accessible transportation services.
- After 6 months of occupancy, Barry moves out.
- Since Martha is not a person with disabilities and is not eligible for any of the supportive services offered at the project, the unit loses its excepted status. The PHA may not terminate her program assistance, and the owner may not evict her from the unit.

Section 6 Chapter 2 Post Test

1. What is the difference between excepted units and excluded units?

2. A proposed PBV project contains 60 units. If there are no excepted units at the project, what is the maximum number of PBV units that may be added to the HAP contract?
 - a. 15 units
 - b. 25 units
 - c. 30 units
 - d. 60 units
3. A PHA may commit project-based assistance using no more than ____ percent of its authorized voucher units, as adjusted at the time of commitment, with the ability to project-base an additional ____ percent of units that meet certain requirements.
4. A project has units set aside for optional supportive services for elderly individuals. Which of the following categories apply to the project? (check all that apply)
 - a. PBV 10% units
 - b. Excepted units
 - c. Excluded units
5. A project has units set aside for homeless families that include a veteran. Supportive services are not offered. Which of the following categories apply to the project? (check all that apply)
 - a. PBV 10% units
 - b. Excepted units
 - c. Excluded units

Section 6: Chapter 2 Post Test

6. A project has units set aside for FUP Youth. Which of the following categories apply to the project? (check all that apply)
 - a. PBV 10% units
 - b. Excepted units
 - c. Excluded units

7. A former public housing project was converted to PBV under a public housing conversion action 2 years ago. Which of the following categories apply to the project? (check all that apply)
 - a. The program cap doesn't apply
 - b. The project cap doesn't apply
 - c. The units are excluded units

CHAPTER 3 Proposal and Project Selection

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

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

- Recognize the regulations concerning owner proposal selection for the PBV program
- Identify when competition is required and when projects may be selected noncompetitively
- Recognize public notice requirements when the PHA selects proposals or projects
- Identify the elements that must be included in requests for proposals when units are selected competitively

OVERVIEW

Before selecting PBV proposals or projects, the PHA must determine that the PBV proposal or project complies with HUD program regulations and requirements, including a determination that the property is eligible housing, complies with the cap on the number of PBV units per project, and meets the site selection standards. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51.

There are several different ways that PHAs may add units under the Project-Based Voucher program to a development.

Under the PBV program regulations, the PHA may use two selection processes:

1. A competitive process
2. A non-competitive process

ADMIN PLAN AND 5-YEAR PLAN

24 CFR 983.10(b)

As relates to project/proposal selection, the administrative plan must include:

- A description of the circumstances under which the PHA will use the competitive and noncompetitive selection methods and the procedures for submission and selection of PBV proposals
- The PHA's standard for deconcentrating poverty and expanding housing and economic opportunities
- The PHA's site selection policy
- A description of the circumstances (if any) under which the PHA will establish additional requirements for quality, architecture, or design of PBV housing at the time of initial rehabilitation or new construction

24 CFR 903.6(c)

In addition, if a PHA intends to select one or more projects for project-based assistance without competition, a statement of the PHA's intent to select projects without competition must be included in the PHA's 5-Year Plan (or an amendment to the 5-Year Plan) in order to notify the public prior to making a noncompetitive selection.

PHA-OWNED UNITS

24 CFR 983.51(h)

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or the independent entity reviews the project selection process the PHA undertook and determines that the project was appropriately selected based on the selection procedures specified in the PHA administrative plan. With the exception of projects selected noncompetitively in accordance with 24 CFR 983.51(c), the PHA's selection procedures must be designed in a manner that does not effectively eliminate the submission of proposals for non-PHA-owned units or give preferential treatment (e.g., additional points) to PHA-owned units.

Section 2 Competitive Selection of Proposals

COMPETITIVE SELECTION

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods:

- **PHA request for proposals (RFP).** The PHA may solicit proposals by using an RFP to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites. The PHA may establish selection procedures that combine or are in conjunction with other federal, state, or local government housing assistance, community development, or supportive services competitive selection processes. If the PHA selection process is combined and administered in conjunction with another RFP process, the PHA remains responsible for complying with proposal selection procedures as described in 24 CFR 983.51.
- **The PHA may select, without issuing an RFP, proposals that were previously selected based on a competition.** This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that was subject to a competition in accordance with the requirements of the applicable program where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competition did not involve any consideration that the project would receive PBV assistance.

The PHA may allow for entities that have site control to submit proposals provided the entity will be the owner prior to entering into the AHAP or HAP contract.

An owner may submit, and a PHA may select, a single proposal covering multiple projects where each project consists of a single-family building, provided all projects are the same housing type (existing, rehabilitated, or newly constructed).

ISSUING A REQUEST FOR PROPOSALS

A PHA may issue a request for proposals (RFP) consistent with owner selection procedures outlined in its administrative plan and its procurement policy. Creating a good 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.
- 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.

Section 2: Competitive Selection of Proposals

- 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.
- 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 proposal submission and information on how to obtain the RFP.

Reminder – A PHA must make detailed information regarding RFP 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 examine the proposed site before the proposal or project selection date to determine whether the site complies with the site selection standards.
- 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.

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. To accomplish such inspection, the PHA requests the owner provide a list of units proposed for assistance.

- 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 ready for inspection.

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.
- 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 thumb drive

The location, due date and time for proposal submission

Section 2: Competitive Selection of Proposals

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 of Proposals

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 of Proposals

- **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 of Proposals

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.

Section 2: Competitive Selection of Proposals

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, 983.55.
- 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 of Proposals

- 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 of Proposals

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 of Proposals

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.

Section 2: Competitive Selection of Proposals

- 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.

- Housing quality standards 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.
- The project complies with project cap requirements.
- Gross rents meet regulatory requirements.
- 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.

Section 2: Competitive Selection of Proposals

- 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

Section 3 Noncompetitive Selection

24 CFR 983.51(c)

The PHA may select units without a competitive selection process in certain circumstances described in 24 CFR 983.51(c). Prior to selecting units based on the below criteria, the PHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-year plan. If this requirement is not met, the PHA may not select units noncompetitively.

The PHA may select units for PBV assistance without following a competitive process in the following circumstances:

- Option 1: The PHA may select existing, newly constructed, or rehabilitated public housing projects where the PHA has an ownership interest or over which the PHA has control, when the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site.
 - The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory through any available legal removal tool within five years of the project selection date.
- Option 2: The PHA may select for future PBV assistance a project currently under the public housing program, or a project that is replacing the public housing project, in which a PHA has no ownership interest, or which a PHA has no control over, provided:
 - The public housing project is either still in the public housing inventory or had been removed from the public housing inventory through any available legal removal tool within five years of the project selection date;
 - The PHA that owned or owns the public housing project does not administer the HCV program;

Section 3: Noncompetitive Selection

- The project selected for PBV assistance was specifically identified as replacement housing for the impacted public housing residents as part of the public housing demolition/disposition application, voluntary conversion application, or any other application process submitted to and approved by HUD to remove the public housing project from the public housing inventory; and
- With respect to replacement housing, the PHA does not have to replace the housing on the same site as the original public housing, but the number of contract units in the replacement project may not exceed the number of units in the original public housing project by more than a de minimis amount for this exception to apply.
- Option 3: The PHA may select a project consisting of PHA-owned units as defined at 24 CFR 982.4.
 - The units must continue to meet the definition of PHA-owned for the initial two years of the HAP contract unless there is a transfer of ownership approved by HUD.
- Option 4: The PHA may select a project that underwent an eligibility event within five years of the project selection date, in which a family (or families) qualifies for enhanced voucher assistance and provided informed consent to relinquish its enhanced voucher for PBV assistance.
- Option 5: The PHA may select one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility.
 - The method of project selection must comply with all other requirements under 24 CFR 983.51, including that the PHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-year plan and to ensure any project selection is consistent with the PHA administrative plan.

FR Notice 8/13/24

Section 4 Project or Proposal Selection

INSPECTIONS REQUIRED PRIOR TO PROJECT OR PROPOSAL SELECTION

24 CFR 983.51(e)

The PHA must examine the proposed site before the proposal or project selection date to determine whether the site complies with the site selection standards outlined in 24 CFR 983.55.

The PHA may execute a HAP contract for existing housing if:

- All proposed contract units in the project fully or substantially comply with housing quality standards on the proposal or project selection date, which the PHA must determine via inspection;
- The project meets the environmental review requirements at 24 CFR 983.56, if applicable; and
- The project meets the initial inspection requirements in accordance with 24 CFR 983.103(c).

WRITTEN NOTICE OF PROPOSAL OR PROJECT SELECTION

*24 CFR 983.51(f) and (h) and
24 CFR 983.153(c)(3)*

Regardless of the method of selection, the PHA is required to provide written notice of proposal or project selection, which must include:

- If the project contains PHA-owned units, the PHA must provide the written notice of proposal or project selection to the responsible PHA official, and that official must certify in writing that the PHA accepts the terms and requirements stated in the notice. The PHA must make documentation available for public inspection regarding the basis for the PHA selection of a PBV proposal.
- When an environmental review is required, if the review has not been conducted prior to the project or proposal selection date, the PHA's written notice that the selection is subject to completion of a favorable environmental review and that the project or proposal may be rejected based on the results of the environmental review.

Section 4: Project or Proposal Selection

- For newly constructed housing and rehabilitated housing in projects to which labor standards apply, the PHA's written notice to the party that submitted the selected proposal or board resolution approving project-basing of assistance at the specific project must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination [24 CFR 983.153(c)(3)].
- For selection of proposals through competitive methods, the PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The proposal selection date is the date on which the PHA provides written notice to the party that submitted the selected proposal. The written notice of proposal selection must require the owner or party that submitted the selected proposal to provide a written response to the PHA accepting the terms and requirements stated in the notice. The PHA must make documentation available for public inspection regarding the basis for the PHA selection of a PBV proposal.
- For projects selected under an exception to the competitive process under 24 CFR 983.51(c), the PHA must give prompt written notice of project selection to the owner following the PHA board's resolution approving the project-basing of assistance at the specific project. The project selection date is the date of the PHA's board resolution approving the project-basing of assistance at the specific project. The written notice of project selection must require the owner of the project selected to provide a written response to the PHA accepting the terms and requirements stated in the notice.

The PHA must make documentation available for public inspection regarding the basis for the PHA selection of a PBV proposal.

Section 4: Project or Proposal Selection

HUD approval of specific projects or owners is not required. For example, owner proposal selection does not require submission of Form HUD-2530 (Previous Participation Certification) or other HUD previous participation clearance.

A PHA may not commit project-based assistance to a project if the owner or any principal or interested party is debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR Part 2424 or is listed on the U.S. General Services Administration list of parties excluded from federal procurement or non-procurement programs. HUD approval of specific projects or owners is not required. For example, owner proposal selection does not require submission of Form HUD-2530 (Previous Participation Certification) or other HUD previous participation clearance.

24 CFR 983.51(g)

The proposal selection date is the date on which the PHA provides written notice to the party that submitted the selected proposal. For properties selected noncompetitively, the project selection date is the date of the PHA's board resolution approving the project-basing of assistance at the specific project.

Section 5 Chapter 3 Post Test

1. The PHA may select without issuing an RFP, housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that required competitive selection of proposals if the housing was selected in the last _____ years and the proposal did not involve any consideration that the project would receive PBV assistance.
 - a. 2
 - b. 3
 - c. 5
 - d. 10
2. PHA-owned units:
 - a. May be assisted under the PBV program only if the PHA issues an RFP and selects the units competitively
 - b. May be assisted under PBV through a noncompetitive selection process but only if the HUD field office or the independent entity reviews the project selection process and the PHA notifies the public through its 5-year plan
 - c. May never be assisted under the PBV program
3. The PHA must examine the proposed site before the proposal or project selection date to determine whether the site complies with the site selection standards.
 - a. True
 - b. False
4. Entities with “site control” may be allowed to submit PBV proposals as long as the entity is the owner prior to entering into an AHAP or HAP contract.
 - a. True
 - b. False

Section 6 Continued Learning

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% 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% 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.

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% 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.

PROJECT-BASING VASH

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance.

GENERAL REQUIREMENTS

*Notice PIH 2017-21 and FR
Notice 8/13/24*

PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit. In the description of units in Exhibit A of the HAP contract, PHAs must indicate the number of units that will be exclusively made available to VASH families. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a VASH PBV set-aside award.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and the owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and the owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps). Policies for VASH PBV units will generally follow PHA policies for the standard PBV program, with the exception of the policies listed below.

INELIGIBLE UNITS

Unlike in the regular PBV program, the PHA may opt to select an occupied unit or admit a family to a unit if such unit is made exclusively available to VASH families if the PBV project is either on the grounds of a VA facility or there are VASH supportive services provided on-site at the project.

TERMINATION OF ASSISTANCE

A VASH family's PBV assistance must be terminated for failure to participate in case management when required by the VA. However, the PHA may allow the veteran family to receive a regular (non-VASH) tenant-based voucher or PBV unit instead of the family's assistance being terminated. In this case, the PHA may:

- Substitute the family's unit on the PBV HAP contract for another unit (the PHA may, in conjunction with such substitution, add the original unit to the PBV HAP contract with a non-VASH voucher if it is possible to do so;
- Remove the unit from the PBV HAP contract so the family may remain with tenant-based assistance, if the family and the owner agree to use the tenant-based voucher in the unit; or
- Change the unit's status in the PBV HAP contract from a unit exclusively made available for VASH to a regular PBV unit, if doing so is allowable under program rules.

If the PHA will not allow the veteran to receive a regular (non-VASH) tenant-based voucher or PBV unit instead of the family's assistance being terminated, then upon notification by the VA of the family's failure to participate in VA-required case management, the PHA must provide the family a reasonable period of time (as established by the PHA) to vacate the unit.

WRONG-SIZED OR ACCESSIBLE UNITS

If the PHA determines that a VASH family is occupying a wrong-size PBV unit or a PBV unit with accessibility features that the family does not require and the PBV unit is needed by a family that requires the accessibility features, the PHA must notify the family and the owner within 30 days of the PHA's determination. The PHA's offer of continued housing assistance (that must be made within 60 days of the PHA's determination) must be in the form of either a VASH tenant-based voucher or another VASH PBV unit. If no VASH assistance is available for the PHA to offer within 60 days of the PHA's determination, the PHA must remove the wrong-sized or accessible unit from the HAP contract to make VASH voucher assistance available to the family.

CONTRACT TERMINATIONS

The regulation at 24 CFR 983.206(b), which covers the required provision of tenant-based assistance and requires that the family may elect to use its tenant-based assistance to remain in the same project when a PBV HAP contract terminates or expires, does not apply to families issued a HUD-VASH tenant-based voucher under this circumstance. The PHA may use another voucher to add the unit removed under this alternative requirement to the HAP contract after the family vacates the property, in accordance with 24 CFR 983.207(b).

RENTS

Contract rents may not be different based on whether the unit is a VASH PBV unit or a non-VASH PBV unit. In determining the rent to owner for the PBV project, if the cap on the amount of rent to owner under 24 CFR 983.301(b)(1) is lower for non-HUD-VASH units than it is for the HUD-VASH units (e.g., the PHA has established a HUD-VASH exception payment standard and there is either no exception payment standard or a lower exception payment standard for the regular HCV program for the area in question), that lower cap is applicable when setting the rent to owner for the PBV units in the project, including the HUD-VASH units.

REMOVING UNITS FROM THE HAP CONTRACT FOR INELIGIBLE FAMILIES

The PHA and the owner may also agree to temporarily remove a unit from the HAP contract in cases where a HUD-VASH eligible veteran has been identified by the VA as appropriate for a VASH PBV unit, but the veteran is not income eligible to receive voucher assistance or may not be selected for the PBV unit because the family's TTP exceeds the gross rent of the unit. Although the family would not be a program participant in the housing portion of the VASH program in such a case, the family would still benefit from the project's location on the grounds of a VA facility or from the VASH supportive services on-site at the project, while the VASH voucher would be available to assist another VASH family. The PHA and the owner may agree to add a VASH voucher back onto the PBV HAP contract if the family's income subsequently decreased to the point that there would be a HAP or when the family vacates the unit.

ZERO HAP FAMILIES

Under normal PBV requirements, the PHA may select an occupied unit to be included under a PBV HAP contract only if the unit's occupants are eligible for assistance under 24 CFR 982.201, and the TTP for the family is less than the gross rent for the unit. Furthermore, in selecting a family for an available PBV unit, typically the PHA must determine the TTP for the family is less than the gross rent, meaning that the unit will be eligible for a monthly HAP. However, if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided on-site at the project, the PHA may opt to select a unit occupied by a zero HAP VASH eligible family or admit a zero HAP VASH family to a unit if such unit is made exclusively available to VASH families. Until such time that the VASH family's TTP falls below the gross rent, the family is responsible for paying the entire rent to the owner in addition to being responsible for paying all tenant-supplied utilities. During any period that the family's TTP falls below the gross rent, normal PBV requirements apply.

Further, under normally applicable rules, units occupied by families whose incomes have increased during their tenancy resulting in their TTP equaling the gross rent (zero HAP) must be removed from the HAP contract 180 days following the last housing assistance payment to the owner on the family's behalf. These regulations do not apply to zero HAP families admitted to the PBV project under this waiver and alternative requirement because there is no last housing assistance payment that would trigger the unit removal date of 180 days. As an alternative requirement, PHAs have the option of removing the unit in which the zero HAP family resides from the HAP contract, but no earlier than 180 days from the start of the family PBV tenancy. If the PHA exercises this option, the family may not be required to move from the unit as a consequence and continues to receive the VASH supportive services. If the project is fully assisted, the PHA may reinstate the unit removed to the HAP contract after the family either vacates the unit or their income decreases to the point that there would be a HAP. If the project is partially assisted, the PHA may substitute a different unit for the unit removed from the HAP contract when the first eligible substitute unit becomes available. Alternatively, the PHA may choose to simply leave the unit on the HAP contract while the zero HAP family continues to reside there.

PROPOSAL/PROJECT SELECTION

PBV proposal and/or project selection for VASH must follow all regular proposal and/or project selection regulations, with one exception. HUD permits noncompetitive selection of one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility. Note that the method of project selection must comply with all other requirements under 24 CFR 983.51, including that the PHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-year plan and to ensure any project selection is consistent with the PHA administrative plan.

FAILURE TO PARTICIPATE IN CASE MANAGEMENT

FR Notice 8/13/24

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 to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates or 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. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

MOVES

HUD-VASH Qs and As, FR Notice 8/13/24

When a VASH PBV family is eligible to move from its PBV unit, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and the owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

Notes

CHAPTER 4 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 contents of the HAP contract
- Discuss why contract exhibits are essential elements of the contracts
- State when and how to amend HAP contracts
- Review when an environmental review is required
- Identify subsidy layering review requirements

OVERVIEW

The Agreement to Enter into a Housing Assistance Payment (AHAP) and the Housing Assistance Payments (HAP) contracts consist of the HUD HAP contract forms (Part I and Part II) and the exhibits. The contract also lays out utility responsibilities between the owner and the tenant, which may not be changed without a formal contract amendment. The contracts must be used word for word and must not be altered, unless the PHA has received authorization to do so under a moving to work (MTW) agreement.

PBV HAP contracts are different from tenant-based HAP contracts in that they cover multiple units and contain clauses specific to PBV regulations. As a result, 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.

Section 1: Learning Outcomes and Overview

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.

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

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to existing housing. One such requirement is the use of an Agreement to Enter into a Housing Assistance Payments Contract (AHAP) (which is referred to in the regulations as the Agreement).

24 CFR 983.154(a)

Except where the PHA decides not to use an AHAP or chooses to execute an AHAP after construction or rehabilitation has commenced, the PHA and the owner must enter into an AHAP that will govern development activity, which is defined as new construction or rehabilitation work done after the proposal or project selection date in order for a newly constructed or rehabilitated housing project to be covered by a PBV HAP contract.

In the AHAP, the owner agrees to develop the PBV contract units to comply with housing quality standards, and the PHA agrees that upon timely completion of development in accordance with the terms of the AHAP, the PHA will enter into a HAP contract with the owner for the contract units. The AHAP must cover a single project, except one AHAP may cover multiple projects that each consist of a single-family building.

The PHA and the owner may agree to amend the contents of the AHAP by executing an addendum, so long as such amendments are consistent with all PBV requirements. The PHA and the owner may only execute an addendum affecting a unit prior to the PHA accepting the completed unit.

PHA DISCRETION NOT TO USE AN AHAP

24 CFR 983.154(f)

The PHA may decide not to use an AHAP or may choose to execute an AHAP after construction or rehabilitation that complied with applicable requirements of 24 CFR 983.153 has commenced. To do so, the administrative plan must explain the circumstances (if any) under which the PHA will enter into a PBV HAP contract for newly constructed or rehabilitated housing without first entering into an AHAP and under which the PHA will enter into an AHAP after construction or rehabilitation has commenced.

The following conditions apply:

- The owner of the project must be able to document its compliance with all applicable requirements of 24 CFR 983.153 from the date of proposal submission/project selection (as applicable);
- For housing subject to competitive selection, the PHA must confirm prior to the proposal selection date that the owner has complied with all applicable requirements of 24 CFR 983.153 from the date of proposal submission.
- For housing excepted from competitive selection, the PHA must confirm prior to executing the AHAP (if applicable) or HAP contract that the owner has complied with all applicable requirements of 24 CFR 983.153 from the date of the PHA's board resolution approving the project-basing of assistance at the project; and
- For any project to which labor standards apply, the PHA's written notice to the party that submitted the selected proposal or board resolution approving project-basing of assistance at the specific project must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.

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

TIMING

24 CFR 983.154(b)

The effective date of the AHAP must be on or after the date the AHAP is executed. Except where the PHA decides not to use an AHAP or chooses to execute an AHAP after construction or rehabilitation has started, the AHAP must be executed and effective prior to the start of development activity.

Development activity must not start after the date of proposal submission/project selection and before the effective date of the AHAP.

- In the case of new construction, development activity begins with excavation or site preparation (including clearing of the land).
- In the case of rehabilitation, development activity begins with the physical commencement of rehabilitation activity on the housing.

EXECUTION OF THE AHAP

*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.

CONTENTS OF THE AHAP

The contract must be prepared for execution using HUD's AHAP template, Form HUD-52531-A, Part I. The full Agreement consists of Part I: Form HUD-52531-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. The AHAP with its exhibits should be maintained as part of the property's permanent record.

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 (square footage), 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.

24 CFR 983.154(e)

At a minimum, the AHAP must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (square footage) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to the owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the AHAP. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the AHAP;
- A description of any required work item if the requirement to install broadband infrastructure applies;
- Estimated initial rents to the owner for the contract units;

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

- Description of the work to be performed under the AHAP.
 - For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans.
 - For new construction units, the description must include the working drawings and specifications.
- The deadline for completion of the work to be performed under the AHAP; and
- Any additional requirements for quality, architecture, or design over and above housing quality standards. The PHA must specify the conditions under which it will require additional housing quality requirements in the administrative plan.

Section 3 Development Activity

Development activity must comply with the requirements of 24 CFR 983.153 through 983.157, which include requirements related to the following:

- Conducting an environmental review
- Conducting a subsidy layering review
- Following labor standards and equal employment opportunity
- Ensuring accessibility
- Providing broadband infrastructure
- Eligibility of the owner to participate in federal programs and activities

ENVIRONMENTAL REVIEW

24 CFR 983.56

Other than where exceptions are provided in the PBV regulations, PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58.

For projects or proposals that were selected in accordance with the site selection standards at 24 CFR 983.55 in effect on or after June 6, 2024, no environmental review is required to be undertaken before entering into a HAP contract for existing housing, except to the extent a federal environmental review is required by law or regulation relating to funding other than PBV.

When an environmental review is required, the responsible entity performs the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the review has not been conducted prior to the proposal or project selection date, then the PHA's written notice of proposal or project selection must state that the selection is subject to completion of a favorable environmental review and that the project may be rejected based on the results of the environmental review. The PHA may not enter into an AHAP or HAP contract until the responsible entity has completed the environmental review.

Section 3: Development Activity

The PHA may not enter into an AHAP or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until one of the following occurs:

- The responsible entity has determined that the activities to be undertaken are exempt under 24 CFR 85.34(a) or categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b);
- The responsible entity has completed the environmental review procedures required by 24 CFR Part 58, and HUD has approved the PHA's Request for Release of Funds and Certification (Form HUD-7015.15)
 - HUD approves the Request for Release of Funds and Certification by issuing a Letter to Proceed or Form HUD-7015.16, thereby authorizing the PHA to execute an AHAP or HAP contract, as applicable; or
- HUD has performed an environmental review under 24 CFR Part 50 and has notified the PHA in writing of environmental clearance.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

The environmental documents, clearance letter, and HUD letter to proceed must be maintained as part of the permanent record of the project.

SUBSIDY LAYERING REVIEW

*24 CFR 983.153(b) and
FR Notice 3/13/23*

As part of the PBV project or proposal selection process, the project owner must disclose information regarding all HUD and/or other federal, state, or local governmental assistance committed to the project, as well as other governmental assistance, using Form HUD-2880 (even if no other governmental assistance is received or anticipated).

HUD requires a subsidy layering review (SLR) be conducted when new construction or rehabilitation housing will include PBVs in combination with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits. The SLR must occur before the PHA attaches PBV assistance to a project. This means when an SLR is required, the PHA may not execute an AHAP or HAP contract until HUD or a HUD-approved housing credit agency (HCA) has conducted the required subsidy layering review and determined the project compliance with 24 CFR 4.13 and other related regulation requirements with regards to attaching PBV assistance. Subsidy layering requirements also do not apply to existing housing when PBV is the only governmental assistance.

*FR Notice 3/13/23 and
Notice PIH 2023-15*

PHAs request an SLR through their local HUD field office or, if eligible, through a participating HCA. The PHA is responsible for collecting all required documentation for the SLR from the project owner. Appendix A of FR Notice 3/13/23 contains a list of all required documentation. The owner must inform the PHA if any information changes during or after the application process. If new information becomes available after initial submission, the PHA is responsible for submitting updated information to HUD or the HCA.

If HUD completes the SLR and determines the PBV assistance complies with all requirements, HUD will notify the PHA in writing. 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 submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

PHAs must maintain a complete set of subsidy layering documents and determinations in the contract file.

LABOR STANDARDS

24 CFR 983.153(c)

If an AHAP covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing.

Further, these Davis-Bacon requirements apply to existing PBV units when the nature of any work to be performed either before the execution of the HAP contract or within 18 months after execution constitutes project development. Any development initiated on existing units within 18 months after the effective date of the HAP contract on projects with nine or more contract units triggers Davis-Bacon requirements.

When the PHA exercises its discretion to allow the owner to conduct some or all development activity while the proposed PBV units are not under an AHAP or HAP contract, the applicable parties must comply with the labor standards outlined above from the date of proposal submission (for housing subject to competitive selection) or from the date of the PHA's board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection).

The AHAP will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates. The addendum to the HAP contract, Form HUD-5679, also includes the required labor standards clauses.

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. The PHA must monitor compliance with labor standards.

For any project to which labor standards apply, the PHA's written notice to the party that submitted the selected proposal or board resolution approving project-basing of assistance at the specific project must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.

Development activity is also subject to the federal equal employment opportunity requirements of Executive Orders 11246 as amended (3 CFR, 1964-1965 Comp., p. 339), 11625 (3 CFR, 1971-1975 Comp., p. 616), 12432 (3 CFR, 1983 Comp., p. 198), and 12138 (3 CFR, 1977 Comp., p. 393).

ACCESSIBILITY

24 CFR 983.153(e)

As applicable, the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205; the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, including 8.22 and 8.23; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131-12134) and implementing regulations at 28 CFR Part 35, including 24 CFR 35.150 and 35.151, apply to development activity.

A description of any required work item resulting from these requirements must be included in the AHAP (if applicable) or HAP contract (if applicable).

PBV units should be similar to other unassisted units in the property. Concentrating PBV units in specific buildings or floors could have a discriminatory effect.

BROADBAND INFRASTRUCTURE

24 CFR 983.153(f)

Any development activity that constitutes substantial rehabilitation (as defined by 24 CFR 5.100) of a building with more than four rental units and where the proposal or project selection date or the start of the development activity while under a HAP contract is after January 19, 2017, must include installation of broadband infrastructure, as defined in 24 CFR 5.100, except where the owner determines and documents the determination that:

- The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
- The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

A description of any required work item resulting from this requirement must be included in the AHAP (if applicable) or HAP contract (if applicable).

OWNER DISCLOSURE

24 CFR 983.153(g)

The AHAP and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the AHAP, the HAP contract, or HUD regulations.

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.

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.

Section 4 The Housing Assistance Payments Contract

24 CFR 983.202

The PHA must enter into a HAP contract with the owner. A HAP contract must cover a single project. If multiple projects exist, each project must be covered by a separate HAP contract. However, a PHA and the owner may agree to place multiple projects, each consisting of a single-family building, under one HAP contract.

HUD provides two HAP 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:

- Form HUD-52530 A, New Construction or Rehabilitation Housing Part 1
- Form HUD-52530 A, New Construction or Rehabilitation Housing Part 2
- Form HUD-52530 B, Existing Housing Part 1
- Form HUD-52530 B, Existing Housing Part 2

HAP CONTRACT PART I

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 4: 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.*

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 4: 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

24 CFR 983.204

Before the HAP contract is executed, the PHA must determine that applicable pre-HAP contract housing quality standards requirements have been met. Unless the PHA adopts discretionary initial inspection policies under HOTMA, prior to execution of the HAP contract, the PHA must inspect all units and ensure the units comply with housing quality standards. The PHA must establish in the administrative plan the amount of time that may elapse between the initial inspection of existing housing and the execution of the HAP contract.

For existing housing, the HAP contract must be executed and effective promptly after PHA selection of the owner proposal and PHA determination that the applicable pre-HAP contract housing quality standards requirements have been met. For newly constructed or rehabilitated housing that will not undergo development activity after HAP contract execution, the HAP contract must be executed and effective promptly after the PHA determines that the housing was completed in accordance with the applicable requirements, meets housing quality standards, and any additional design, architecture, or quality requirements specified by the PHA.

The effective date of the HAP contract must be on or after the date the HAP contract is executed. The HAP contract must be effective before the effective date of the first lease covering a contract unit occupied by an assisted family, and the PHA may not pay any housing assistance payment to the owner until the HAP contract is effective. The term of the HAP contract for any unit begins on the effective date of the HAP contract.

For multi-stage projects, at acceptance of each stage, the PHA and the owner sign the HAP contract for the completed stage. 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

OMB Approval No. 2577-0169
(exp. 04/30/2026)

EXECUTION OF HAP CONTRACT FOR CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

(For multi-stage projects, at acceptance of each stage, the PHA and the owner sign the HAP contract execution for the completed stage.)

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct.
WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).

STAGE NO. 1: The Contract is hereby executed for the contract units in this stage.
STAGE EFFECTIVE DATE: The effective date of the Contract for this stage is:
Date
PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date
OWNER Name of Owner (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date

Previous editions are obsolete

**Project-Based Voucher Program
HAP Contract for New Construction/Rehab**

**HUD 52530A Page - 10 of Part 1
(04/2023)**

Learning Activity 4-1: 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?

Section f. Occupancy and payment

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

Section 4: The Housing Assistance Payments Contract

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

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

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

Section g. Income-mixing requirements

7. 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

4. RENT TO OWNER; HOUSING ASSISTANCE PAYMENTS

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

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

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

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5. ADJUSTMENTS OF RENT TO OWNER

11. When is rent to owner adjusted?

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

7. OWNER CERTIFICATION

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

8. CONDITION OF UNITS

14. When must PBV units be inspected?

9. LEASING CONTRACT UNITS

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

10. TENANCY

16. When are changes in tenant rent effective?

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

11. FAMILY RIGHT TO MOVE

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

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

21. TRANSFER OF THE CONTRACT OR PROPERTY

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

Section 5 HAP Contract Amendments

ADDITION AND SUBSTITUTION OF UNITS

24 CFR 983.207

At the PHA's discretion, the PHA and the owner may amend the HAP contract to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit or add additional PBV contract units in projects that already have a HAP contract without a new proposal selection.

The proposed substituted or added units may be vacant or occupied (subject to the requirements of 24 CFR 983.207(c) described below). Before any such substitution or addition can take place:

- The units must comply with housing quality standards;
- The rent to owner must be reasonable; and
- One of the following conditions must apply:
 - The units existed at the time of HAP contract execution; or
 - In the case of a project completed in stages, the units existed at the time of PHA acceptance of the last completed units; or
 - A unit, office space, or common area within the interior of a building containing contract units existed at the time described above, as applicable, and is reconfigured without impacting the building envelope, subject to 24 CFR 983.207(d), into one or more units to be added or substituted.

The PHA must describe in the administrative plan the circumstances under which it will add or substitute contract units, and how those circumstances support the goals of the PBV program.

24 CFR 983.207(b)

Before adding any contract units, the units must comply with housing quality standards and the rent to owner must be reasonable. The additional PBV units, however, are still subject to the PBV program cap and project cap. However, added units that qualify for an exclusion from the program cap (as described in 24 CFR 983.59) or an exception to or exclusion from the project cap (as described in 24 CFR 983.54(c) and 24 CFR 983.59, respectively) do not count toward such caps.

24 CFR 983.207(c)

The PHA may place occupied units on the HAP contract subject to the following:

- The family occupying the unit must be eligible for assistance;
- The unit must be the appropriate for the size of the family occupying the unit under the PHA's subsidy standards;
- The family must be selected from the waiting list in accordance with applicable selection policies; and
- The unit may be occupied by a family who was assisted with a tenant-based voucher immediately prior to the unit being placed on the PBV HAP contract. The tenant-based HAP contract for the unit must terminate before the unit may be placed under the PBV HAP contract. The family occupying the unit is not a new admission to the voucher program.
 - If the family is in the initial term of the tenant-based lease, the family agreed to mutually terminate the tenant-based lease with the owner and enter into a PBV lease.
 - If the initial term of the tenant-based lease has passed or the end of that term coincides with the time at which the unit will be placed on the PBV HAP contract, upon the owner's decision not to renew the tenant-based lease or to terminate the tenant-based lease in accordance with 24 CFR 982.308 or 982.310, respectively, the family agreed to relinquish the tenant-based voucher and enter into a PBV lease.
- The anniversary and expiration date for additional units must be the same as the anniversary and expiration dates of the HAP contract of original PBV units.

CHANGES IN UTILITY RESPONSIBILITIES

24 CFR 983.256(e)(2)

The owner must notify the PHA in advance of any proposed change in lease requirements governing the allocation of tenant and owner responsibilities for utilities. The PHA and the 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 (b)

If any contract units have been vacant for a period of 120 or more days since owner notice of the vacancy, and notwithstanding the reasonable good-faith efforts of the PHA and the owner to fill such vacancies, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period. Such an amendment does not require the owner's agreement.

Section 6 Term of the HAP Contract

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 for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. The PHA and the owner may agree to 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 that the total remaining term of the HAP contract may not exceed 40 years and 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. Any extension must be executed before the contract expiration date or at initial contract execution. No payments may be made to the owner without valid contract in place.

Since the 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 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.

HAP CONTRACT TERMINATION OR EXPIRATION

24 CFR 983.206(e)

Termination by agreement of the PHA and the owner: The PHA and the owner may agree to terminate the HAP contract prior to the end of the term. The owner is required to give notice in accordance with 24 CFR 983.206(a) prior to termination, and families must be provided tenant-based assistance and may elect to remain in the project.

Section 6: Term of the HAP Contract

24 CFR 983.206(c)

Termination by the PHA: The HAP contract must provide that the PHA may terminate the contract for insufficient funding, subject to HUD requirements. The PHA has the option of terminating a PBV HAP contract based on “insufficient funding” only if:

- The PHA determines in accordance with HUD requirements that it lacks sufficient HAP funding (including HAP reserves) to continue to make housing assistance payments for all voucher units currently under a HAP contract;
- The PHA has taken cost-saving measures specified by HUD;
- The PHA notifies HUD of its determination and provides the information required by HUD; and
- HUD determines that the PHA lacks sufficient funding and notifies the PHA it may terminate HAP contracts as a result.

If the PHA determines that the owner has breached the HAP contract, the PHA may exercise any of its rights or remedies under the HAP contract, including but not limited to contract termination. The provisions of 24 CFR 983.208 apply for HAP contract breaches involving failure to comply with housing quality standards. For any other contract termination due to breach, 24 CFR 983.206(b) on provision of tenant-based assistance applies.

24 CFR 983.206(a)

Non extension by the owner: If the owner will not extend the HAP contract, not less than one year prior to the termination of a HAP contract, the owner must provide notice to both the PHA and affected tenants of the termination. The notice must be provided in the form prescribed by HUD. The term termination for applicability of this notice requirement means the expiration of the HAP contract, termination of the HAP contract by agreement of the PHA and the owner, or an owner's refusal to renew the HAP contract.

If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. The owner and the PHA may agree to renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Section 6: Term of the HAP Contract

24 CFR 983.206(d)

Termination by Owner - Reduction Below Initial Contract Rents: If the amount of the rent to owner for any contract unit, as adjusted, is reduced below the amount of the initial rent to owner, the owner may terminate the HAP contract, upon notice to the PHA no fewer than 90 calendar days prior to the planned termination, and families must be provided tenant-based assistance and may elect to remain in the project. The owner is not required to provide the one-year notice of the termination of the HAP contract to the family and the PHA when terminating the HAP contract due to rent reduction below the initial rent to owner.

24 CFR 983.206(b)

Termination or Expiration without Extensions - Required Provision of Tenant-Based Assistance: Unless a termination or expiration without extension occurs due to a determination of insufficient funding or other extraordinary circumstances determined by HUD, upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher no fewer than 60 calendar days prior to the planned termination or expiration of the PBV HAP contract. However, the PHA is not required to issue the family a voucher if the PHA has offered the family an alternative housing option (e.g., an assisted unit in another PBV project), and the family chooses to accept the alternative housing option instead of the 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 the 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 its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard (the limitation at 24 CFR 982.508 regarding maximum family share at initial occupancy does not apply). 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 refuse to initially lease a unit in the project to a family that elects to use their tenant-based assistance to remain in the same project, except where the owner will use the unit for a purpose other than a residential rental unit.

Section 6: Term of the HAP Contract

The owner may not terminate the tenancy of a family that exercises its right to remain except for the following grounds:

- The grounds in 24 CFR 982.310, except paragraphs 24 CFR 982.310(d)(1)(iii) and (iv);
- The owner's desire to use the unit for a purpose other than a residential rental unit; and
- The owner's desire to renovate the unit, subject to the following:
 - The owner must consider whether a reasonable alternative to terminating the lease exists. If a reasonable alternative exists, the owner must not terminate the lease. The owner must consider the following alternatives:
 - Completing renovations without the family vacating the unit, if the renovations can be completed in a manner that does not result in life-threatening conditions, does not result in deficiencies under housing quality standards that are not corrected within 30 days, and is mutually agreeable to the owner and the family; and
 - Temporarily relocating the family to complete the renovations, if the relocation and renovations can be completed within a single calendar month (beginning no sooner than the first day of a month and ending no later than the last day of the same month) and the family can be relocated to a location and in a manner mutually agreeable to the owner and the family.
 - If the owner terminates the lease for renovation, the owner must make every reasonable effort to make available and lease the family another unit within the project that meets the tenant-based voucher program requirements; and
 - If no other unit within the project is available for the family to lease during the renovation period or the family chooses to move from the project during the renovation period, the owner must make every reasonable effort to make available and lease the family a unit within the project upon completion of renovations.

Section 6: Term of the HAP Contract

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. 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% of the family's adjusted monthly income.

The voucher issued to the family is the voucher attached to its unit under the expiring or terminating PBV contract.

Consequently, if the family vacates the contract unit following the issuance of the tenant-based voucher and prior to the contract termination or expiration date, the PHA must remove the unit from the PBV HAP contract at the time the family vacates the unit. The PBV HAP contract must provide that, if the units continue to be used for rental housing upon termination or expiration without extension of a PBV HAP contract, each assisted family may elect to use its tenant-based assistance to remain in the same project.

Section 7 Chapter 4 Post Test

1. A PHA develops its own exhibit formats for the AHAP or HAP contract.
 - a. True
 - b. False
2. A PHA may amend the PBV HAP contract to add or substitute units at any time.
 - a. True
 - b. False
3. An AHAP is not required for existing housing that will not undergo rehabilitation.
 - a. True
 - b. False
4. PBV HAP contracts are typically signed by the executive director/CEO.
 - a. True
 - b. False
5. The PHA must keep a copy of the PBV HAP contract in each PBV family's file.
 - a. True
 - b. False
6. 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

7. A PBV contract's effective date for the initial term is July 15, 2024. What is its anniversary date the following year?

-
8. A PBV HAP contract effective date for the initial term is October 9, 2025. What is the maximum possible expiration date for the initial term of this contract?
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CHAPTER 5 Rents in PBV Units

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

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

- Review definitions related to setting rents for PBV units
- Understand how to set initial rents for PBV units
- Explore how low-income housing tax credits (LIHTCs) impact PBV rents
- Discuss rent adjustments in the PBV program based on the OCAF and owner-requested rent increases
- Discuss rent decreases in the PBV program
- Apply utility allowances to PBV units

DEFINITIONS

24 CFR 983.3 and
24 CFR 982.4

Contract rent to owner. The total monthly rent payable to the owner under the lease for the contract unit. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide under the lease. (Rent to owner must not include charges for non-housing services, including payment for food, furniture, or supportive services provided in accordance with the lease).

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

Housing assistance payment. The monthly assistance payment for a PBV unit by a PHA, which includes: (1) a payment to the owner for rent to the owner under the family's lease minus the tenant rent; and (2) An additional payment to or on behalf of the family if the utility allowance exceeds the family's total tenant payment (TTP).

Section 1: Learning Outcomes and Overview

Tenant-paid utilities. Utilities and services that are not included in the rent to owner and are the responsibility of the assisted family, regardless of whether the payment goes to the utility company or the owner. The utilities and services are those necessary in the locality to provide housing that complies with housing quality standards.

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.

24 CFR 5.628

Total tenant payment. The highest of the following amounts, rounded to the nearest dollar:

- 30% of the family's monthly adjusted income;
- 10% of the family's monthly income;
- If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated;
- The minimum rent

TENANT RENT TO OWNER

24 CFR 983.353

The tenant rent is the portion of the rent to owner paid by the family. Rents in the PBV program are income-based. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Tenant rent equals the family's total tenant payment (TTP) minus the utility allowance for the unit. Once the PHA determines the tenant rent, the family is responsible for paying the tenant rent to the owner.

Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

Section 1: Learning Outcomes and Overview

The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

UTILITY ALLOWANCES

24 CFR 982.517

HCV regulations at 24 CFR 982.517 regarding utility allowances apply to the PBV program except for 24 CFR 982.517(d). The PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs. The PHA must maintain an area-wide utility allowance schedule based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Except the PHA may maintain an area-wide, energy-efficient utility allowance schedule to be used for units that are in a building that meets Leadership in Energy and Environmental Design (LEED) or Energy Star standards.

Section 1: Learning Outcomes and Overview

The PHA may base its utility allowance payments on actual flat fees charged by an owner for utilities that are billed directly by the owner, but only if the flat fee charged by the owner is no greater than the PHA's applicable utility allowance for the utilities covered by the fee. If an owner charges a flat fee for only some of the utilities, then the PHA must pay a separate allowance for any tenant-paid utilities that are not covered in the flat fee.

Upon request from a household that includes a person with disabilities, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation.

24 CFR 983.353(d)

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero. The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

PHA-OWNED UNITS

24 CFR 983.301(g)

For PHA-owned units, an independent entity must determine the initial rent to owner, redetermined rent to owner, and reasonable rent. The PHA must use the rent to owner established by the independent entity. For rent redetermination, the independent entity gives the PHA written notice specifying the amount of redetermined rent and the notice becomes an amendment to the HAP contract.

MEALS AND SUPPORTIVE SERVICES

24 CFR 983.354

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Nonpayment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, nonpayment of such charges is grounds for termination of the lease by the owner in an assisted living development.

HCV RULES THAT DO NOT APPLY TO PBV

24 CFR 983.2

Unlike in the tenant-based voucher program, in the PBV program, the PHA does not negotiate rent to owner on behalf of the family, the affordability rule (maximum family share at initial occupancy) does not apply, and payment standards are not used to determine an individual family's rent. Further, contract rent adjustments may only be made on the annual anniversary date of the HAP contract. The HAP contract effective date and the family's lease effective date are not required to be the same.

Section 2 Setting Initial Rents

24 CFR 983.301(a)

The PHA establishes the initial contract 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. However, the actual initial rent to owner is established at the beginning of the HAP contract term.

24 CFR 983.301(b)

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

- An amount determined by the PHA in accordance with the administrative plan, not to exceed 110% of the applicable fair market rent (FMR) (or the amount of any applicable exception payment standard) for the unit bedroom size minus the applicable utility allowance
- The reasonable rent
- The rent requested by the owner

24 CFR 983.301(f)

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

*24 CFR 888.113(h);
24 CFR 983.301(f)(3);
Notice PIH 2024-34*

SAFMRs are FMRs calculated at the ZIP code level, rather than for an entire metropolitan or nonmetropolitan county.

HUD identifies which metropolitan areas are required to use SAFMRs based on significant voucher concentration challenges and market conditions. PHAs administering the HCV program in those areas are required to use the SAFMRs when establishing payment standards (mandatory SAFMR PHAs). Mandatory SAFMR PHAs must use the SAFMR for any part of their jurisdiction located in the SAFMR area.

Upon notification to HUD, PHAs not located in mandatory SAFMR areas may opt in and voluntarily adopt SAFMRs for one or more of the FMR areas in which the PHA administers vouchers (opt-in PHAs). A PHA that exercises this option in one metropolitan area or nonmetropolitan county is not required to exercise this option in other metropolitan areas or nonmetropolitan counties. A PHA that opts in to SAFMRs may subsequently opt out through revision of the administrative plan and notification to HUD.

PHAs located in mandatory SAFMR areas or that have fully opted in to the use of SAFMRs 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.

Section 2: Setting Initial Rents

A PHA that chooses to apply SAFMRs to its PBV program must have policy in the administrative plan. If the PHA adopts such a policy, then SAFMRs apply in the following circumstances:

- Where the PHA notice of proposal or project selection date was on or before the effective dates of either or both the SAFMR designation/implementation and the PHA administrative policy, the PHA and owner may mutually agree to apply the SAFMR.
 - The application of the SAFMRs must be prospective and consistent with the PHA administrative plan.
 - The owner and PHA may not subsequently choose to revert to the use of the metropolitan-wide or county-wide FMRs for the PBV project.
 - If the rent to owner will increase as a result of the mutual agreement to apply the SAFMRs to the PBV project, the rent increase must not be effective until the next annual anniversary of the HAP contract.
- Where the proposal or project selection date was after the effective dates of both the SAFMR designation/implementation and the PHA administrative policy, the SAFMR must apply to the PBV project if the PHA administrative plan provides that SAFMRs are used for all future PBV projects.
 - If the PHA chooses to implement this administrative policy, the SAFMRs must apply to all future PBV projects located within the same metropolitan area or nonmetropolitan county where the SAFMRs are in effect for the PHA's HCV program.
 - An owner and the PHA may not subsequently choose to apply the metropolitan area or county FMR to the project, regardless of whether the PHA subsequently changes its administrative plan to revert to the use of metropolitan-wide or county-wide FMR for future PBV projects.

Section 2: Setting Initial Rents

The term *effective date of the small area FMR designation* means:

- The date that HUD designated a metropolitan area as a SAFMR area; or
- The date that HUD approved a PHA request to voluntarily opt to use small area FMRs for its HCV program, as applicable.

The term *effective date of the PHA administrative policy* means the date the administrative policy was formally adopted as part of the PHA administrative plan by the PHA board of commissioners or other authorized PHA officials. For example, if the board approves the updated administrative plan on January 21 with an effective date of April 1, the effective date of the SAFMR designation is January 21, not April 1.

In other words, if the proposal or project selection date was on or before the effective dates of SAFMR use, the PHA may apply SAFMRs to specific existing PBV projects going forward. If, however, the proposal or project selection date was after SAFMR use, the PHA may use SAFMRs for PBV program. If so, the PHA must apply SAFMRs to all future PBV projects. The PHA may do one or both of the above or may choose not to apply SAFMRs to the PHA's PBV program at all.

In considering whether to adopt SAFMRs for the PBV program, HUD recommends that PHAs compare the HAP contract rents of current PBV-assisted projects within the jurisdiction with what the rents would be under the SAFMRs.

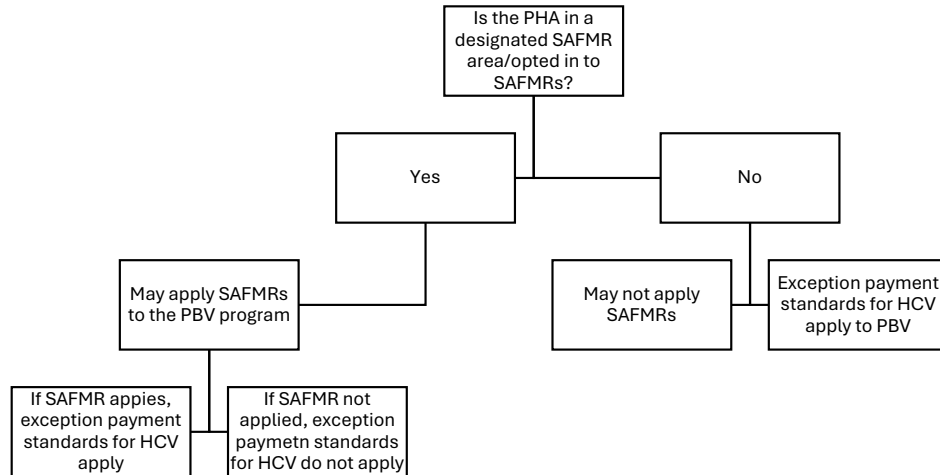
USE OF EXCEPTION PAYMENT STANDARDS

*24 CFR 983.301(f);
Notice PIH 2024-34*

The use of exception payment standards differs depending on whether the PHA uses SAFMRs for its PBV program and, if so, if the PHA has applied them to their PBV program.

- **For PBV projects that are not located in a designated SAFMR area or are not located in a ZIP code where the PHA has opted in to SAFMRs**, any exception payment standard amount under the HCV program also applies to the PBV program.
 - HUD will not approve a different exception payment standard amount for use in the PBV program. Under no circumstances can the PHA establish an exception payment standard only for a specific PBV project because exception payment standards must apply to a specific geographic area.
 - The amount of rent to owner determined by the PHA may not exceed the exception payment standard minus utility allowance, rather than the normally applicable 110% of FMR minus utility allowance limitation and rent reasonableness requirements continue to apply.
- **For PBV projects that are located in a designated SAFMR area or located in a ZIP code where the PHA has opted in to SAFMRs**, any exception payment standard amount under the HCV program applies when setting rents only if the PHA has adopted a policy applying SAFMRs to its PBV program and met all other requirements.
 - If the PHA has not applied the SAFMRs to its PBV program, 110% of the metropolitan area or nonmetropolitan county FMR minus the utility allowance remains the applicable limit on the amount determined by the PHA, regardless of whether any exception payment standard is in effect.

SUMMARY



LOW INCOME HOUSING TAX CREDIT RENTS

24 CFR 983.301(c)

In the low-income housing tax credit program, contract rents are established by the project's owner. While rents are not income-based, they are restricted by gross rent limits which are 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 contract rent for the LIHTC-only units as they charge for the combined 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 combined LIHTC/PBV units, the procedure for establishing initial rent to owner varies based on whether the units are located in a qualified census tract and if rents for LIHTC-only units exceed 110% of the FMR (or any exception payment standards).

Section 2: Setting Initial Rents

Rents are set differently in units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit;
- The contract unit is not located in a qualified census tract;
- In the same building, there are comparable tax credit units of the same bedroom size as the contract unit and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110% of the fair market rent (or any exception payment standard);

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

The *tax credit rent* is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., additional assistance such as tenant-based voucher assistance).

Tax credit units that do not meet the criteria above have their rents determined by the PHA pursuant to 24 CFR 983.301(b) as stated earlier.

For tax credit units that do meet the criteria above, initial rent may not exceed the lowest of:

- An amount determined by the PHA in accordance with the administrative plan, not to exceed the rent for LIHTC-only units (no additional rental assistance); or
- allowance; or
- The reasonable rent; or
- The rent requested by the owner

EXAMPLE

Rent Basis	Number of Bedrooms			
	0-BR	1-BR	2-BR	3-BR
Rent for LIHTC-only units	1600	1665	1750	1825
Owner requested rent	1600	1665	1750	1825
Reasonable rent	1625	1675	1775	1900
Maximum Initial Rent	1600	1665	1750	1825

Section 3 **Redetermined Rent to Owner**

24 CFR 983.302

During the term of the HAP contract, owners may receive an increase in the rent to owner. Any increases go into effect at the annual anniversary of the HAP contract. Special adjustments to rents are not allowed as they are in the tenant-based program. In PBV, the PHA must redetermine the rent to owner when:

- There is a 10% decrease in the published FMR;
- Upon the owner's request in accordance with the administrative plan; or
- At the time of the automatic adjustment by HUD's operating cost adjustment factor (OCAF)

When redetermining the rent to owner, the PHA must 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.

RENT INCREASE BY OCAF

24 CFR 983.302(b)(3)

If the PHA and owner agree, at each annual anniversary of the HAP contract, the HAP contract may provide for an automatic rent adjustment (subject to rent reasonableness) using an OCAF which is published annually by HUD in the Federal Register. HUD's notice announcing updated OCAFs is typically published in October or November each year. The owner does not need to request a rent adjustment under this option.

Section 3: Redetermined Rent to Owner

A rent increase through an adjustment by an OCAF is subject to 24 CFR 983.301(b) or (c), as applicable except there is no rent request by the owner to take into account since the PHA redetermines the rent automatically under the OCAF option. When adjusting rents using an OCAF, (except for certain LIHTC units) rent to owner must not exceed the lowest of:

- An amount determined by the PHA in accordance with the admin plan, not to exceed 110% of FMR or the amount of any exception payment standard minus the UA
- Reasonable rent
- OCAF-adjusted rent amount

For LIHTC units that use different rent setting procedures, the OCAF is substituted for the amount requested by the owner in the regulation.

Further, the HAP contract may require an additional increase up to an amount determined by the PHA (pursuant to 24 CFR 983.301(b) and (c)) if requested by the owner in writing, periodically during the term of the contract. The HAP contract must require an additional increase up to an amount determined by the PHA at the point of contract extension, pursuant to 24 CFR 983.301(b) and (c), if requested by the owner in writing.

If rent is adjusted by OCAF and there is a decrease in the FMR, tax credit rent, or reasonable rent, that requires the owner to decrease rent, the rent to owner must be decreased.

Section 3: Redetermined Rent to Owner

Example: Adjusting Rents Using the OCAF

Green Gardens is a PBV property located in Belville, Texas. The property does not have LIHTCs. The PHA and the owner have agreed in the HAP contract to adjust rents using the OCAF at each annual anniversary of the HAP contract. The property has 1, 2, and 3-bedroom units. The PHA is processing a rent increase effective 3/1/25.

The current contract rents and utility allowances are:

Bedrooms Size	Current Contract Rent	UA
1-bedroom	\$875	\$50
2-bedroom	\$1,000	\$60
3-bedroom	\$1,400	\$70

Step 1: Calculate the 110% of FMR – UA

Final FY 2025 FMRs by Unit Bedrooms					
Year	Efficiency	1-bedroom	2-bedroom	3-bedroom	4-bedroom
FY 2025 FMR	\$802	\$891	\$1,001	\$1,403	\$1,635

110% of FMR Calculation

Bedrooms Size	110% of FMR	110% of FMR - UA
1-bedroom	$\$891 \times 110\% = 980.10$	$\$980.10 - \$50 = \$930.10$
2-bedroom	$\$1,001 \times 110\% = \$1,101.10$	$\$1,191.10 - \$60 = \$1,041.10$
3-bedroom	$\$1,403 \times 110\% = \$1,543.30$	$\$1,543.30 - \$70 = \$1,473.30$

Section 3: Redetermined Rent to Owner

Step 2: Calculate the OCAF

The 2025 OCAFs provided below are applicable to eligible projects having a contract anniversary date on or after February 11, 2025.

State	2024 OCAF	2025 OCAF	% Change
Texas	5.7	5.3	-7.0

OCAF Calculation

Bedrooms Size	Contract Rent x OCAF	OCAF Adjusted Rent
1-bedroom	$\$875 \times 5.3\% = \46.38	$\$46.38 + \$875 = \$921.38$
2-bedroom	$\$1,000 \times 5.3\% = \53	$\$53 + \$1,000 = \$1,053$
3-bedroom	$\$1,400 \times 5.3\% = \74.20	$\$74.20 + \$1,400 = \$1,474.20$

Step 3: Determine Rent Reasonableness

The PHA determines the reasonable rents as the following:

Bedrooms Size	Reasonable Rent
1-bedroom	\$1,000
2-bedroom	\$1,100
3-bedroom	\$1,500

Section 3: Redetermined Rent to Owner

Step 4: Determine Adjusted Rent Amount

The PHA uses the lowest of 110% of the FMR minus the UA; the OCAF adjusted rent; or the reasonable rent.

Rent Basis	Number of Bedrooms		
	1-BR	2-BR	3-BR
110% FMR minus utility allowance	\$930	\$1,041	\$1,473
OCAF-adjusted rent	\$921	\$1,053	\$1,474
Reasonable rent	\$1,000	\$1,100	\$1,500
Adjusted rent	\$921	\$1,041	\$1,473

OWNER-REQUESTED RENT INCREASES

24 CFR 983.302(b)(4)

If the HAP contract does not provide for automatic adjustment by an OCAF, an owner who wishes to receive an increase in the contract rent to owner must request an increase in writing from the PHA at the annual anniversary date of the HAP contract. The owner's request for a rent adjustment must be in writing and in the form and manner required by the PHA. The administrative plan must specify any advance notice the owner must give the PHA and the form the request must take (e.g., to a particular mailing address or email address). 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 housing quality standards except that housing quality standards compliance is not required for units undergoing development activity that complies with 24 CFR 983.157 or substantial improvement that complies with 24 CFR 983.212. The owner may not receive retroactive payments for any period of noncompliance.

Section 3: Redetermined Rent to Owner

A rent increase is processed using the same regulations at 24 CFR 983.301(b) or (c), as applicable, that are used when setting initial rents. Except for certain LIHTC units rent to owner must not exceed the lowest of:

- An amount determined by the PHA in accordance with the admin plan, not to exceed 110% of FMR or the amount of any exception payment standard minus the UA
- Reasonable rent
- The rent requested by the owner

Example: Owner-Requested Rent Increase

Prairie View is a PHA-owned PBV property located in Cheyenne, Wyoming. The property does not have LIHTCs. In accordance with PHA policy, the owner submitted a written request for a rent increase 60 days before the HAP contract anniversary date. The property has 1, 2, and 3-bedroom units. Since the units are PHA-owned, the HUD-approved independent entity determines rent reasonableness and redetermined contract rent to owner which will be effective on the annual anniversary date of the HAP contract which is 4/1/25.

The current contract rents and utility allowances are:

Bedrooms Size	Current Contract Rent	UA
1-bedroom	\$855	\$35
2-bedroom	\$1,000	\$65
3-bedroom	\$1,450	\$75

The owner has requested the following increased rents. The UA will remain the same.

Bedrooms Size	Owner-Requested Rent
1-bedroom	\$995
2-bedroom	\$1,100
3-bedroom	\$1,700

Section 3: Redetermined Rent to Owner

Step 1: Calculate the 110% of FMR – UA

Final FY 2025 FMRs by Unit Bedrooms					
Year	Efficiency	1-bedroom	2-bedroom	3-bedroom	4-bedroom
FY 2025 FMR	\$782	\$903	\$1,141	\$1,599	\$1,916

110% of FMR Calculation

Bedrooms Size	110% of FMR	110% of FMR - UA
1-bedroom	$\$903 \times 110\% = 993.30$	$\$993.30 - \$35 = \$958.30$
2-bedroom	$\$1,141 \times 110\% = \$1,255.10$	$\$1,255.10 - \$65 = \$1,190.10$
3-bedroom	$\$1,599 \times 110\% = \$1,758.90$	$\$1,758.90 - \$75 = \$1,683.90$

Step 2: Determine Rent Reasonableness

The independent entity determines the reasonable rents as the following:

Bedrooms Size	Reasonable Rent
1-bedroom	\$1,000
2-bedroom	\$1,200
3-bedroom	\$1,800

Step 3: Determine Adjusted Rent Amount

The independent entity selects the lowest of 110% of the FMR - UA; the reasonable rent; or the rent requested by the owner.

Rent Basis	Number of Bedrooms		
	1-BR	2-BR	3-BR
110% FMR minus utility allowance	\$958	\$1,190	\$1,683
Owner-requested rent	\$995	\$1,100	\$1,700
Reasonable rent	\$990	\$1,200	\$1,800
Adjusted rent	\$958	\$1,100	\$1,683

HAP CONTRACT ANNIVERSARY

24 CFR 983.302(e)(1)

Rent increases are effective on the annual anniversary of the HAP contract which 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. For example, if HAP contract was effective May 1, 2024, the anniversary date of the contract is May 1 each year. Increases in the contract rent will always be effective on May 1 each year.

24 CFR 983.207(g)

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. The expiration of the HAP contract for all the contract units completed in stages must be concurrent with the end of the HAP contract term for the units originally placed under HAP contract.

24 CFR 983.302(e)(2)

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.

RENT DECREASES

24 CFR 983.302(c)

If the HAP contract provides for rent adjustments by an OCAF and there is a decrease in the fair market rent, tax credit rent, or reasonable rent that requires a decrease to the rent to owner, the rent to owner must be decreased.

If the HAP contract does not provide for adjustment by an OCAF and there is a decrease in the rent to owner such as a change in the FMR or exception payment standard or reasonable rent amount, the PHA must decrease the contract rent to owner regardless of whether the owner requested a rent adjustment.

However, at any time during the term of the HAP contract, the PHA may elect not to reduce rents below the initial level.

Where the PHA makes this election, the rent to owner may not be reduced below the initial rent to owner, except:

Section 3: Redetermined Rent to Owner

- 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

NOTICE OF A CHANGE IN RENT TO OWNER

24 CFR 983.302(d)

The PHA must provide the owner with a written notice of the rent adjustment any time there is a change in the contract rent to owner. The notice must specify the amount of the new contract rent to owner. The written notice of rent adjustment constitutes an amendment to the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

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 Reasonable Rent

Like in the HCV program, the fundamental tenet in setting 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 private unassisted market. 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.

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Section 4: Reasonable Rent

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10% or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to add a contract unit or substitute a different contract unit in the same building or project;
- The PHA accepts a completed unit after development activity that is conducted after HAP contract execution in accordance with 24 CFR 983.156(b)(3); and
- There is any other change that may substantially affect the reasonable rent.

Section 5 Chapter 5 Post Test

1. The affordability rule (maximum family share at initial occupancy) does not apply to the PBV program.
 - a. True
 - b. False
2. A PHA is redetermining rent by applying the OCAF. Given the following information, what is the rent to owner?
 - a. 110% of FMR minus the UA: \$1,500
 - b. Reasonable rent: \$1,200
 - c. OCAF-adjusted rent amount: \$1,300
3. SAFMRs are FMRs calculated at the ZIP code level, rather than for an entire metropolitan or nonmetropolitan county.
 - a. True
 - b. False
4. Tenant rents in the PBV program are income-based.
 - a. True
 - b. False
5. Rent reasonableness is only determined when approving the rents in the HCV program. It does not apply to the PBV program.
 - a. True
 - b. False
6. Rents may only be redetermined at the annual anniversary of the PBV HAP contract.
 - a. True
 - b. False
7. A PHA in a designated SAFMR area is not required to apply SAFMRs to its PBV program.
 - a. True
 - b. False

Section 5: Chapter 5 Post Test

8. For PHA-owned units, an independent entity must determine the initial and ongoing rent to owner.
 - a. True
 - b. False
9. The PHA must provide the owner with written notice of any rent adjustment.
 - a. True
 - b. False

Section 6 Continued Learning

EFFECT OF OTHER SUBSIDY ON RENT

24 CFR 983.304

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA must reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or noninsured Section 236 project;
- A formerly insured or noninsured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

24 CFR 983.305

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

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% 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.

Section 6: Continued Learning

Notes

CHAPTER 6 Waiting List Management

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

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

- Discuss requirements for in-place families
- Describe the application process
- Explain the requirements for PBV waiting lists, including preferences
- Describe the requirements for owner-maintained waiting lists
- Review what happens when a family refuses PBV assistance
- List requirements for briefing families

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 Initial Occupancy

IN-PLACE FAMILIES

Before the PHA can attach PBVs to an occupied unit:

- The family must meet standard eligibility requirements
- The unit must be of appropriate size for the family under the PHA's subsidy standards
- The TTP must be less than the gross rent (family can't be zero HAP)

24 CFR 983.251(b)(1)

A family residing in a proposed contract unit on the proposal or project selection date is considered an in-place family. The PHA must obtain enough information 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. To minimize displacement of in-place families, if an in-place family is determined to be eligible prior to the placement of the family's unit on the HAP contract, the in-place family must be placed on the PHA's waiting list (if the family is not already on the list) and must be given an "absolute selection preference." If the PHA's waiting list for PBV assistance is not a project-specific waiting list, the PHA must refer the family to the applicable project owner for an appropriate-size PBV unit in the specific project.

24 CFR 983.251(2)

If the in-place family is a tenant-based voucher participant, program eligibility is not re-determined. However, the PHA must determine that the total tenant payment (TTP) for the family is less than the gross rent for the unit, such that the unit will be eligible for a monthly HAP, and the PHA may deny or terminate assistance for the grounds specified in the denial regulations.

Section 2: Initial Occupancy

During the initial term of the lease under tenant-based tenancy, an in-place tenant-based voucher family may agree, but is not required, to mutually terminate the lease with the owner and enter into a lease and tenancy under the PBV program. If the family chooses to continue the tenant-based assisted tenancy, the unit may not be added to the PBV HAP contract. The owner may not terminate the lease for other good cause during the initial term unless the owner is terminating the tenancy because of something the family did or failed to do in accordance with 24 CFR 982.310(d)(2). The owner is expressly prohibited from terminating the tenancy during the initial term of the lease based on the family's failure to accept the offer of a new lease or revision, or for a business or economic reason.

If, after the initial term, the owner chooses not to renew the lease or terminates the lease for other good cause (as defined in 24 CFR 982.310(d)) to end the tenant-based assisted tenancy, the family would be required to move with continued tenant-based assistance or relinquish the tenant-based voucher and enter into a new lease to receive PBV assistance in order to remain in the unit.

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

PUBLIC HOUSING CONVERSIONS AND IN-PLACE FAMILIES

FAQs About PBV and Public Housing Repositioning, July 2021

In-place families are treated differently when the PHA project-bases tenant protection voucher (TPVs) as part of a public housing repositioning action depending on the removal tool the PHA uses:

- Section 18 demolition/disposition (demo/dispo): The PHA may project-base tenant protection vouchers (TPV) at a former public site if the units comply with PBV program requirements. In this case, the PHA may project-base the TPV assistance without the family's consent to relinquish the TPV assistance. The PHA must, however, offer the family the opportunity to reside in the PBV unit funded through the TPV.

Section 2: Initial Occupancy

- Section 22 streamlined voluntary conversion (SVC): If a project (or portion of a project) will be used as rental housing following a Section 22 approval, then each family residing in the project may remain in its unit with tenant-based assistance. If a PHA wishes to project-base the TPVs, then the PHA must first obtain the informed written consent of each family to relinquish its tenant-based TPV in order to be assisted in a unit under a PBV HAP contract at the project.

The PHA must determine that the family is eligible under HCV requirements in order to qualify for a TPV (this will be discussed in the eligibility chapter).

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.

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.

Section 3 Applications

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

*24 CFR 1.4 and
24 CFR 982.206(a) and (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.

The PHA (or owner in the case of owner-maintained waiting lists) is responsible for receiving and processing applications in a way which treats all applicants fairly and consistently.

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.

PHA policy may allow for applications to be received by mail, by fax, in person at the PHA's offices, over the internet or at other locations established by the PHA, or by telephone or through home visits (reasonable accommodation).

Notice PIH 2012-22

Form HUD-92006, 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.

Section 4 PBV Waiting Lists

ESTABLISHING THE WAITING LIST

24 CFR 983.251(c)

Applicants who will occupy units with PBV assistance must be selected from the waiting list for the PBV program. The PHA or owner (as applicable) may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list. The PHA must establish in the administrative plan the options it will use to structure the PBV waiting list. The PHA may:

- Use a separate, central, waiting list comprised of more than one or all PBV projects;
- Use the same waiting list for both tenant-based and some or all PBV projects;
- Use a separate waiting list for PBV units in individual projects or buildings (or for sets of such units), which may be used in combination with either of the above options and may be maintained by the owner; or
- Merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA.

If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance. The PHA must specify the name of the PBV projects in its administrative plan.

Factors to consider when managing the waiting list include:

24 CFR 983.251(c)(6)

- 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 (including owner-maintained waiting lists).

CFR 982.554(a)

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

Section 4: PBV Waiting Lists

CFR 985.3(a)

- Any system used to maintain the 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 or the owner’s policies (as applicable).
- 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 or the owner (as applicable).

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 a 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.

24 CFR 983.51(c)(5)

Where applicable, 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 5 Owner-Maintained Waiting Lists

24 CFR 983.251(c)(7)

When the PHA uses separate waiting lists for individual projects or buildings, the PHA may establish in the administrative plan that owners will maintain the waiting lists. All HCV waiting list administration requirements that apply to the PBV program also apply to owner-maintained waiting lists. Under an owner-maintained waiting list, the owner is responsible for carrying out responsibilities including, but not limited to:

- Processing changes in applicant information;
- Removing an applicant's name from the waiting list;
- Opening and closing the waiting list;
 - If the owner-maintained waiting list is open and additional applicants are needed to fill vacant units, the owner must give public notice in accordance with the requirements of 24 CFR 982.206 and the owner waiting list policy.
- Maintaining complete and accurate records as described in 24 CFR 982.158; and
- Giving the PHA, HUD, and the Comptroller General full and free access to its offices and records concerning waiting list management, as described in 24 CFR 982.158(c).

Applicants already on the PHA's waiting list (including the tenant-based waiting list) must be permitted to place their names on the project's waiting lists.

Applicants may apply directly at the project, or the applicant may request that the PHA refer the applicant to the owner for placement on the project's waiting list. The PHA must disclose to the applicant all the PBV projects available to the applicant, including the projects' contact information and other basic information about the projects.

Section 5: Owner-Maintained Waiting Lists

24 CFR 983.251(c)(7)(i)

The owner must develop and submit to the PHA a written owner waiting list policy that must include:

- Policies and procedures concerning waiting list management and selection of applicants from the project's waiting list, including any admission preferences;
- Procedures for removing applicant names from the waiting list; and
- Procedures for closing and reopening the waiting list.

The owner must receive approval from the PHA in accordance with the process established in the PHA's administrative plan, and the PHA must include the owner's waiting list policy in the PHA's administrative plan.

PHA OVERSIGHT

24 CFR 983.251(c)(7)(x)

The PHA is responsible for oversight of owner-maintained waiting lists to ensure that they are administered properly and in accordance with program requirements, including but not limited to nondiscrimination and equal opportunity requirements under 24 CFR 5.105(a). The PHA must identify in the administrative plan the oversight procedures the PHA will use to ensure these requirements are met.

PRELIMINARY ELIGIBILITY DETERMINATIONS

24 CFR 983.251(c)(7)(vi)

At the discretion of the PHA, the owner may make preliminary eligibility determinations for purposes of placing the family on the waiting list and preference eligibility determinations. The PHA may choose to make this determination rather than delegating it to the owner.

Once an owner selects the family from the waiting list, the owner refers the family to the PHA, which then determines the family's final program eligibility. The owner may not offer a unit to the family until the PHA determines that the family is eligible for the program.

Section 6 Preferences

*24 CFR 982.202(d) and
24 CFR 982.207(a)*

If the PHA or owner (as applicable) 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 or owner (as applicable) 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.

PHA WAITING LIST PREFERENCES

24 CFR 983.251(c)(3)

The PHA may establish in its administrative plan any preferences for occupancy of particular units, including the name of the projects and the specific preferences that are to be used by the project. Criteria for occupancy of units (e.g., elderly families) may also be established, however, selection of families must be done through admission preference.

The PHA must provide an absolute selection preference for eligible in-place families. For both excepted units and units under the increased program cap, 24 CFR 983.262(b)(2) requires that the PHA must select families from the waiting list though an admission preference for these types of units.

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.

OWNER-MAINTAINED WAITING LIST PREFERENCES

24 CFR 983.251(c)(7)(ii)

For any owner-maintained waiting lists, the owner may not give selection preferences to families without prior PHA approval. The PHA will review and approve owner preferences as part of its owner waiting list policy approval process. All owner preferences must be consistent with the PHA plan. If applicable, the owner must give an absolute preference to eligible families residing in a proposed PBV contract unit on the date the proposal or project is selected by the PHA (“in-place families”) in accordance with 24 CFR 983.251(b).

If the project offers services for a particular type of disability, the owner’s preference must be provided to all applicants who qualify for the voluntary services offered in conjunction with the assisted units and may not require families to accept the particular services offered at the project nor require families to provide their own equivalent services if they decline the project's services. The owner may not grant a preference for persons with specific disabilities. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the preference must be provided to all applicants who qualify for the voluntary services offered in conjunction with the assisted units. The owner is responsible for notifying the family of any determination that the family is not eligible for a preference.

Example: Owner Preferences

- As an optional supportive service, a PBV project provides rides from an ADA accessible transportation company available to all residents three times a day.
- The project may have a preference for persons with any type of disability that require the transportation company’s services.
- The project may not have a preference for a specific type of disability.

PREFERENCES FOR SERVICES OFFERED

24 CFR 983.251(d)

The PHA (or owners in the case of owner-maintained waiting lists) may give preference to families who would qualify for voluntary services offered in connection with units consistent with the PHA plan and admin plan. 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. Families must not be required to accept the particular services offered at the project nor must families be required to provide their own equivalent services if they decline the project's services.

Preferences may not be given to persons with a specific disability.

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.

Section 6: Preferences

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.

In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the preference must be provided to all applicants who qualify for the voluntary services offered in conjunction with the assisted units.

Section 7 Offer of Assistance

ACCEPTANCE OF OFFER

24 CFR 983.252(a) and (b)

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works, the responsibilities of the family and owner, and the family's right to move.

In addition to the oral briefing, the PHA must provide a briefing packet that contains the following information:

- How the PHA determines the total tenant payment for a family;
- The family obligations under the program;
- Information on federal, state, and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification under Section 504, the Fair Housing Act, and the Americans with Disabilities Act;
- PHA subsidy standards, including when the PHA will consider granting exceptions to the standards, and when exceptions are required as a reasonable accommodation for a person with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act; and
- The family's right to move.

The PHA and family must sign the statement of family responsibility.

The PHA must take appropriate steps to ensure effective communication, in accordance with 24 CFR 8.6 and 28 CFR Part 35, subpart E, and must provide information on the reasonable accommodation process in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available. In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

The PHA must take reasonable steps to ensure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964, HUD's implementing regulation at 24 CFR Part 1, Executive Order 13166, and 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) or successor authority.

REFUSAL OF OFFER

24 CFR 983.251(e)

If a family refuses the PHA's offer of PBV assistance or the owner rejects a family for admission, the family's position on the PHA waiting list for tenant-based assistance is not affected regardless of the type of PBV waiting list used by the PHA. The impact (of a family's rejection of the offer or the owner's rejection of the family) on a family's position on the PBV waiting list will be determined as follows:

- If a central PBV waiting list is used, the PHA's administrative plan must address the number of offers a family may reject without good cause before the family is removed from the PBV waiting list and whether the owner's rejection will impact the family's place on the PBV waiting list.
- If a project-specific PBV waiting list is used, the family's name is removed from the project's waiting list connected to the family's rejection of the offer without good cause or the owner's rejection of the family. The family's position on any other project-specific PBV waiting list is not affected.

Section 7: Offer of Assistance

- The PHA must define good cause in its administrative plan. The PHA's definition of *good cause* must include, at minimum, that:
 - The family determines the unit is not accessible to a household member with a disability or otherwise does not meet the member's disability-related needs;
 - The unit has housing quality standards deficiencies;
 - The family is unable to accept the offer due to circumstances beyond the family's control (such as hospitalization, temporary economic hardship, or natural disaster); and
 - The family determines the unit presents a health or safety risk to a household member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

When the owner rejects a family, the owner must promptly notify the applicant in writing of the grounds for any rejection and provide a copy of the rejection notice to the PHA.

The PHA must not take any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance
- The PHA (or owner in the case of owner-maintained waiting lists) is not required to open a closed waiting list to place the family on that waiting list
- Deny any admission preference for which the applicant is currently qualified
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection from the waiting list
- Remove the applicant from the tenant-based voucher waiting list

Section 8 Chapter 6 Post Test

1. If supportive services are offered, the waiting list may have a preference for a specific type of disability.
 - a. True
 - b. False
2. At the discretion of the PHA, the owner may make preliminary eligibility determinations for purposes of placing the family on the waiting list and preference eligibility determinations.
 - a. True
 - b. False
3. When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing.
 - a. True
 - b. False
4. If the owner maintains the PBV waiting list, the owner determines whether or not the family is eligible to receive PBV assistance.
 - a. True
 - b. False
5. PBV waiting lists must be site-based.
 - a. True
 - b. False
6. If the PHA has excepted units based on optional supportive services, the PHA must have a supportive services preference at the project.
 - a. True
 - b. False

Section 8: Chapter 6 Post Test

7. Waiting list preferences are _____ for the PBV program.
 - a. Mandatory
 - b. Optional

8. 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

CHAPTER 7 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

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, using information received and verified by the PHA within a period of 60 days before commencement of PBV assistance. For all families, the PHA must determine the total tenant payment for the family is less than the gross rent, such that the unit will be eligible for a monthly HAP.

Section 1: Learning Outcomes and Overview

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

- | | |
|---|---|
| <i>24 CFR 982.201(a)</i> | • The applicant must be a "family" |
| <i>24 CFR 982.201(b)</i> | • The family's annual income may not exceed the applicable income limit, including requirements for students |
| <i>24 CFR 5.216(a)</i>
<i>24 CFR 5.216(g)(3)</i> | • Social Security numbers must be disclosed and documented for all household members, except noncontending persons. |
| <i>24 CFR 5.500</i> | • Applicant must furnish evidence of citizenship or eligible immigrant status. |
| | • The family must meet HUD and the PHA's criteria related to drug abuse and other criminal activity. |

Section 2 Family Types

FAMILY

24 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
- An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; 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

Gender identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

24 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.

The family may have 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.

*24 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

*24 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

24 CFR 5.403

The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the elderly/disabled household deduction, the dependent allowance, the allowance for medical expenses, and/or the allowance for disability assistance expenses.

- Persons are considered disabled if:
 1. They have a disability as defined in 42 U.S.C. 423
 2. They are determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - Is expected to be of long-continued and indefinite duration
 - Substantially impedes their ability to live independently
 - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions
 3. They are functionally disabled as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6001(8)].

Persons who have acquired immunodeficiency syndrome (AIDS) or any conditions arising from the AIDS virus are not excluded from this definition.

For purposes of qualifying for low-income housing, the definition does not include a disability based solely on any drug or alcohol dependence.

Legislative Reference

1. 42 U.S.C. Section 423(d)(1)(A) defines disability as:

“Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.”

2. The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)) defines developmental disability in functional terms as:

A severe, chronic disability of a person 5 years of age or older which:

- (A) is attributable to a mental or physical impairment or combination of mental and physical impairments
- (B) is manifested before the person attains age twenty-two
- (C) is likely to continue indefinitely
- (D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency
- (E) reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.”

Section 2: Family Types

HCV GB 5-50

VERIFICATION OF DISABILITY

Verified by a knowledgeable professional source that the person meets this criteria, using the exact wording in the HUD definitions.

42 U.S.C. 1437a(b)(3)(E)

Receipt of Social Security Disability or Supplemental Security Income is verification of disability. If such benefits are not received, the following can provide a basis for verification:

Verification Guide

- Original SSA notice confirming SSI payments
- Verification from a qualified professional having knowledge of the person's disability, who can verify the tenant's status
- The PHA may also accept doctor statements meeting the disability definition requirements in USC Title 42, Section 423.

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about an individual's ability to live independently, or about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document. Under no circumstances should a PHA request a participant's medical records.

6/2003: Public Housing Occupancy Guidebook

Housing Authority

DISABILITY VERIFICATION FORM

Public Housing Authorities are required to verify the disability of applicants claiming to be disabled to determine the applicant's eligibility for the housing and to compute rent. The resident has signed a release form below giving you permission to supply us with this information. Please fill out the form below and return it at your earliest convenience.

Sincerely yours, _____

The Department of Housing and Urban Development defines a disabled person in 3 ways:

- (1) A disabled person is one with an inability to engage in any substantial gainful activity because of any physical or mental impairment that is expected to result in death or has lasted or can be expected to last continuously for at least 12 months; or for a blind person at least 55 years old, inability because of blindness to engage in any substantial gainful activities comparable to those in which the person was previously engaged with some regularity and over a substantial period.
- (2) A developmentally disabled person is one with a severe chronic disability that:
 - (a) is attributable to a mental and/or physical impairment;
 - (b) as manifested before age 22;
 - (c) is likely to continue indefinitely;
 - (d) results in substantial functional limitations in three or more of the following areas: capacity for independent living, self-care, receptive and expressive language; learning, mobility, self-direction, and economic self-sufficiency AND
 - (e) requires special interdisciplinary or generic care treatment, or other services which are of extended or lifelong duration and are individually planned or coordinated.
- (3) A disabled person is also one who has a physical, emotional or mental impairment that:
 - (a) is expected to be of long-continued or indefinite duration;
 - (b) substantially impedes the person's ability to live independently;
 - (c) is such that the person's ability to live independently could be improved by more suitable housing conditions.

I, _____, hereby certify that _____ (person signing the release below should be considered disabled in accordance with definition number _____ above.)

Name and Title _____ Date _____

Signature _____ Phone _____

TENANT/APPLICANT RELEASE

I, _____, hereby authorize the release of the requested information.

Signature _____ Date _____

Section 2: Family Types

24 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.

24 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.

24 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.

24 CFR 5.609

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

Section 2: Family Types

HOUSEHOLD

24 CFR 5.100

The household includes everyone who lives in the unit.

The family includes all household members except live-in aides and foster children and adults.

LIVE-IN AIDE

24 CFR 5.160

Definition of *household* - The family and the PHA-approved live-in aide.

24 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

24 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.

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.

Section 2: Family Types

24 CFR 982.316

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.

FOSTER CHILDREN AND ADULTS

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

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.

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A *foster child* is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members.

Section 2: Family Types

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

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 dependent allowance.

HCV Program GB p. 5-29

Childcare expenses for foster children are deductible to the same extent that childcare expenses for other children are deductible.

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

*24 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

*24 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.

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

24 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.

Section 3: Social Security Number Requirements

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.

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.

24 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.

24 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.

Section 3: Social Security Number Requirements

*24 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.
- 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

*24 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

24 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

24 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.

24 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

24 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.

24 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.

24 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.

Notice PIH 2001-27

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

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

Section 4: Restriction on Assistance to Noncitizens

FAMILY CATEGORIES

24 CFR 5.504 and 5.506

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

24 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).
 - PHA policy 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
- 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.

Noncitizens under 62 who claim eligible immigration status must provide the following:

- 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.

Section 4: Restriction on Assistance to Noncitizens

DOCUMENTATION REQUIRED

PHA documents:

- Declaration of Section 214 Status
- Verification Consent Form
- Listing of Non-contending Family Members
- Notice of Section 214 requirements.

24 CFR 5.512

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>

TIMEFRAME FOR SUBMISSION

24 CFR 5.508(g) and (h)(3)

Applicants present documents at final eligibility determination. Extensions for submission of required documents must not exceed 30 days.

24 CFR 5.508(g)(1)

For applicants:

- At any stage of the application process, but not later than the date the PHA verifies other eligibility factors.

24 CFR 5.508(g)(3)

New occupants joining an assisted family:

- At the first interim or regular reexam following their occupancy.

24 CFR 5.508(h)(2)

A time extension may be granted in writing by the PHA if needed for the individual to obtain the needed documentation.

24 CFR 5.508(h)(5)

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% 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% of the area median for the family size.
- **Low-income limit:** The family's annual gross income does not exceed 80% of area median.

To be eligible for the program, a family must be either very low-income (generally 50% of area median income); OR low-income (generally 80% 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% 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% of a PHA's new admissions to the housing choice voucher program must have incomes that do not exceed 30% 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.

TPVs AND PBV

*TPV for Public Housing
Actions FAQs June 2020*

In order to receive a tenant protection voucher (TPV) as part of a Section 18 demo/diso or Section 22 SVC, the family must be income-eligible for admission to the voucher program. Families in these types of conversions are considered continuously assisted and must have annual income at or below 80% of area median income.

*FAQs about PBV and Public
Housing Repositioning July
2021*

If the family is over-income for admission, under all public housing actions, the PHA is required to offer "comparable housing" to an impacted family, irrespective of whether such family is income-eligible for a TPV. If the PHA can relocate the family using a form of comparable housing other than the TPV, the PHA could use the TPV to PBV the unit. If there is no other comparable housing option to relocate the family, the PHA may meet its comparable housing requirement by leaving the family in place unassisted at a comparable rental rate. In this case, instead of using the TPV to project-base the unit, the TPV may be used for families on the PHA's waiting list.

Families receiving TPVs do not count toward the PHA's income targeting requirements.

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.

24 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"

Section 6: Student Status

- 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
 - 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).

Section 6: Student Status

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.

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.

24 CFR 982.552 (b)(5)

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.

Learning Activity 7-1: 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 is an income eligible family that 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 are cousins that 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

RELEASE FORMS

24 CFR 982.551

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use Form HUD-9886-A, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

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

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-A)

All adult applicants and participants sign Form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886-A at admission. Prior to January 1, 2024, participants signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

Section 7: Forms

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

The purpose of Form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. The Form HUD-9886-A 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.

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

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-A) 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.

Section 7: Forms

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

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

FORM HUD-52675

Notice PIH 2023-27

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.

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.

EIV EXISTING TENANT SEARCH

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified.

The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

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: 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

ASSET LIMITATION

24 CFR 5.618

The asset limitation is not applicable until the PHA's HOTMA 102/104 compliance date.

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

- First, assistance may not be provided to any family if the family's net assets exceed the HUD-published asset limitation amount (adjusted annually by HUD). This amount is listed in HUD's current year inflation-adjusted values tables.
- Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:
 - A present ownership interest in the real property;
 - A legal right to reside in the real property; and
 - The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The PHA does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or

Section 8: Tenant Screening and Selection

- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
 - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered suitable for occupancy unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;
- Is located so as to be a hardship to the family (e.g., the location would be a hardship for the family's commute to work or school;
- Is unsafe because of physical condition;
- Is not a property that a family may reside in per local and state laws (e.g., a storefront zoned for commercial use only).

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.

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.

Section 8: Tenant Screening and Selection

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

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.

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease.

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.

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.

DISAPPROVAL BY OWNER

*24 CFR 983.253(a)(2)
and (a)(3)*

An owner must promptly notify in writing any rejected applicant of the grounds for any rejection. The owner must provide a copy of the rejection notice to the PHA.

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 9 Chapter 7 Post Test

1. The PHA may only select families determined eligible for admission to PBV using information received and verified by the PHA within a period of _____ days before the start of PBV assistance.
 - a. 30
 - b. 60
 - c. 90
 - d. 180
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% 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 From HUD-9886-A to verify welfare and child support.
 - a. True
 - b. False

Section 9: Chapter 7 Post Test

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
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

CHAPTER 8 Leasing Units

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

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

- Understand subsidy standards in PBV
- Identify different household members who may reside in the PBV unit
- Identify lease requirements
- Review the tenancy addendum

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, 983.52(c),
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. For a family to be eligible for assistance in the specific unit, the unit must be appropriate for the size of the family under the PHA's subsidy standards.

*FAQs about PBV in Public
Housing Repositioning, July
2021*

A PHA may not establish subsidy standards for its PBV program that differ from those of its HCV program; it must follow its HCV policy on family unit size.

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 applicable space standards
- Be applied consistently for all families of the same size and composition

The HQS inspection standards allow 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

Section 2: Determining Unit Size

NSPIRE requires that for units assisted under the HCV program, the unit must have:

- At least one bedroom or living/sleeping room for each two persons
- Two working outlets or one working outlet and a permanent light within all habitable rooms.
 - HUD defines a habitable room as it is typically defined in model codes: a room in a building for living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas.

In accordance with PHA policies, the PHA may grant an exception based on:

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

HOUSEHOLD MEMBERS AND UNIT SIZE

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.

Section 2: Determining Unit Size

- 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% or more of the time, or 51% 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.
- 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.

Section 2: Determining Unit Size

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. If a PHA-maintained waiting list is used, 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 within 30 calendar days. If an owner-maintained waiting list is used, the owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit and refer the family to the PHA for final eligibility determination. The PHA must make every reasonable effort to make such final eligibility determination within 30 calendar days. 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 the 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

24 CFR 983.251(c)(9)

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.

Section 3: Filling Vacancies

The vacancy payment to the owner may last for a maximum of two months and are determined by the PHA. The payments 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/eVMS, 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.

Section 4 Leases

LEASE REQUIREMENTS

24 CFR 983.256

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter a written lease for the unit. The lease must be executed by the owner and the tenant. If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form, except where PBV regulations require specific information. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

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 (address, apartment number, if any, and any other information needed to identify the leased contract unit)
- Term of the lease (initial and renewal)
- Amount of tenant rent to owner (the tenant rent to owner is subject to change during the term of the lease in accordance with HUD requirements)
- Specification of what services, maintenance, equipment, and utilities are provided by the owner

Section 4: Leases

- 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.

24 CFR 983.256(e)

If the tenant and the owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

LEASE TERM

24 CFR 983.256(f)

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. 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 (e.g., month-to-month or year-to-year); or
- Automatic indefinite extension of the lease term.
- The term of the lease 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 HAP contract; or
 - The PHA terminates assistance for the family.

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. For example, PHA policy may state that assistance will be terminated if the entire family is absent from the unit for a period of 180 consecutive days or more. However, the owner's lease may call for termination of tenancy after 60 consecutive days. Note that PHA termination-of-assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that, while the family's assistance is terminated, the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

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 tenancy addendum includes a Part A and a Part B.

Part A of the addendum provides the:

- Names of the tenant and all household members authorized to live in the unit and notes that other persons may not be added to the household without prior written approval of the owner and the PHA
- Identification of the unit rented (address and apartment number)
- The initial term of the lease
- Amount of the initial contract rent to owner, HAP payment, and tenant rent to owner, and a provision that it is subject to change in accordance with HUD requirements
- Utilities and appliances to be provided by owner and tenant

Part B of 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. The owner agrees that by entering into the tenancy addendum, the terms of the owner's lease are in accordance with HUD requirements.

SECURITY DEPOSITS

24 CFR 983.259

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 owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant. State and local law govern how quickly the security deposit must be returned to the family.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant. The PHA does not have a liability to the owner for amounts owed by the family to the owner.

Section 5 Chapter 8 Post Test

1. A PHA may not establish subsidy standards for its PBV program that differ from those of its HCV program.
 - a. True
 - b. False
2. Vacancy payments are _____ for the PHA.
 - a. Mandatory
 - b. Optional
3. All of the following are true regarding establishing the unit size for the family except:
 - a. A live-in aide must be counted
 - b. Children who are temporarily absent due to placement in foster care must be counted
 - c. The PHA may prohibit all families from having foster children
 - d. A single pregnant woman is treated as a two-person family
4. Who collects the security deposit?
 - a. The PHA
 - b. The owner
5. The owner's lease must include the HUD tenancy addendum.
 - a. True
 - b. False
6. The initial lease term is:
 - a. One year
 - b. 6 months
 - c. At the discretion of the owner

CHAPTER 9 Continued Occupancy

Section 1 Learning Outcomes and Overview

LEARNING OUTCOMES

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

- Review the process for conducting annual reexaminations
- Identify when and how interim reexaminations are conducted
- Specify PBV inspection requirements
- Understand the process when there are owner or family-caused deficiencies in a unit
- Explain the family's right to a tenant-based voucher after one year of occupancy
- List the requirements surrounding moves
- Review family obligations in the PBV program
- 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

Section 2 Inspections

The current applicable inspection standard for the HCV and PBV programs is the Housing Quality Standards (HQS). On May 11, 2023, HUD published a final rule implementing the National Standards for the Physical Inspection of Real Estate (NSPIRE final rule), a new approach to defining and assessing housing quality across multiple HUD programs. 24 CFR 5.703 describes the NSPIRE standards, including variations for the HCV and PBV programs. Notice PIH 2023-28 (later issued as Notice PIH 2024-26) finalized the administrative procedures for NSPIRE as they pertain specifically to the HCV and PBV programs. Collectively, this is known as “NSPIRE-V.”

The compliance date for NSPIRE-V is no later than October 1, 2025, at which point the HQS inspection standard will sunset. PHAs may, however, implement NSPIRE-V prior to October 1, 2025, provided they do so in accordance with the requirements in the FR Notice 7/5/24.

However, even once the HQS inspection standard has sunset, the regulations at 24 CFR Part 982 and 983 governing the HCV and PBV programs will continue to use the terms *HQS* and *housing quality standards* rather than NSPIRE. This is because the definition of *housing quality standards (HQS)* at 24 CFR 982.4 means the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA. As such, this workbook uses the term *housing quality standards* whenever applicable regulations use this term.

Housing quality standards for the tenant-based program, including those for special housing types, generally apply to the PBV program, with the exception of shared housing, manufactured home space rental, and the homeownership option since these types of units are not assisted under the PBV program.

24 CFR 982.208

The owner is required to maintain and operate the contract units and premises in accordance with housing quality standards, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement, and redecoration must be in accordance with the standard practice for the building as established by the owner. The HAP contract may also require continuing owner compliance during the HAP contract term with additional housing quality requirements specified by the PHA (in addition to, but not in place of, compliance with HUD's HQS).

The PHA must inspect contract units whenever needed to determine that the contract units comply with housing quality standards and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections. The PHA must vigorously enforce the owner's obligation to maintain contract units. If the owner fails to maintain units in accordance with housing quality standards, the PHA must take enforcement action in accordance with this section.

PRE-SELECTION INSPECTION

24 CFR 983.103(b)

If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date and must determine if the project meets the definition of *existing housing*. If the project is existing housing, the PHA may not execute the HAP contract until the units meet the initial inspection requirements.

INITIAL INSPECTION: EXISTING HOUSING

24 CFR 983.103(c)

The PHA must inspect each proposed 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 housing quality standards. The PHA must establish in its administrative plan the amount of time that may elapse between the initial inspection of existing housing and execution of a HAP contract for that unit.

INITIAL INSPECTION: NEWLY CONSTRUCTED AND REHABILITATED PROJECTS THAT UNDERWENT SUBSTANTIAL IMPROVEMENT

24 CFR 983.101(b)

Following completion of work, the PHA must complete the following inspections, as applicable:

- For rehabilitated housing that is developed prior to the HAP contract term or newly constructed housing, the PHA must inspect each proposed newly constructed and rehabilitated PBV unit before execution of the HAP contract. Each proposed PBV unit must fully comply with housing quality standards prior to HAP contract execution.
- Each PBV unit that underwent substantial improvement must fully comply with housing quality standards prior to the PHA adding the unit to the HAP contract, returning the unit temporarily removed to the HAP contract, allowing re-occupancy of the unit, and resuming housing assistance payments, as applicable.

ALTERNATIVE INSPECTIONS AND NLT OPTION

24 CFR 983.103(c)

For initial inspections of existing housing, the PHA has the option, but is not required to adopt either alternative inspections or what is known as the “NLT option” or both:

- The PHA may execute the HAP contract and begin making assistance payments for all of the assisted units, including units that failed the initial inspection, provided that no units have life-threatening deficiencies and if the owner agrees. This is known as the “NLT option.”
- In a mixed-finance project, the PHA may execute the HAP contract for the project if the project has been inspected in the previous 24 months using an alternative inspection that meets the requirements of 24 CFR 982.406, as opposed to reinspecting the project to make sure all units fully comply with housing quality standards before executing the HAP contract, if the owner agrees to the use of the alternative inspection option.
 - For periodic inspection, the PHA may also rely upon an alternative inspection conducted at least triennially to demonstrate compliance with periodic inspection requirements

PERIODIC INSPECTIONS

*24 CFR 983.103(e),
FR Notice 6/25/14,
FR Notice 2/2/20*

At least once every 24 months, the PHA must inspect a representative sample of 20% of the assisted units under HAP contract in each building in the development for compliance with housing quality standards. PHAs still have the option to inspect every unit annually. Turnover inspections are not counted toward meeting this inspection requirement.

If more than 20% of the inspected units in a building have failed the inspection, the PHA must inspect 100% of the units under HAP contract 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.

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 periodic inspections. The PHA may also notify families, but the primary notification responsibility generally rests with the property owner.

This requirement also applies in the case of a HAP contract that is undergoing development activity after HAP contract execution; however, if the periodic inspection occurs during the period of development activity covered by the rider and fewer than 20% of contract units in each building are designated in the rider as available for occupancy, the PHA is only required to inspect the units in that building that are designated as available for occupancy.

TURNOVER INSPECTIONS

Before providing assistance to a new family in a PBV unit, the PHA must inspect the unit. The PHA must not provide assistance on behalf of a family for a unit that fails to comply fully with housing quality standards. 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.

FOLLOW-UP INSPECTIONS

24 CFR 983.103(f)(2)

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected a housing quality standards violation and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violations of housing quality standards.

When a PHA must verify correction of a deficiency, the PHA may use verification methods other than another on-site inspection. The PHA may establish different verification methods for initial and subsequent inspections or for different deficiencies, which must be detailed in its administrative plan. Upon either an inspection for initial occupancy or a reinspection, the PHA may accept photographic evidence or other reliable evidence from the owner to verify that a deficiency has been corrected.

SUPERVISORY QUALITY CONTROL INSPECTIONS

24 CFR 983.103(f)(3)

In conducting PHA supervisory quality control inspections, the PHA should include a representative sample of both tenant-based and project-based units.

INTERIM INSPECTIONS

24 CFR 983.103(f)

If a participant or government official notifies the PHA of a potential deficiency in a PBV unit or development, the following applies:

- If the reported deficiency is life-threatening, the PHA must, within 24 hours of notification, both inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed. The owner must then make the repairs within 24 hours of PHA notification.
- If the reported deficiency is non-life-threatening, the PHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs within 30 days of notification from the PHA or within any PHA-approved extension.
- In the event of extraordinary circumstances, such as if a unit is within a presidentially declared disaster area, HUD may approve an exception of the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

If the periodic inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full inspection.

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 housing quality standards.

INSPECTION OF PHA-OWNED UNITS

24 CFR 983.59 and 983.103(g) An independent entity must perform all initial and subsequent inspections including pre-selection, pre-HAP contract, turnover, periodic 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. 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 the contact information for the independent entity which must conduct the complaint inspection. When deficiencies are noted, the independent entity must conduct follow-up inspections to determine if the PHA has corrected the violations. If the independent entity has tried to resolve 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.

HOUSING QUALITY STANDARDS DEFICIENCIES

24 CFR 983.208 Under the HOTMA voucher final rule, requirements for family and owner-caused deficiencies under the HAP contract differ depending on when the HAP contract was executed. New regulations are applicable to HAP contracts executed on or after or extended on or after June 6, 2024. A HAP contract is extended the earlier of the effective date of the next extension period or the date the PHA and the owner agree to the next extension. For all other HAP contracts, the previous regulations remain applicable. However, the PHA and the owner may agree to apply the new regulations to a HAP contract executed before June 6, 2024, prior to extension.

The following is applicable to HAP contracts executed or renewed on June 5, 2024, or earlier:

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with housing quality standards. If the PHA determines that a unit does not comply with housing quality standards, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

The following is applicable to HAP contracts executed or renewed on June 6, 2024, or later:

24 CFR 983.208(b)

If the owner fails to maintain units in accordance with housing quality standards, the PHA must take enforcement action. The unit is in noncompliance with housing quality standards if:

- The PHA or other inspector authorized by the state or local government determines the unit has housing quality standards deficiencies based upon an inspection;
- The agency or inspector notifies the owner in writing of the unit housing quality standards deficiencies; and
- The deficiencies are not remedied within the following timeframes:
 - For life-threatening deficiencies, the owner must correct the deficiency within 24 hours of notification;
 - For other deficiencies, the owner must correct the deficiency within 30 calendar days of notification (or any reasonable PHA-approved extension).

In the case of a housing quality standards deficiency that the PHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control, other than any damage resulting from ordinary use, the PHA may waive the owner's responsibility to remedy the violation. Housing assistance payments to the owner may not be withheld or abated if the owner responsibility has been waived. However, the PHA may terminate assistance to a family because of a housing quality standards breach beyond damage resulting from ordinary use caused by any member of the household or any guest or other person under the tenant's control, which may result in removing the unit from the HAP contract.

In the case of a housing quality standards deficiency that is caused by fire, natural disaster, or similar extraordinary circumstances, the PHA may permit the owner to undertake substantial improvement. However, so long as the contract unit with deficiencies is occupied, the PHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract as described in this section.

In the case of a project that is undergoing development activity after HAP contract execution, the remedies of 24 CFR 983.208(d) do not apply to units designated as unavailable for occupancy during the period of development activity in accordance with the rider. However, in the case of any contract unit with deficiencies that is occupied, the PHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract as described in this section.

FAMILY OBLIGATION

24 CFR 983.208(c)

The family may be held responsible for a breach of housing quality standards caused by any of the following:

- Tenant-paid utilities not in service;
- Failure to provide or maintain appliances owned by the family; and
- Damage to the dwelling unit or premises caused by a household member or guest beyond ordinary wear and tear.

If the family has caused a breach of the housing quality standards, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family.

PHA REMEDIES

The following is applicable to HAP contracts executed or renewed on June 6, 2024, or later:

24 CFR 983.208(d)

The remedies listed below apply when housing quality standards deficiencies are identified as the result of an inspection other than a pre-selection, initial, or turnover inspection.

24 CFR 983.208(d)(1)

A PHA has the option to withhold HAP for units that have housing quality standards deficiencies once the PHA has notified the owner in writing of the deficiencies. *Withholding* means stopping HAP payments to an owner while holding them for potential retroactive payment. The PHA's administrative plan must identify the conditions under which the PHA will withhold HAP (if any). If the PHA adopts a policy to withhold HAP, and the unit is brought into compliance during the applicable cure period, then the PHA resumes HAP and provides housing assistance payments to cover the time period for which the payments were withheld.

24 CFR 983.208(d)(2)

The PHA must abate HAP (including amounts that had been withheld, if applicable), if the owner fails to make the repairs within the applicable cure period.

- Within 24 hours from notification for life-threatening deficiencies
- Within 30 days from notification (or other reasonable period established by the PHA) for non-life-threatening deficiencies

In PBV, the PHA may choose to abate payments for just the units with deficiencies or all units covered by the HAP contract, even if some of the contract units continue to meet housing quality standards.

The PHA establishes in its policy the length of an abatement which may be 60 days (or a reasonable longer period established by the PHA).

If a PHA abates the HAP, the PHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), the PHA will either terminate the HAP contract or remove the unit with deficiencies from the HAP contract (as applicable). The notice must also state that any family residing in a unit that does not comply with housing quality standards must move if the family wishes to receive continued assistance.

The owner may not terminate the tenancy of any family due to the withholding or abatement of assistance.

If an owner fails to make required repairs within 60 days (or a reasonable longer period established by the PHA) of the notice of abatement, the PHA must:

- Either remove the unit from the HAP contract or terminate the HAP contract in its entirety
- Issue the family whose unit will be removed or all families residing in contract units (as applicable) a tenant-based voucher to move at least 30 days prior to the removal of the unit from the HAP contract or termination of the HAP contract
 - A family may elect to remain in the project if the project contains a unit that meets housing quality standards, with priority given to families who will remain in the same unit if there are insufficient units available to accommodate all families that wish to remain
- Give any family residing in a unit that is either removed from the HAP contract or for which the HAP contract is terminated at least 90 days (or a longer period as the PHA determines is reasonably necessary) following the termination of the HAP contract or removal of the unit from the HAP contract to lease a unit with tenant-based assistance.
 - The total search time on the family's voucher must be at least 120 days in order to satisfy the 30-day and 90-day requirement.

PHAs may assist families relocating in finding a new unit, including using up to two months of the withheld and abated housing assistance payments for costs directly associated with relocating to a new unit, including security deposits, temporary housing costs, or other reasonable moving costs as determined by the PHA based on their locality. PHAs must assist families with disabilities in locating available accessible units. If the PHA uses the withheld and abated housing assistance payments to assist with the family's relocation costs, the PHA must provide security deposit assistance to the family as necessary. If the family receives security deposit assistance from the PHA for the new unit, the PHA may require the family to remit the security deposit returned by the owner of the new unit at such time that the lease is terminated, up to the amount of the security deposit assistance provided by the PHA for that unit. The PHA must include in its administrative plan the policies it will implement for this provision.

24 CFR 983.208(d)(6)(ii)

If the family is unable to lease a new unit within the term of the voucher, and the PHA owns or operates public housing, the PHA must offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.

Section 3 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 conducting annual and interim reexaminations.

The PHA must conduct a reexamination of family income and composition at least annually. Typically, the process begins 90 to 120 days before the effective date of the reexam. The PHA must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period.

24 CFR 5.609(c)(1)

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination. The PHA may also use Safe Harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination. Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies must be considered. However, income from assets is always anticipated, irrespective of the income examination type. A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop. Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. Notice PIH 2023-27 lists steps to calculate both earned and unearned income at annual reexamination.

Reexaminations may be conducted in person or remotely under certain circumstances, depending on PHA policy.

Section 3: Annual Reexaminations

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.

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition.

Section 3: Annual Reexaminations

*Notice PIH 2012-28;
24 CFR 5.903(f) and 5.905(d)*

HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and provide the family an opportunity to dispute the accuracy and relevance of the information prior to termination.

24 CFR 982.552

Families who fail to cooperate with the PHA in providing the necessary information may be terminated from the program.

EFFECTIVE DATE

24 CFR 982.516

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination. Families must be notified in writing of the results of the reexamination and the effective date of the change. PHAs should give families reason-able notice of any rent increase.

Section 4 Interim Reexaminations

24 CFR 982.516

Interim reexaminations 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.

24 CFR 5.609(c)(1)

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination.

NON-INTERIM REEXAM TRANSACTIONS

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations, but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as non-interim reexamination transactions. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period;

Section 4: Interim Reexaminations

- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

CHANGES IN FAMILY COMPOSITION

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens.

The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition.

24 CFR 982.551(h)(2)

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

24 CFR 982.551(h)(4)

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member or other household member (live-in aide or foster child).

Notice PIH 2023-27

The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

Section 4: Interim Reexaminations

If the effect of the changes in adjusted income due to a decrease in family size results in either no change or an increase in the family's adjusted income, the PHA must process the removal of the household member(s) as a non-interim transaction without making changes to the family's adjusted income.

- For example, a family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was \$20,000, but that decreased to \$18,000 when the family member moved out. Since HUD requires PHAs to process any decreases in adjusted income due to decreases in family size, the PHA must process an interim.
- For example, a live-in aide moved out of the assisted unit. The family's adjusted income did not change. The PHA must process the removal of the household member as a non-interim transaction without making changes to the family's adjusted income.

CHANGES AFFECTING INCOME OR EXPENSES

A family may request an interim determination of family income for any change since the last determination.

The PHA must conduct an interim within a reasonable time after the family request or when the PHA becomes aware of the change. What constitutes a reasonable time may vary based on the amount of time it takes to verify information (generally, should not be longer than 30 days after changes in income are reported).

Section 4: Interim Reexaminations

INTERIM DECREASES

The PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income.

- The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

EXAMPLE

- Martha Allen's annual income is \$12,000. Her deductions are:
 - \$3,000 for health and medical expenses
 - \$525 elderly/disabled deduction
 - Her adjusted income is \$8,475
- She just incurred a medical expense of \$500.
- She is requesting the PHA conduct an interim decrease to account for the new expense.
- The threshold to trigger an interim decrease for Martha is \$847.50.
- Adjusted income of \$8,475 x 10%
- Since the expense does not meet the 10% threshold, the PHA may, but is not required to, decline to conduct the interim.

HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

Section 4: Interim Reexaminations

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

For example, a family consists of a head of household who works full time and another adult who is zero income. The other adult passes away. There is no change in the family's adjusted income. The PHA processes a non-interim transaction.

INTERIM INCREASES

PHAs must not process an interim reexam for income increases that result in less than a 10% increase in adjusted income.

EXAMPLE
<ul style="list-style-type: none">• Mandy Alexander's total annual income was \$25,000 at her last annual• She has one dependent• Adjusted income was: \$24,520• Her TANF benefits just increased• Her adjusted income is now \$26,520<ul style="list-style-type: none">- \$2,000 increase• $\\$24,520 \times 10\% = \\$2,452$• \$2,452 or more is the threshold for conducting an interim• Since the increase is less than 10%, the PHA may not perform an interim

PHAs must conduct an interim reexam when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with some exceptions.

Section 4: Interim Reexaminations

PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

EXAMPLE
<ul style="list-style-type: none">• Maya May's annual last year was effective 11/1.• The PHA begins processing Maya's annual for this year in September with an 11/1 effective date.• On 10/1 Maya reports that her TANF benefits have increased by \$30 per month and this amount meets the 10% threshold for increases.• While the change meets the 10% interim increase threshold, the PHA may decline to perform the interim since her next annual will be effective in one month.

PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

- If PHA policy states that the PHA will not conduct an interim for increases in earned income when there was a previous interim decrease, the PHA will not perform interims for any increases in earned income, regardless of the amount.

Section 4: Interim Reexaminations

- If PHA policy states that the PHA will conduct an interim for increases in earned income when there was a previous interim decrease, the PHA will perform interims for increases in earned income when the 10% threshold is met.

EXAMPLE 1: EARNED INCOME

- Greg Garland lives alone.
- At his annual reexam in May, he had a job earning \$32,200 a year. This was his only source of income.
- Greg did not qualify for deductions and his adjusted income is \$32,200 at the time.
- 3 months later, he gets a promotion and a raise to \$40,000 a year.
- Since Greg has not had an interim since his last annual, the PHA may not consider the increase in his earned income and will not perform an interim.
- Since the PHA may not consider the increase in earned income, the 10% threshold is not applicable.
- The PHA will consider his raise when conducting his next annual reexam.

Section 4: Interim Reexaminations

EXAMPLE 2: EARNED INCOME

- Tameka Barnes lives alone.
- At her annual, she had a job earning \$25,000 a year. This was her only source of income.
- Tameka did not qualify for deductions, and her adjusted income was \$25,000.
- 3 months later, she lost her job.
- The PHA conducted an interim decrease and made Tameka zero income.
- 2 months later, Tameka got a new job earning \$30,000 and reported this to the PHA.
- Since Tameka previously had an interim decreases when she lost her job, the PHA may consider her increase in earned income depending on PHA policy.
- If PHA policy calls for performing an interim in this situation:
 - The PHA must determine if her increase meets the 10% threshold
 - For Tameka the answer is yes because she was zero income
 - The PHA will process an interim
- If PHA policy does not call for performing an interim in this situation:
 - The PHA will not perform an interim
 - The 10% threshold does not apply
 - The PHA will consider the new income from her job at her next annual reexam

Section 4: Interim Reexaminations

For changes in unearned income, the PHA does not consider whether or not an interim was previously performed. The PHA only considers whether the 10% threshold has been met.

For changes in earned income, the PHA first considers whether or not the family has had an interim since their last annual.

EXAMPLE: UNEARNED INCOME

- Maria Media was receiving \$90 per month in child support at her last annual in March. This was her only source of income. Her annual income was \$1,080.
- Maria has two children, and her adjusted income was \$120 at the time.
- In July, she reports to the PHA that her child support has increased to \$200 per month.
- The PHA must determine if the increase meets the 10% threshold.
- $\$120 \text{ (adjusted income)} \times 10\% = \12
- Maria's increase meets the threshold since it's more than \$12.
- The PHA conducts an interim.

Section 4: Interim Reexaminations

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations.

- For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10 percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Section 4: Interim Reexaminations

EXAMPLE: CUMULATIVE INCREASES

- At their last annual effective June 1, 2024, the Mosberg family's adjusted income was \$35,909, based on earned income of the HOH and two dependent deductions.
- In August, the HOH reported she received a raise at work, increasing her annual earned income by \$2,650. She also recently started receiving monthly child support payments of \$150 (\$1,800 annually).
- She reported no other changes.
- While the combined increase of earned income (wages) and unearned income (child support) is a 12.3%, the PHA must look at the earned and unearned income changes independently to determine if an interim should be performed.
- The increase in earned income represents a 7% increase.
- The increase in unearned income represents a 5% increase.
- The PHA documented in the tenant file that the family reported the change, but an interim was not performed.
- In November, the HOH reported that her monthly child support payments increased again, from \$150 to \$325 (\$3,900 per year).
- She certified no other changes to income or deductions.
- The change in unearned income represents a 10.8% increase in adjusted income (based on the 6/1/2024 annual).
- The PHA must perform an interim, but only for the change in unearned income.
- The PHA will continue to disregard the increase in earned income until the family's next annual reexam.

FAMILY REPORTING

24 CFR 982.516(d)

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition.

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination.

Notice PIH 2023-27

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

- For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed.

HUD recommends as a best practice that PHAs maintain documentation of all reported decreases and increase of any size in the family's file, including those that did not result in an interim.

EFFECTIVE DATE OF CHANGES

24 CFR 982.516(c)(4)

If the family reports a change in family income or composition timely:

- For rent increases, the PHA must provide the family with 30 days advance notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first month after the change.

Section 4: Interim Reexaminations

If the family failed to report a change in family income or composition timely:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change.
- For rent decrease, the PHA must implement the change no later than the first rent period following completion of the interim reexamination or may apply the rent decrease retroactively, except that a decrease may not be applied prior to the later of the first of the month following:
 - The date of the change leading to the interim reexamination; or
 - The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).

EXAMPLE: FAILURE TO REPORT INCREASES

- Maria Martin's last annual was in August.
- On 11/1 her child support increased by 15%.
- Under PHA policy, Maria was required to report the increase within 10 days. However, she failed to report the change until February.
- The increase will be retroactive to 12/1.

24 CFR 982.551 and
24 CFR 982.552

EXAMPLE 1: FAILURE TO REPORT DECREASES

- Harry Halloway was receiving unemployment at his last annual reexam effective 4/1. He stopped receiving benefits in July, but he failed to report this timely and reported the decrease on 11/10.
- The PHA processes an interim in November after he reports the decrease.
- The PHA applies the decrease prospectively to December 1 which is the first rent period following the completion of the interim.

Section 4: Interim Reexaminations

EXAMPLE 2: FAILURE TO REPORT DECREASES

- James June is HOH. His adult son moved out of his assisted unit on 3/1. Under PHA policy, James was required to report the change within 10 days. He failed to report.
- At the time, the PHA had already processed his annual effective 4/1.
- He reported the change on 6/12.
- The decrease may not be applied prior to the later of the first of the month following:
 - The date of the change leading to the interim: 3/1
 - The effective date of the family's most recent previous annual: 4/1
- The later of these dates is 4/1.
- If the PHA will apply the change retroactively, the PHA will make the change retroactive to first of the month following the 4/1 annual which is 5/1.

Rather than applying retroactive decreases in all cases, the PHA may adopt a policy to describe the conditions under which retroactive decreases will be applied.

- For example, extenuating circumstances that may inhibit timely reporting or a natural disaster

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

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.

Section 5 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 983.261

A family may request a tenant-based voucher any time after one year of PBV assistance. 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 right to request a move with tenant-based assistance does not expire, and the family may request a move at any time after the one-year period of PBV assistance has expired.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. The PHA must specify in the administrative plan whether it will offer families assistance under the voucher program or other comparable tenant-based rental assistance. If voucher assistance is offered to the family and the search term expires, the PHA must issue the voucher to the next eligible family before issuing another voucher to the family that requested to move. If voucher or other comparable tenant-based assistance is not immediately available upon the family's request to the PHA, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance. The PHA must describe in its administrative plan its policies and procedures for how the family must contact the PHA and how the PHA documents families waiting for continued tenant-based rental assistance.

EMERGENCY TRANSFERS UNDER VAWA

*Notice PIH 2017-08 and
24 CFR 983.261(f) and (g)*

In the case of a move due to domestic violence, dating violence, sexual assault, stalking, or human trafficking, PHAs must describe policies for facilitating emergency transfers for families with PBV assistance in their emergency transfer plan, including when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

Section 5: Moves

When the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member, the family is not required to give the owner advance written notice or contact the PHA before moving from the unit. Additionally, when any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move, the family is not required to give the owner advance written notice or contact the PHA before moving from the unit. A PHA may not terminate the assistance of a family due to a move occurring under these circumstances and must offer the family the opportunity for continued tenant-based assistance if the family had received at least one year of PBV assistance prior to moving.

If a family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking or human trafficking, the PHA must ensure that the victim retains assistance.

WRONG SIZE OR ACCESSIBLE UNITS

24 CFR 983.260

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and within 60 days of the determination, the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

The PHA policy on continued housing assistance must be stated in the administrative plan and may be in the form of:

- Tenant-based rental assistance; or
- PBV assistance in the same project; or
- PBV assistance in a different project; or
- Other project-based housing assistance (public housing, etc.); or
- Other comparable public or private tenant-based assistance

If no continued housing assistance is available, the PHA must remove the wrong-sized or accessible unit from the HAP contract to make voucher assistance available and issue the family a tenant-based voucher.

If the PHA offers the family the opportunity to receive tenant-based rental assistance under the voucher program, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration date of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

Section 5: Moves

If the PHA offers the family another form of continued housing assistance (other than tenant-based rental assistance under the voucher program), the PHA must terminate the housing assistance payments for the wrong-sized or accessible unit and remove the unit from the HAP contract when:

- In the case of an offer by the PHA of PBV assistance or other project-based housing assistance in an appropriate-size unit, the family does not accept the offer and does not move out of the PBV unit within a reasonable time as determined by the PHA, not to exceed 90 days. The family may request and the PHA may grant one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate affordable, safe, and geographically proximate replacement housing.
- In the case of an offer by the PHA of PBV assistance or other project-based housing assistance in an appropriate size unit, the family accepts the offer but does not move out of the PBV unit within a reasonable time as determined by the PHA, not to exceed 90 days.
- In the case of an offer by the PHA of other comparable tenant-based rental assistance, the family either accepts or does not accept the offer but does not move out of the PBV unit within a reasonable time as determined by the PHA, not to exceed 90 days. The family may request and the PHA may grant one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate, affordable, safe, and geographically proximate replacement housing.

UNIT SIZE AND PUBLIC HOUSING REPOSITIONING

*FAQs about PBV in Public
Housing Repositioning,
July 2021*

A family may not occupy a PBV-assisted unit if the family would be over-housed, per the PHA's subsidy standards. Under Section 18, if a family wishes to remain in the project under a PBV HAP contract, and the PHA is able to move the family to an appropriately sized unit in the project (a unit that was vacant at the time of SAC approval) that will be included in the PBV HAP contract, then the PHA may do so and may attach TPV assistance to the original unit.

Otherwise:

- For Section 18 demo/dispo, the PHA may relocate the family using a form of comparable housing other than the TPV, then use the TPV to PBV the unit. If there is no other form of comparable housing, then the PHA may leave the family in place unassisted at a comparable rental rate. In this case, instead of using the TPV to project-base the unit, the TPV may be used for families on the PHA's waiting list. The PHA's description of the disposition in its PHA plan must make clear how it proposes to address such "over-housed" families.

Section 6 Family Obligations

Family obligations are specified in:

- HUD regulations
- The PBV Statement of Family Responsibility (Form HUD-52578b)
- Lease and HUD tenancy addendum, executed by the family and owner

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 necessary for administration of the program or to conduct annual or interim reexams
- Disclose and verify Social Security numbers and sign and submit consent forms
- 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 of time in accordance with PHA policies
- 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. 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 member
- Promptly notify the PHA in writing if any family member no longer lives in the unit

Section 6: Family Obligations

- Give the PHA a copy of any owner eviction notice
- Pay utility bills and provide and maintain working appliances that are the family's responsibility
- Submit evidence of citizenship or eligible immigration status if they are seeking assistance. Families in which all members are U.S. citizens or have eligible immigration status are eligible for assistance. Mixed families, in which at least one member is a U.S. citizen or has eligible immigration status and at least one member does not contend eligible immigration status, are eligible for prorated assistance.

By signing this form, the family is obligated not to:

- Own or have any interest in the unit
- Commit any serious or repeated violation of the lease
- Commit fraud, bribery, or any other corrupt or criminal act in connection with the program
- 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
- Sublease or let the unit, or assign the lease or transfer the unit
- Receive project-based voucher assistance while receiving another housing subsidy
- 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
- Damage the unit premises (other than damage from ordinary wear and tear) or allow guests to damage the unit or premises

Section 7 Terminations

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their assistance at any time by notifying the PHA. The PHA may terminate assistance for a participant because of a family's action or failure to act as described in the regulations.

REQUIREMENTS TO TERMINATE ASSISTANCE

24 CFR 5.218
24 CFR 5.232
24 CFR 5.514
24 CFR 982.552

The PHA must terminate program assistance:

- If a family was evicted from housing assisted under the program for serious violation of the lease;
- If SSN disclosure requirements are not met;
- If any family member fails to sign and submit consent forms;
 - This does not apply if applicants or participants or their family members revoke their consent for the PHA to access financial records unless the PHA has established a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission.
- If a family member does not establish citizenship or eligible immigration status;
- If the PHA determines that a family member has knowingly permitted an individual ineligible for assistance (under Restriction on Assistance to Noncitizens Regulations) to reside in the assisted housing unit of the family member;
 - Such "termination" shall be for a period of not less than 24 months
 - Does not apply if the ineligible individual was considered in calculating any prorated family assistance.

Section 7: Terminations

Notice PIH 2012-28

- If the PHA discovers that a member of an assisted household who was admitted after June 25, 2001, was subject to a lifetime registered sex offender requirement at admission;
 - The PHA must offer the family the opportunity to remove that individual from the household
- If the PHA has determined that any member of the household has ever been convicted for drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 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.

*Supplemental Guidance to
Student Eligibility Final Rule,
Federal Register, 4/10/06*

- When a household contains eligible and ineligible students, the eligible students will not be terminated.
- The PHA must issue a voucher for eligible members to move with continued assistance.
- They may remain in same unit ("lease in place") if any ineligible student moves out of the assisted unit.

AUTHORITY TO TERMINATE ASSISTANCE

24 CFR 982.553

The PHA's standards must allow for termination of a family's assistance if the PHA determines that:

- Any household member is currently engaging in any illegal use of a drug;
- A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- A household member has violated family obligations not to engage in any drug related or violent criminal activity; or
- A household member's alcohol abuse or pattern of abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Section 7: Terminations

24 CFR 982.552

The PHA may terminate program assistance for 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:
 - Not having reimbursed any PHA for amounts paid to an owner on behalf of the family; or
 - Breaching a repayment agreement with the PHA
- If the family has engaged in or threatened abusive or violent behavior toward PHA personnel;
- If a family has been engaged in criminal activity or alcohol abuse as described in 982.553.

24 CFR 984.101(d)

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

ASSET LIMITATION

PHAs have discretion whether to apply the asset limitation to participants at annual and interim recertification.

The PHA must adopt policies regarding the asset limitation and may adopt a written policy of:

- Total non-enforcement
- Enforcement
- Limited non-enforcement
- Exceptions for some families

The PHA may choose not to enforce the asset limitation at all for any participants. If the PHA adopts a total non-enforcement policy, it must apply the same for all families on the program.

- The PHA may not terminate a VASH family for noncompliance with the asset limitation.

If the PHA chooses to adopt a policy of enforcement, at every recertification, the PHA determines whether families are out of compliance with the asset limitation. If a family is out of compliance, the PHA must initiate termination of assistance within 6 months of the recertification effective date. Families are not given an opportunity to cure noncompliance.

If the PHA chooses to adopt a policy of limited enforcement, noncompliant families are given an option to cure. The PHA specifies a time period to cure in policy of up to but no longer than 6 months (except as a reasonable accommodation). If family remains out of compliance after cure period, the PHA must initiate termination of assistance within 6 months of the effective date of the recertification.

The PHA may also identify exception policies in the administrative plan. Families in a specified exception category (or categories) may be subject to total non-enforcement or limited enforcement. This may be combined with an enforcement policy for families not in an exception category or the PHA may give families in an exception category longer to cure noncompliance (though not more than 6 months except as a reasonable accommodation) than those who are not in an exception category.

CONSIDERATION OF CIRCUMSTANCES

Denial and termination decisions are subject to reasonable accommodation considerations for persons with disabilities and are subject to fair housing and equal opportunity provisions in the regulations as well as protections for victims of domestic violence, dating violence, sexual assault, human trafficking, and stalking.

When deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA may consider:

- The seriousness of the case
- The extent of participation/culpability of family members
- Mitigating circumstances relating to a family member's disability
- The effects of denial/termination of assistance on other family members who were not involved in the action or failure to act

The PHA may impose a requirement that family members who participated in or were culpable for the action or failure not reside in the unit.

For denial/termination decisions based on illegal use of drugs or alcohol abuse by a household member no longer engaged in such behavior, the PHA consider whether the household member

- Is participating in,
- Has successfully completed a supervised drug or alcohol rehabilitation program, or
- Has otherwise been successfully rehabilitated.
 - The PHA may require evidence of successful rehabilitation.

24 CFR 982.553

The PHA may terminate assistance for criminal activity if the PHA determines the household member has engaged in the activity based on a preponderance of evidence.

- Regardless of arrest or conviction.

Notice PIH 2015-19

An arrest alone is not proof that a participant has engaged in disqualifying criminal activity and therefore may not be used as the basis for a termination. The mere fact that someone has been arrested does not itself prove that the individual engaged in criminal activity. However, if evidence of an arrest is found, the PHA may consider other factors and circumstances surrounding the arrest as the basis for the denial. While HUD has stated that it may be advisable to wait until the arrest disposition, PHAs may continue to obtain and review police reports, records of disposition of any criminal charges, and/or other evidence associated with the arrest in order to make a termination determination. Further, HUD's Office of General Counsel has stated that blanket termination policies may be discriminatory under the Fair Housing Act since these policies fail to consider the nature, severity, and recency of the circumstances surrounding the arrest or conviction.

TERMINATIONS STUDY CHART

Mandatory	Discretionary
SSN disclosure requirements not met (other than noncontending)	Family violates any family obligations
Family member fails to sign required consent forms	Evicted from federally assisted housing in the last five years
Family member does not establish citizenship or eligible immigration status (other than noncontending)	PHA has ever terminated the assistance of any family member
Family knowingly permits an individual ineligible for assistance to reside in the unit (24 months)	Family commits fraud, bribery, or another corrupt or criminal act regarding a federal housing program
Fails to meet student rule requirements	Currently owes rent or other amounts to any PHA
Evicted for a serious violation of the lease	If the family has engaged in or threatened violent or abusive behavior towards PHA personnel
Convicted of manufacture of methamphetamine on the premises of federally assisted housing	Violated obligations not to engage in criminal activity
The PHA discovers that a member of an assisted household who was admitted after June 25, 2001, was subject to a lifetime registered sex offender requirement at admission	Violent criminal activity
	Abuse or pattern of abuse of alcohol that threatens health, safety, or right to peaceful enjoyment
	Currently engaged in drug-related criminal activity
	Pattern of illegal drug use by any household member that interferes with health, safety, or peaceful enjoyment
	Family fails to meet requirements of the asset limitation

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 tenant-based 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 over-income family moves out.

TENANT ABSENCE FROM THE UNIT

*24 CFR 983.256(g) and
982.312(a)*

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

INFORMAL HEARINGS

24 CFR 982.555

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.

OWNER 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

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other nonresidential purpose. The regulations at 24 CFR 5.858 through 5.861 on eviction for drug and alcohol abuse and 24 CFR Part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) apply to the PBV program.

In addition, the owner may terminate the tenancy in accordance with the requirements related to lease terminations for development activity on units under a HAP contract and for substantial improvement to units under a HAP contract.

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.

UNITS THAT NO LONGER QUALIFY AS EXCEPTED OR UNDER THE INCREASED PROGRAM CAP

24 CFR 983.262(b)

In order to qualify as either excepted units or units under the increased program cap, units must be occupied by a family that meets the exception criteria applicable to the unit. Once the family vacates the unit, the PHA must select a new family from the waiting list via an admission preference, and the unit must be made available to and occupied by a family that meets the applicable exception.

The PHA must specify in its administrative plan which of the options below the PHA will take if a unit is no longer qualified due to circumstances beyond the control of the family (e.g., death of an elderly family member or long-term permanent hospitalization or nursing care).

The unit may continue to count as an excepted unit or unit on the increased program cap as long as the family resides in the unit. However, the requirements on wrong-sized units apply.

If the PHA chooses not to exercise this discretion, the unit is no longer considered excepted or a unit under the increased program cap (as applicable) and the family is not required to move from the unit. The PHA must specify which of the following actions it will take if the unit is no longer qualified:

- Substitute the unit for another unit if it is possible to do so, so that the overall number of excepted units or units under the increased program cap in the project is not reduced. The PHA may, in conjunction with such substitution, add the original unit to the HAP contract if it is possible to do so, including that such addition does not cause the PHA to exceed the program cap or become noncompliant with the project cap.

Section 7: Terminations

- Remove the unit from the PBV HAP contract. In conjunction with the removal, the PHA may provide the family with tenant-based assistance, if the family is eligible for tenant-based assistance. The family and the owner may agree to use the tenant-based voucher in the unit; otherwise, the family must move from the unit with the tenant-based voucher. If the family later vacates the unit, the PHA may add the unit to the PBV HAP contract.
- Change the unit's status under the project cap or program cap, as applicable, provided that the change does not cause the PHA to exceed the program cap or become noncompliant with the project cap.

Section 8

Chapter 9 Post Test

1. In the PBV program, the PHA must remove the over-income family's unit from the PBV HAP contract _____ days following the last housing assistance payment paid to the owner on behalf of the family.
 - a. 60
 - b. 90
 - c. 180
 - d. 365
2. If the owner is going to evict the family from a unit for a violation of the lease, the owner must first offer the family an informal hearing.
 - a. True
 - b. False
3. Except for small, rural PHAs, PBV units must be inspected:
 - a. Annually
 - b. Biennially
 - c. Annually or biennially depending on PHA policy
4. If more than _____ % of units under HAP contract in a building fail inspection, the PHA must inspect 100% of the units under HAP contract in the building.
 - a. 10
 - b. 20
 - c. 30
 - d. 50
5. If the PHA does not have available vouchers to issue to PBV families wishing to move after one year of occupancy in a PBV unit, they must:
 - a. Deny the family's request to move
 - b. Establish a mobility waiting list and issue vouchers to PBV families in order of request
 - c. Offer the family a transfer to another PBV unit

Section 8: Chapter 9 Post Test

6. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date and must determine if the project meets the definition of existing housing.
 - a. True
 - b. False
7. 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
8. 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
9. Annual reexams may be conducted in person or remotely depending on PHA policy.
 - a. True
 - b. False
10. The PHA must conduct an interim reexam any time a family member has an increase in their earned income.
 - a. True
 - b. False

Section 8: Chapter 9 Post Test

11. Which of the following is true regarding how income is calculated at an interim?
 - a. The PHA must project income for the family for the upcoming 12-month period
 - b. The PHA must determine the income of the family for the previous 12-month period
12. If a unit no longer qualifies as an excepted unit due to circumstances beyond the control of the family (e.g., death of an elderly family member or long-term permanent hospitalization or nursing care), the unit may continue to count as an excepted unit as long as the family resides in the unit.
 - a. True
 - b. False

CHAPTER 10 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
- 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)/Enterprise Voucher Management System (eVMS) 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

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 PBVs	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 (determined in admin plan)	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 Estimated Initial Rents for New Construction/Rehabilitation Properties	7 days after SLR completed	June 26
AHAP for New Construction/Rehabilitation (if applicable)	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:

- Periodic inspections
- Reexaminations
- Property reviews
- Contract rent adjustments
- Contract extensions

Section 3 Reporting Requirements

FUNDING

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)/Enterprise Voucher Management System (eVMS) 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 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 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% 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.

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' (Note: IMS/PIC will be replaced by HIP in 2025)
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 the Housing Choice Voucher, Project-Based Voucher and Public Housing programs. PHAs must submit a form electronically to HUD for each family at:

- Admission to the voucher program
- Transfers between the tenant-based and project-based programs
- Moves
- Reexaminations
- Terminations

HUD issued a revised version of the Form-HUD 50058 in order to implement changes under HOTMA. While the new form was effective January 1, 2024, its implementation has been delayed awaiting the official transition from the Information Management System/Public and Indian Housing Information Center (IMS/PIC) to the Housing Information Portal (HIP). Once HIP is operational, PHAs will submit the revised 50058. This section describes how to record the PBV program on the revised 50058.

Office of Public and Indian Housing

1. Agency

1a. Agency name	1a.
1b. PHA code	1b.
1c. Program	1c.
1d. Project Number	1d.
1e. Building Number	1e.
1f. Building Entrance Number	1f.
1g. Unit Number	1g.
1h. Unit Real Estate ID Number (see instructions)	1h.

1c. Program: The PBV program is coded using
PR = Project-Based Voucher.

Section 3: Reporting Requirements

2. Action

2a. Type of Action	2a.
2b. Effective date (mm/dd/yyyy) of action	2b.
2c. Correction? (Y or N)	2c.
2d. If correction: (check primary reason) <input type="checkbox"/> Family correction of income <input type="checkbox"/> Family correction (non-income) <input type="checkbox"/> PHA correction of family income <input type="checkbox"/> PHA correction (non-income)	
2h. Date (mm/dd/yyyy) of admission to program	2h.
2i. Projected effective date (mm/dd/yyyy) of next reexamination	2i.
2j. Projected date (mm/dd/yyyy) of next flat rent annual update (Public Housing flat rent only)	2j.
2k. Supportive Service Program participation now or in the last year? (Y or N)	2k.
2m. Special program: (vouchers only)	2m.
2n. Other special programs: Number 01	2n.
2n. Other special programs: Number 02	2n.
2q. PHA use only	2q.
2r. PHA use only	2r.
2s. PHA use only	2s.
2t. PHA use only	2t.
2u. PHA use only	2u.
2v. End of Participation reason (only if 2a= 6/End Participation)	2v.
2w. Interim Reexamination reason (only if 2a= 3/Interim Reexamination)	2w.
2x. Type of voucher issuance (HCV only)	2x.
2y. Date participant vacated unit (HCV only)	2y.
2z. Special purpose	2z.
2aa. Special purpose	2aa.

2a. Type of Action: A new admission is only processed when a family moves from one PHA program to another. Moves between voucher programs are treated as either Unit Change Only, PBV Transfer to Tenant-Based Voucher or Portability Move-in. An End Participation is also not processed when a family moves between voucher programs. For families transferring from a project-based voucher to a tenant-based voucher, use PBV Transfer to Tenant-Based Voucher to report when the family moves into a tenant-based unit. This follows submission of an Issuance of Voucher. The effective date of the transfer is the effective date of the lease for the tenant-based voucher.

2b. Effective Date of Action: The effective date of a new admission to PBV is the effective date of the lease.

2n. Other Special Programs: Indicate if the family participates in a special program. For example, for families participating in the VASH PBV program, PHAs must indicate VASH. For units for eligible FUP youth, the PHA would enter FUPY.

Section 3: Reporting Requirements

2x. Type of Voucher Issuance: If filling in an Issuance of Voucher action type, select the type of situation that applies: New Participant, Port-In, Port-Out, Transfer of Unit. Example: A PBV participant is issued a tenant-based voucher and intends to remain in the PHA's jurisdiction. The voucher would be marked "Transfer of Unit."

OMB Approval Number 2577-0083 (expires 09/30/2026)

11. Section 8: Project-Based Vouchers

11b. Is family now moving to this unit? (Y or N)		11b.
11d. Reserved		11d.
11e. Reserved		11e.
11f. Reserved		11f.
11g. Housing type <input type="checkbox"/> Group Home (prorate gross rent) <input type="checkbox"/> SRO: 1 room occupied by 1 person		
11h. Owner name		11h.
11i. Owner TIN/SSN		11i.
11j. HAP Contract ID Number		11j.
11k. Contract rent to owner (if unit has other subsidy, put subsidized rent)	\$	11k.
11l. Security deposit paid by the PHA on behalf of family, if any	\$	11l.
11m. Utility allowance, if any	\$	11m.
11n. Gross rent of unit: 11k + 11m	\$	11n.
11q. TTP: copy from 9j	\$	11q.
Rent Calculation (if prorated rent, skip to 11aa)		
11r. Total HAP: 11n minus 11q. If 11q is larger, put 0	\$	11r.
11s. Tenant rent: 11k minus 11r	If positive or 0, put tenant rent	\$ 11s.
	If negative, credit tenant	\$ 11s.
11t. HAP to owner: lower of 11k or 11r	\$	11t.

The PBV program follows the same rules for rent calculation as the HCV program. As in HCV, the PHA completes Section 6, 7, 8, and 9 for the family. However, rent is calculated using Section 11 of the form.

11b. Is the Family Now Moving into This Unit?: Indicate Y (Yes) if the family is moving into the unit in connection with the reported action. If the family leases in-place or if the family will remain in the same unit at the time of the reported action, enter N.

11j. HAP Contract ID Number: The housing assistance payment (HAP) contract identification number. This HAP contract ID number is auto-generated in the HIP system through the PBV HAP Contract module. Include the HAP contract ID for the family's relevant housing unit. The HAP contract ID identifies the PHA code, year the HAP contract became effective, and an auto-generated number sequence that serves as a unique identifier for that HAP contract as designated by the HIP system.

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 April 2019, PBV units and expenses are itemized in VMS on the Form HUD-52681-B.

April 2019, PBV units and expenses are itemized.

ENTERPRISE VOUCHER MANAGEMENT SYSTEM

The Enterprise Voucher Management System (eVMS) is a new HUD system that is anticipated to fully roll out in 2025. This new system will improve the HCV program administration and modernize the process HUD uses to record monthly HCV program performance and calculate program payments. eVMS will perform the following functions:

- Automatically calculate housing assistance payments (HAPs) using the family-level data that PHAs already submit to HUD via the Form HUD-50058.
- Calculate and track administrative fees across all voucher programs.
- Make it easier for PHAs to make voucher issuance and other program decisions by providing a daily view of PHA funding balances.

PHAs should prepare for eVMS by maintaining accurate household participation data reported on the Form HUD-50058.

HUD anticipates that, even after converted to eVMS, all PHAs will continue to report actual expenses and leasing information in VMS until further notice.

Section 4 Administrative Management

RECORD RETENTION

24 CFR 983.12

The regulation at 24 CFR 982.158 applies to both the PHA's tenant-based and project-based programs. In addition, for each PBV project, the PHA must maintain the following records throughout the HAP contract term and for three years thereafter:

- Records to document the basis for PHA selection of the proposal, if selection is competitive, or project, if selection is noncompetitive, including records of the PHA's site selection determination (see 24 CFR 983.55) and records to document the completion of the review of the selection process in the case of PHA-owned units, and copies of the written notice of proposal selection and response of the appropriate party;
- The analysis of impact, if applicable;
- The subsidy layering determination, if applicable;
- The environmental review record, if applicable;
- The Agreement to Enter into a HAP Contract (AHAP), if applicable;
- Evidence of completion, if applicable;
- The HAP contract and any rider and/or amendments, including amendments to extend the term of the contract;
- Records to document the basis for PHA determination and redetermination of rent to owner;
- Records to document HUD approval of the independent entity or entities, in the case of PHA-owned units;
- Records of the accessibility features of the project and each contract unit; and
- Other records as HUD may require.

PBV PROPERTY MONITORING REVIEWS

With the exception of owner-maintained waiting lists and monitoring the family's receipt of supportive services, HUD does not require PHAs to monitor the management of PBV properties. 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.

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
- Nonprofit 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

Section 5 Chapter 10 Post Test

1. SEMAP reporting requirements applicable to the PBV program include:
 - a. Lease-up, waiting list, and annual/biennial inspections
 - b. Waiting list, tenant rent calculation, and lease-up
 - c. Tenant rent calculation, lease-up, waiting list, and annual/biennial inspections
2. The effective date of a new admission Form HUD-50058 in PBV is:
 - a. The effective date of the HAP contract
 - b. The effective date of the family's lease
 - c. The first of the month following when the family moves into their unit
3. In the Voucher Management System (VMS), PBV units and HAP expenses are itemized.
 - a. True
 - b. False
4. When a family moves from the PBV program to the HCV program, a new admission Form HUD-50058 is processed.
 - a. True
 - b. False

Section 6 Continued Learning

PBV REGULATORY WAIVER REQUESTS

On February 3, 2014, HUD issued a “waiver letter” to PHA executive directors for the PBV program. Addressing PHAs 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.

MTW ALLOWABLE WAIVERS

- A PHA must not project-base more than 50% of the lower of either the total authorized units or annual budget authority.
- A PHA may increase the PBV project cap up to 100%.
- A PHA may establish an alternative competitive process in the award of PBVs that are owned by nonprofit, for-profit housing entities, or by the agency that are not public housing.
- A PHA may attach alternative PBV unit types for shared housing units.
- A PHA may increase the PBV HAP contract length to 50 years, including extensions.
- A PHA may develop a local process to determine the initial and redetermined rent to owner (rent reasonableness applies).

Section 6: Continued Learning

A PHA may waive the requirement to provide a tenant-based voucher at 12 months when requested by a PBV household. Portability under this activity must not be restricted for more than 24 months. The agency must have a clear and uniform policy in place to address how move requests are received and how they are approved/denied for PBV households. Participants must still retain the ability to request a tenant-based voucher for reasonable accommodation according to existing rules.

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/>

CHAPTER 11 Study Guide

Define the Following Terms:

1. Administrative plan:

2. PHA-owned unit:

3. Excepted unit:

4. Excluded unit:

5. Newly constructed housing:

6. Existing housing:

7. Rehabilitated housing:

8. PBV program cap:

9. PBV project cap:

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10. Project:

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11. List the six types of units that are considered PBV 10% units.

12. List the three types of units that are considered excepted units.

13. List the two ways PBV units may be selected competitively.

14. List the five ways PBV units may be selected noncompetitively.

15. The program cap in PBV is _____ percent of the PHA's authorized units, but the PHA may project-base an additional _____ percent of units if they meet certain criteria.
16. The project cap in PBV is the greater of _____ units or _____ percent of units in a project.
17. The initial term of the HAP contract is for a maximum of _____ years.
18. The maximum period the entire family may be away from the unit is _____ consecutive calendar days.
19. After _____ days at zero HAP (family's TTP exceeds the gross rent) the PHA must remove the family's unit from the HAP contract.
20. The PHA may only select families determined eligible for admission at commencement of PBV assistance, using information received and verified by the PHA within a period of _____ days before commencement of PBV assistance.
21. At least once every _____ months, the PHA must inspect a representative sample of _____ percent of the assisted units under HAP contract in each building in the development for compliance with housing quality standards. If more than _____ percent of the inspected units in a building have failed the inspection, the PHA must inspect _____ percent of the units under HAP contract in that building.
22. The vacancy payment to the owner may last for a maximum of _____ months.
23. The initial lease term for the PBV program is _____.
24. A family may request a tenant-based voucher any time after _____ of PBV assistance.
25. The PHA must conduct an interim reexamination when there has been a _____ percent or more decrease in the family's income.

Notes

CHAPTER 12 **Answers to Study Guide**

Define the Following Terms:

1. 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.

2. PHA-owned unit:

**A PHA-owned unit is a dwelling unit in a project that is:
Owned by a PHA (including having a controlling interest in the entity that owns the project);
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 member or general partner.**

3. Excepted unit:

A unit that is not subject to the PBV project cap.

4. Excluded unit:

A unit that is not subject to the PBV program cap or PBV project cap.

5. Newly constructed housing:

A project containing housing units that do not exist on the proposal or project selection date and are developed after the date of selection for use under the PBV program.

6. Existing housing:

A project that meets the following criteria:

All the proposed contract units in the project either fully comply or substantially comply with housing quality standards on the proposal or project selection date. (The units must fully comply with HQS at this time or in accordance with the non-life threatening (NLT) or alternative inspection options listed at 24 CFR 983.103(c) if the PHA adopts those options).

The units substantially comply with HQS if:

The units only require repairs to current components or replacement of equipment and/or materials by items of substantially the same kind to correct deficiencies; and

The PHA determines all deficiencies can reasonably be corrected within a 30-day period, taking into consideration the totality of the deficiencies in the project.

The PHA determines the project is not reasonably expected to require substantial improvement and the owner certifies it has no plans to undertake substantial improvement from the proposal submission date (for projects subject to competitive selection) or the project selection date (for projects excepted from competitive selection) through the first two years of the HAP contract.

7. Rehabilitated housing:

A project which is developed for use under the PBV program, in which all proposed contract units exist on the proposal or project selection date, but which does not qualify as existing housing.

8. PBV program cap:

A limit on the percentage of authorized units a PHA can project-base. Certain units don't count toward the program cap.

9. PBV project cap:

A limit on how many units in a particular project to which the PHA can attach PBVs. Certain units don't count toward the project cap.

10. Project:

A project can be a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

-
11. List the six types of units that are considered PBV 10% units.
- 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.**
- The units are specifically made available to house families that are comprised of or include a veteran.**
- The units provide optional supportive housing to persons with disabilities or elderly persons.**
- The units are located in areas where vouchers are difficult to use.**
- The units replace, on a different site, units listed in 24 CFR 983.59(b)(1) and (2) for which the PHA had authority under 24 CFR 983.59 to commit PBV assistance on the original site without the units counting toward the program cap or project cap.**
- The units are exclusively made available to eligible youth receiving Family Unification Program (FUP) or Foster Youth to Independence (FYI) assistance.**
-
12. List the three types of units that are considered excepted units.
- Units exclusively for elderly families**
- Units exclusively made available to eligible youth receiving FUP or FYI assistance**
- Units for households eligible for supportive services available to all families receiving PBV assistance in the project**
-
13. List the two ways PBV units may be selected competitively.
- Through a PHA request for proposals (RFP).**
- The PHA may select, without issuing an RFP, proposals that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that was subject to a competition in accordance with the requirements of the applicable program where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competition did not involve any consideration that the project would receive PBV assistance.**
-
14. List the five ways PBV units may be selected noncompetitively.
- The PHA may select existing, newly constructed, or rehabilitated public housing projects where the PHA has an ownership interest or over which the PHA has control, when the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory through any available legal removal tool within five years of the project selection date.**
-

The PHA may select for future PBV assistance a project currently under the public housing program, or a project that is replacing the public housing project, in which a PHA has no ownership interest, or which a PHA has no control over, provided:

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

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

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

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

The PHA may select a project consisting of PHA-owned units if the units continue to meet the definition of PHA-owned for the initial two years of the HAP contract unless there is a transfer of ownership approved by HUD.

The PHA may select a project that underwent an eligibility event within five years of the project selection date, in which a family (or families) qualifies for enhanced voucher assistance and provided informed consent to relinquish its enhanced voucher for PBV assistance.

The PHA may select one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility.

15. The program cap in PBV is 20 percent of the PHA's authorized units, but the PHA may project-base an additional 10 percent of units if they meet certain criteria.
16. The project cap in PBV is the greater of 25 units or 25 percent of units in a project.
17. The initial term of the HAP contract is for a maximum of 20 years.
18. The maximum period the entire family may be away from the unit is 180 consecutive calendar days.
19. After 180 days at zero HAP (family's TTP exceeds the gross rent) the PHA must remove the family's unit from the HAP contract.
20. The PHA may only select families determined eligible for admission at commencement of PBV assistance, using information received and verified by the PHA within a period of 60 days before commencement of PBV assistance.

21. At least once every 24 months, the PHA must inspect a representative sample of 20 percent of the assisted units under HAP contract in each building in the development for compliance with housing quality standards. 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 under HAP contract in that building.
22. The vacancy payment to the owner may last for a maximum of 2 months.
23. The initial lease term for the PBV program is 1 year.
24. A family may request a tenant-based voucher any time after 1 year of PBV assistance.
25. The PHA must conduct an interim reexamination when there has been a 10 percent or more decrease in the family's income.

Notes

CHAPTER 13 Post-Test Answer Keys

Chapter 1: Project-Based Voucher Basics

1. a	8. b
2. The PHA must notify HUD of its intent to project-base its vouchers When the PHA executes, amends, or extends a HAP contract.	9. a
3. b	10. b
4. b	11. a
5. e	
6. A project which is developed for use under the PBV program, in which all proposed contract units exist on the proposal or project selection date, but which does not qualify as existing housing.	
7. Housing that does not exist as of the proposal/project selection date.	

Chapter 2: The PBV Program Cap and Project Cap

1. Excepted units are not subject to the project cap. Excluded units are not subject to either the project cap or the program cap.	5. a
2. b	6. a and b
3. 20, 10	7. a, b, and c
4. a	

Chapter 3: Proposal and Project Selection

1. b	3. a
2. b	4. a

Learning Activity 4-1: 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?

When the PHA has determined the unit meets PBV inspection requirements. The term of the HAP begins on the effective date of the HAP contract.

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

Initial term may be no less than one year and no more than 20 years.

Section f. Occupancy and payment

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

Yes, however, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

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

If an assisted family moves out of a contract unit, the PHA may provide vacancy payments to the owner for a PHA-determined vacancy period extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.

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

The vacancy payment to the owner for each month of the maximum two-month period will be determined by the PHA and 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.

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

No, except as provided in this paragraph e (Occupancy and Payment), the PHA will not make any other payment to the owner under the HAP contract. The PHA will not make any payment to the owner for any damages to the unit, or for any other amounts owed by a family under the family's lease.

Section g. Income-mixing requirements

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

The greater of 25 units or 25% of units in the project.

PBV HAP CONTRACT PART II

4. RENT TO OWNER; HOUSING ASSISTANCE PAYMENTS

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

Check the box in Section 4.a.

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

In addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner, including amounts due under any other housing assistance payments contract.

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

Yes, in writing.

5. ADJUSTMENTS OF RENT TO OWNER

11. When is rent to owner adjusted?

At the annual anniversary of the HAP contract.

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

No.

7. OWNER CERTIFICATION

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

No, the owner (including a principal or other interested party) is not the parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit unless the PHA has determined that approving leasing of the unit would provide a reasonable accommodation for a family member who is a person with disabilities.

8. CONDITION OF UNITS

14. When must PBV units be inspected?

Before execution of the HAP contract, before providing assistance to a new family, at least biennially, whenever needed to determine they comply with HQS.

9. LEASING CONTRACT UNITS

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

Yes, the owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

10. TENANCY

16. When are changes in tenant rent effective?

Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family and the owner.

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

The owner.

11. FAMILY RIGHT TO MOVE

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

After one year of occupancy.

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

If tenant-based rental assistance is not immediately available upon lease termination, the PHA shall give the family priority to receive the next available opportunity for tenant-based rental assistance.

21. TRANSFER OF THE CONTRACT OR PROPERTY

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

Obtain advanced written consent from the PHA.

Chapter 4: Project-Based Voucher Contracts

1. a	5. b
2. a	6. c
3. a	7. July 1
4. a	8. October 8, 2045

Chapter 5: Rents in PBV Units

1. a	6. a
2. b	7. a
3. a	8. a
4. a	9. a
5. b	

Chapter 6: Waiting List Management

1. b	5. b
2. a	6. a
3. a	7. b
4. b	8. b

Learning Activity 7-1: 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.

21. Is the couple eligible for the PBV program?

Yes. The student rule does not apply as the couple is married

22. Why?

One member of the family has eligible citizenship.

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?

Yes.

2. Why?

The family is considered a mixed family The. nephew is a noncontending family mender. Assistance must be prorated.

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?

Yes.

2. Why?

Peter is able to prove that he is independent from his

against based on sexual orientation or gender.

Chapter 7: Eligibility

1. a	6. b
2. a	7. b
3. c	8. b
4. a	9. a
5. b	10. d

Chapter 8: Leasing Units

1. b	4. b
2. b	5. a
3. d	6. a

Chapter 9: Continued Occupancy

1. c	7. b
2. b	8. a
3. c	9. a
4. b	10. b
5. b	11. a
6. a	12. a

Chapter 10: Program Administration

1. b	3. a
2. b	4. b

Notes