



Indiana NAHRO 2016

Housing Choice Voucher Program
Project-Based Assistance

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Legislative Background

- Section 8(o)(13) of the US Housing Act of 1937:
 - Section 2608 of Title VI Division B of the Housing Economic Recovery Act [HERA] (July 30, 2008)
 - Section 232 of the FY 2001 VA-HUD Appropriations Act (10/27/2000)
 - Section 545 of the Quality Housing and Work Responsibility Act [QHWRA] (10/21/1998)
- HOTMA changes some aspects of the PBV legislation
 - HUD has not yet issued regulations to conform with HOTMA



PBV Regulations

Section	Subject
Part 5, Subpart D	Definitions for HCV and public housing programs
Part 5, Subpart E	Restrictions on assistance to non-citizens
Part 5, Subpart F	Definitions of family income, assets, allowances, and deductions
Part 908	Electronic data transmission requirements
Part 982	Housing Choice Voucher Tenant-Based Program Policies
Part 983	Project-Based Voucher Program Policies
Part 985	Section 8 Management Assessment Program (SEMAP)



HOTMA Summary

Current Program Requirements

- An agency may project-base up to 20 percent of its budget authority
- HUD's regulations allow agencies to exceed this level if annual funding is reduced after the commitment of project-based vouchers

HOTMA Changes

- Up to 20 percent of authorized number of vouchers, plus an additional 10 percent to assist certain types of households (formerly homeless people, veterans, persons with disabilities or elderly persons); or
- In area where vouchers are difficult to use.
- PBVs attached to certain types of previously federally assisted or rent-restricted units are exempt from these limitations



HOTMA Summary

Current Program Requirements

- The initial contract term may be up to 15 years, and PHAs may agree at any time to extend the term in up to 15-year increments subject to certain conditions.
- Project-basing is permitted only in areas consistent with the goals of deconcentrating poverty and expanding housing and economic opportunity.

HOTMA Changes

- The maximum term of an initial contract or extension is 20 years.



HOTMA Summary

Current Program Requirements

- No more than 25 percent of units in a project may receive project-based voucher assistance, with exceptions for units housing the elderly, people with disabilities, or families receiving supportive services
- PHAs may define what types of supportive services qualify

HOTMA Changes

- Vouchers may be project-based in 25 units in a project, or 25 percent of the units, whichever is greater.
- Exceptions are modified prospectively to include units housing the elderly or other households eligible for supportive services that are made available to the assisted residents of the project, or located in areas where vouchers are difficult to use.
- In census tracts with a poverty rate of 20 percent or less, vouchers may be project-based in 25 units or 40 percent of the units in a project, whichever is greater.



HOTMA Summary

Current Program Requirements

- Families have a right to relocate with the next available voucher after one year
- Certain special subsidy and rent rules apply, enabling higher subsidies if reasonable (including in LIHTC units) and restricting tenants' contribution to 30 percent of income

HOTMA Changes

- Upon termination or expiration of a contract, families have the right to use their vouchers to remain in the property



Current PBV Program Rules and Requirements

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PHA Choice

- Optional (i.e. PHA discretion to operate)
- 20% of budget authority
 - RAD PBV units are not subject to the 20 percent limitation
- No special funding for project-based vouchers
 - Two Exceptions: RAD and HUD-VASH PBV set-aside
- Funding comes from voucher ACC
 - Used for both tenant-based and project-based vouchers



PHA Plan

- Policy for PBV development must be in PHA plan, including
 - Proposed number of units
 - General locations
- Must be consistent with:
 - Program site and neighborhood standards
 - PHA policy on deconcentrating poverty and expanding housing and economic opportunities
- PHA Plan must include above information ***prior*** to implementing a PBV program.



Administrative Plan

- PHA must adopt a written administrative plan for the HCV program, including PBV policies, if the PHA has a PBV program
- The plan must state the PHA's policies for which the PHA has discretion to establish local policy
- The plan is a formal document which communicates to all interested parties the policy choices the PHA has made where federal regulations or law does not direct the PHA's actions or decisions.



Administrative Plan – cont'd

- The PHA must include in its administrative plan the following PBV policies (prior to selecting units for PBV):
 - Procedures for selecting PBV proposals
 - Including how the PHA will solicit proposals
 - Definition of substantial compliance with HQS
 - Standards for deconcentrating poverty and expanding housing opportunities.
 - Policies for site selection and how policies will promote PBV goals.
 - Additional local requirements promoting partially assisted buildings (establish a per-project cap, determine not to provide PBV assistance for excepted units, or establish a per-project cap of less than 25%)



Administrative Plan – cont'd

- The PHA must include in its administrative plan the following PBV policies (prior to selecting units for PBV):
 - Types of supportive services to be offered to families, extent to which services will be provided, form and frequency of how PHA will monitor that families are receiving such services
 - Waiting list selection policies
 - Tenant Screening by PHA
 - Family Occupancy of wrong-size or accessible units
 - Vacancy payments to owner



Eligible Types of Housing

- New construction
- Rehabilitation
- Existing
 - Units in an existing project must substantially comply with the housing quality standards for the program at the time of selection



Ineligible Types of Housing

- Shared housing
- Institutional housing (e.g. on grounds of mental or penal institutions)
- Nursing homes or similar medical facilities
- Housing controlled by an educational institution
- Manufactured housing
- Transitional housing
- Homeownership units
- Units for which construction or rehabilitation has commenced after proposal submission and prior to execution of an AHAP



Subsidized Units

- PHA may not attach project-based assistance to other subsidized units:
 - Public housing
 - Other Section 8 (including tenant-based units)
 - Section 236 rental assistance payments
 - Section 515 rental assistance payments
 - Section 202 or section 811 project
 - HOME tenant-based assistance
 - Other Federal, state, or local government subsidy



Deconcentrating Poverty and Expanding Housing and Economic Opportunities

- Statutory Requirement
- Project-based assistance for housing at the selected site must be consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities
- Standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR part 903 and the PHA Administrative Plan



Site and Neighborhood Standards

- The location of the project must meet site and neighborhood standards.
 - E.g. Be adequate in size, exposure, and contour to accommodate the number and type of units proposed.
 - Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.



Unit Cap

- Not more than 25% of dwelling units in a project may be assisted
 - **Project**- a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land
- PHA may establish a lower unit cap on the number of units in a project that may be assisted



Unit Cap Exceptions

- Exceptions:
 - Single family properties (1-4 units).
 - Excepted units in a multifamily building made available for qualifying families
- Qualifying families:
 - Elderly and/or disabled families
 - Families receiving supportive services



Existing Housing

- Housing units that already exist on the proposal selection date and that substantially comply with HQS (as defined in the PHA's administrative plan) on that date.
 - Within a reasonable time after selection units must fully comply with HQS
 - PHA may only execute HAP contract after units are in full compliance with HQS
- Repairs needed to comply with HQS should be minor
- If repairs rise to the level of development activity, labor standards may apply
- HAP contract must be executed promptly after PHA selection of the owner proposal and PHA inspection of the units.



Newly Constructed Housing

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



Rehabilitated Housing

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



Environmental Review

- National Environmental Policy Act applies to project-based voucher assistance
- Unit of general local government, county, or state is responsible for the federal environmental review
- Environmental reviews required for Existing, Rehabilitation, and New Construction



Subsidy Layering Reviews

- Statutory requirement
- Prevents excessive public assistance for housing by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits
- Subsidy layering requirements are not applicable to existing housing
- PHA may not enter an AHAP or HAP contract until HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements



Other Requirements

- Labor Standards
 - Davis-Bacon Labor Requirements
- Equal Opportunity
 - Section 3 of the U.S. Housing and Urban Development Act of 1968
 - Federal equal employment opportunity requirements of Executive Orders 11246 as amended, 11625, 12432, and 12138



Pre-Selection Inspections

- For all housing types -the PHA must examine the proposed site before the proposal selection date.
- Existing Units
 - PHA must inspect all units before the proposal selection date
 - All units must be determined to substantially comply with HQS on the proposal selection date in order to qualify as existing housing
 - The PHA may not execute the HAP contract for the units until they fully comply with HQS



PHA Owned Unit Inspection Requirements

- All inspections (pre- and post-selection) must be performed by independent entity approved by HUD
- At the family oral briefing, the PHA must provide families with contact information for the independent entity and request families contact such entity directly concerning HQS complaints
- The PHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by the owner
- The independent entity must contact the field office if the PHA-owner has not taken the necessary steps to resolve the deficiencies



Housing Assistance Payments (HAP) Contract

- Purpose-to provide housing assistance payments for eligible families
- PHA must enter into a HAP contract with the owner
- HAP contract shall only cover a single project
 - (exception – single family scattered site projects)
- The HAP contract must be in the form prescribed by HUD.
- The HAP contract form has two parts:
 - Part 1 – Contract information
 - Part 2 – Body of contract



Wait List

- Selection from PHA's waiting list is statutorily required
- Must select in accordance with PHA selection policies in PHA administrative plan
- Types of waiting list:
 - Voucher program;
 - Project-based voucher list; and
 - Individual project waiting list.



Wait List cont'd

- Separate PBV WL must notify all HCV applicants
 - Individual notice not required
 - Notification by same means it would use in opening its waiting list under 24 CFR §982.206(a)
 - Suggestions
 - (1) advertising through local and minority newspapers and the internet;
 - (2) local postings at post offices, libraries, and community centers; and
 - (3) an outreach to social service organizations that may serve the same clientele that will be occupying the PBV units.



Participation Selection

- Eligible families
- In-place families (existing housing and rehabilitated housing) placed at top of waiting list and are given absolute preference if eligible.
 - If in-place families ineligible, unit shall not be selected for PBV assistance
 - If no HAP would be paid on behalf of in-place family, at commencement of HAP contract, unit is not eligible to be placed under HAP contract



Participation Selection cont'd

- May give selection preference based on services provided at project
- Disabled residents are not required to accept the particular services offered
- Families that refuse an offer of project-based assistance do not lose their position on the tenant-based waiting list
- Families rejected by an owner do not lose their place on the project-based or tenant based waiting lists



Family Acceptance of PBV Assistance

- When a family accepts an offer of PBV assistance, PHA must:
 - Brief the family
 - Provide family with written documentation on how PHA determines Total Tenant Payment
 - Family must sign a Statement of Family Responsibility
 - Statement provides family obligations under the program



Leasing Units

- Owner selects from tenants referred by PHA
(at initial leasing and at turnover)
- Owner must adopt a written tenant selection policy
- An owner must promptly notify in writing any rejected applicant of the grounds for rejection
- Number of bedrooms for the family must be based on PHA subsidy standards
- The owner must lease vacant contract units only to eligible families on the PHA waiting list referred by the PHA



Tenant Screening

- Owner is responsible for tenant screening and selection of families to occupy the owner's unit
- PHA may opt to screen tenants for family behavior or suitability for tenancy and may deny admission based on this screening
- The PHA may give owner information about the family's tenancy history



Continuation of Housing Assistance Payments – Final Rule

- HAPs shall continue until the tenant rent equals the rent to owner
- The cessation of HAPs at such point will not affect the family's other rights under its lease
- If income, rents, or other changes occur within 180 days of last HAP payment, assistance for family resumes
- After the 180-day period, the unit shall be removed from the HAP contract



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Family Right to Move

- Mobility: Families have the right to move out of a project-based unit after 12 months
- The family must give the owner advance written notice in accordance with the lease.
- Continued assistance: In these cases, the PHA must offer the family available tenant-based rental assistance (voucher or other comparable tenant-based assistance)
- If no voucher (or comparable assistance) available, PHA must provide priority for next available voucher or other comparable assistance
- If family terminates assisted lease before the end of one year, the family relinquishes their right to continued tenant-based assistance



Vacancies

- The owner must promptly notify the PHA of any vacancy or expected vacancy
- The PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill the vacancies
- It is the responsibility of both the PHA and the owner to make good faith efforts to minimize the likelihood and length of any vacancy
- If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the good faith efforts of the PHA 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 units that have been vacant for such period.



Reporting Requirements

- Non-Compliance
 - 24 CFR 982.152(d) allows HUD to reduce or offset administrative fees if the PHA fails to perform PHA administrative responsibilities correctly or adequately.
 - If the PHA fails to comply with reporting requirements HUD may reduce the PHA's admin fee. The reduction will be calculated beginning the first day of the month following the submission due date and will continue until the PHA complies with the reporting requirement or a waiver is granted.



Questions?



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For More Information

Jim Evans

Quadel Consulting

1200 G Street NW, Suite 700

Washington, DC 20005

(202) 789-2500

jevans@quadel.com



Quadel.com



[FB.com/ConsultQuadel](https://www.facebook.com/ConsultQuadel)



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