



## Project Based Voucher (PBV) Final Rules 24 CFR Part 983 October 2005 and November 2007

### *General*

A PHA may elect to use no more than 20% of their budget for the Housing Choice Voucher (HCV) program to administer a PBV program. Each PHA elects whether or not to administer a PBV program.

A PHA enters into a HAP agreement with an owner to attach a portion of their voucher funding to a building. PHAs may provide PBV funding for existing housing, new construction or substantially rehabilitated units. PHAs may provide funding for assisted living communities.

PHAs may not provide PBV funding for high rise elevator buildings for children unless the PHA determines, and HUD approves, there is no practical alternative. The PHA may make this determination for their entire program or on a case by case basis.

PHAs may not provide a PBV for shared housing, cooperative housing, manufactured home space rental, or for participants in the HCV homeownership program.

All properties selected for funding must meet the deconcentration requirements found in the PHA's Administrative Plan.

### *Selection for the PBV Program*

An owner submits a proposal to receive PBV funding per the requirements in the PHA's Administrative Plan. A PHA must select proposals for funding by one of two methods:

By issuing an RFP. A PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for different sites.

By selecting proposals submitted for assistance under a Federal, state or local housing assistance, community development, or supportive services program with a competitive selection process (e.g., HOME, competitive tax credits) when the proposal was selected through the competitive process within 3 years of the PBV proposal selection date and the previous selection process did not include a consideration that the project would receive funding through the PBV program.

PHA procedures for receiving proposals and selecting projects for funding must include procedures for broad public notice. The public notice must include a deadline for submitting an application along with detailed application and selection information. PHAs must make all documentation supporting their selection decisions available to public viewing.

The PHA must outline the selection criteria to award proposals for existing housing, for new construction and for rehabilitated units.

Prior to awarding funding the PHA must ensure the project complies with HUD subsidy layering requirements found at 24 CFR Part 4.13. A HUD approved independent entity must perform the review. The owner must disclose any assistance projected to be received for the project for the subsidy layering review process.

### *25% per Building Cap*

A PHA may not select a proposal to provide PBV assistance if the total number of units in the building to receive PBV assistance is more than 25% of the total number of units in the building. A PHA may elect to impose a cap lower than 25% for each building awarded PBV funding.

A PHA may award a PBV covering more than 25% of the units in a building for units in a single family building (less than 5 units) or for excepted units in a multifamily building.

An excepted unit is a unit in a multifamily building specifically made available for a qualifying family. A qualifying family is an elderly or disabled family or a family receiving supportive services.

A PHA must state in their Administrative Plan the type of services to be offered to families at the property that will qualify the PBV contract units as excepted units occupied by qualifying families. It is not necessary the services be provided at or by the property so long as they are approved services. A PHA may elect not to provide PBV assistance for any excepted units.

A qualifying family must have at least one family member receiving at least one qualifying supportive service. The PHA may not require participation in medical or disability related services other than drug or alcohol treatment in the case of current abusers.

If a family member is receiving an approved service at the time of initial occupancy and successfully completes the program of services, the unit continues to count as an excepted unit so long as the family remains in occupancy.

If the family member receiving the supportive service fails, without good cause, to complete the program of services, the PHA will take action as outlined in their Administrative Plan and the owner may terminate the lease.

The PHA must terminate assistance for any family that fails to fulfill the requirements of their program of services without good cause. The owner may continue to count the unit as an excepted unit so long s/he offers the unit for occupancy to another qualifying family.

The owner must set aside the number of units to qualify as excepted units for qualifying families. The PHA may refer only qualifying families for occupancy in excepted units.

### *Occupancy*

The owner must lease contract units only to eligible families referred from the PHA waiting list. Owners are responsible for adopting written tenant selection procedures consistent with the purpose of improving housing opportunities for very low income families that are reasonably related to program eligibility and an applicant's ability to comply with the terms of the lease. A contract unit must be leased to a family of appropriate size based on the PHA's subsidy standards.

The owner is responsible for screening all applicants based on the property's tenant selection plan.

In referring families to excepted units, the PHA must give preference to elderly or disabled families or to families receiving supportive services.

A family or remaining family members residing in an excepted unit that no longer meets the criteria of a qualifying family must vacate the unit within a reasonable period of time as required by the agreement signed with the PHA and the lease with the owner. If the family fails to vacate the unit, the PHA will stop making HAP payments on behalf of the tenant and the owner may ask the PHA to amend the contract to substitute a new unit.

A family has the right to terminate, upon written notice, the assisted lease at any time after the first year of occupancy. So long as the tenant provides proper notice to the owner and the PHA, the PHA will provide the tenant a voucher to move.

The owner must promptly notify the PHA of any vacancy or expected vacancy of a contract unit. The PHA must send the owner referrals from the waiting list. If any contract unit has been vacant for 120 days the PHA may give notice to the owner to amend the HAP contract reducing the number of contract units.

### *The HAP Contract*

The initial term of the HAP contract between the PHA and the owner must be no less than one year and no more than 10 years. Within one year of the expiration of the original contract term, the owner may request the PHA agree to extend the term of the contract for an additional 5 years. An owner may request subsequent contract extensions.

The PHA may terminate a contract for lack of adequate funding as provided through the annual appropriations process.

The owner may terminate a contract if the rent to owner is reduced below the initial rent to owner approved under the HAP contract. The tenants receiving assistance through the PBV contract would receive tenant based vouchers.

The HAP contract must include the number of units and the number of bedrooms in each unit covered by the HAP contract. The specific units covered by the contract are fixed. The owner may propose amending the contract to substitute a new unit with the same number of bedrooms in the same building. The PHA must inspect the proposed unit before approving the substitution.

The owner may propose the PHA fund additional units through the PBV contract, up to the 25% per building cap, within 3 years following the execution of the original HAP contract.

### *Rent to Owner*

The initial rent to owner is established at the beginning of the term of the HAP contract. The PHA redetermines the rent to owner at the owner's request or when there has been a decrease of 5% in the published FMRs.

The rent to owner must not exceed the *lowest* of:

An amount determined by the PHA not to exceed 110% of the FMR (the payment standard) or any approved exception payment standard for the unit bedroom size minus any utility allowance;

The reasonable rent; or

The rent requested by the owner.

In a proposed rule issued on May 1, 2007, HUD lifted the cap on rents for tax credit units imposed by the October 2005 rule. In 2005, HUD said a PHA could not subsidize a rent higher than the tax credit rent for a tax credit unit covered by a project-based voucher. HUD now realizes capping rents at tax credit properties may discourage the creation and preservation of affordable housing.

On November 19, 2007 HUD finalized the May 2007 proposed rule without change. Owners who signed PBV contracts between November 2005 and May 2007 with rents capped at the tax credit rents are directed to ask their PHAs to redetermine their rents based on the May 2007 proposed rule.

For HOME units, the rent to owner may not exceed the HUD approved HOME rents.

For Section 236 properties, including decoupled projects continuing to receive the IRP, the rent to owner may not exceed the HUD approved basic rent.

The rent to owner may not exceed any rent limitations required to comply with HUD subsidy layering requirements.

Owners must request a rent increase at the annual anniversary of the HAP contract. The request must be submitted in writing in the form and manner required by the PHA.

#### *Vacancy Payments*

If an assisted family moves out the owner may keep the HAP payable for the calendar month the family vacated the unit so long as the move out was not the fault of the owner.

At the discretion of the PHA, the HAP contract may provide for vacancy payments for a period of time determined by the PHA not exceeding 60 days.

#### *Additional Requirements*

Awarding of PBV funding is subject to environmental review requirements found at 24 CFR Parts 50 & 58. The environmental review must be performed by the local responsible entity or by HUD.

Inspectors apply HUD's Housing Quality Standards (HQS) when assessing the physical condition of a contract unit.

A property receiving PBV funding must comply with the accessibility requirements of Section 504 found at 24 CFR Part 8 and the Fair Housing Act Amendments of 1988.

Davis Bacon applies for a property with 9 or more contract units, even if the units are completed in stages.

A displaced person must be provided relocation assistance as required by the Uniform Relocation Act (URA) of 1970. Owners must comply with the URA and all requirements found at 42 CFR Part 24, Subpart B. Relocation assistance may be paid with funds provided by the owner, or with local public funds or from other sources. Relocation assistance may not be paid from voucher program funds. A PHA may elect to use their administrative fee reserve to pay for relocation assistance after paying all other program expenses.

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

Liz Bramlet  
Affordable Housing Consultant  
(202) 316-0532  
[Liz@lizbramletconsulting.com](mailto:Liz@lizbramletconsulting.com)

November 2007