

Vouchers: Project-Based Vouchers

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Administering agency: HUD's Office of Public and Indian Housing (PIH)

Year current version of program started: 2001

Number of persons/households served: Fewer than 100,000 households (could rise to more than 600,000)

Population targeted: Extremely low and low income households

Also see: *Housing Choice Voucher Program*, *Public Housing Agency Plan*

Public housing agencies (PHAs) may “project-base” up to 20% of their authorized Housing Choice Vouchers (HCVs) and up to 30% if the additional units contain particular types of households or are located in specific areas. The term project-based means that the assistance is linked to a particular property, as opposed to tenant-based vouchers, which move with the family. More than 600,000 vouchers could be project-based nationwide under this expanded authority, but fewer than 100,000 units had PBV assistance in 2015 with PHAs not participating in the Moving to Work Demonstration. About 570 of the nearly 2,300 PHAs that administer HCVs operate PBV programs.

PBVs are an important tool to provide supportive housing for individuals with disabilities or others who need services to live stably in their own homes. PBVs can also help PHAs in tight housing markets utilize all of their vouchers by making it unnecessary for some families to search for units they can rent with their vouchers. Another benefit of PBVs is that they can encourage the production or preservation of affordable housing, since owners of properties with PBVs receive financial security from the long-term contracts they sign with PHAs. This potential is particularly important in higher cost areas, where PBV rules may allow higher subsidies than tenant-based vouchers.

ADMINISTRATION

PBVs are administered by PHAs that decide to

include this option as part of their HCV programs, and are overseen by PIH.

HISTORY AND PURPOSE

The current PBV program was created by Congress in October 2000, as part of the FY01 appropriations bill for HUD and other agencies. [Section 232 of Pub.L. 106-377, revising section 8(o)(13) of the U.S. Housing Act, 42 U.S.C. §1437f(o)(13).] It replaced the project-based certificate program, which was rarely used because it was cumbersome (e.g., HUD approval was required for each individual transaction), did not allow long-term financial commitments by PHAs, was limited to new development or rehabilitation, and did not provide incentives for owners to commit units to the program.

In addition to addressing weaknesses of the prior program, Congress included a novel feature, the “resident choice” requirement. This guarantees that a family with PBV assistance that wishes to move after one year will receive the next available tenant-based voucher. The project-based subsidy stays with the unit to assist another eligible family. This requirement helps ensure that PBV recipients remain able to choose the areas in which they live. Congress also included statutory requirements to promote mixed-income housing and to deconcentrate poverty.

HUD issued a notice on January 16, 2001, making most of the statutory changes immediately effective, but did not issue final rules fully implementing the statute until 2005. Congress made several amendments to the statute in 2008 as part of the Housing and Economic Recovery Act (HERA), notably extending the maximum contract period from 10 to 15 years in order to correspond to the initial affordability period for the Low Income Housing Tax Credit (LIHTC) program, and making contract extensions more flexible. Effective July 2014, HUD revised the PBV rule to incorporate the HERA amendments and make some additional changes.

In section 106 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA, a/k/a H.R. 3700), which President Obama signed into law on July 29, 2016, Congress made

substantial changes to the PBV program. By Federal Register notice published January 18, 2017, HUD made most of these changes effective in 90 days (i.e., April 18, 2017). Implementation of the remaining provisions will require the issuance of new regulations. This article reflects the HOTMA changes that will be effective in April. Properties selected to receive PBVs prior to April 2017 generally will be subject to the pre-HOTMA requirements, unless the PHA and owner agree to the HOTMA changes.

PROGRAM SUMMARY

A PHA may initiate a PBV program by including the following in its PHA Plan: the projected number of units to be project-based, their general locations, and how project-basing would be consistent with the needs and goals identified in the Plan. A PHA also must include in its HCV Administrative Plan various details about how it will select properties in which to project-base vouchers and how it will maintain waiting lists. (See HUD Notice PIH 2011-54, September 20, 2011.) No HUD approval is required.

Vouchers may be project-based in existing housing as well as in newly constructed or rehabilitated units, but cannot be used in transitional housing. Use in existing housing permits a more streamlined process. The locations where PBVs are used must be consistent with the goal of deconcentrating poverty and expanding housing and economic opportunity, but agencies have substantial discretion to make this judgment, so long as they consider certain HUD-specified factors. PHAs must use a competitive process to select properties, or rely on a competition conducted by another entity, such as the process used by the state to allocate Low Income Housing Tax Credits, except if the PHA has an ownership interest in the property and plans \$25,000 or more in rehabilitation or construction costs per PBV unit.

HOTMA increased the share of vouchers that agencies could project-base by shifting the measure from 20% of voucher funding to 20% of authorized vouchers, which is a higher level for nearly all PHAs. In addition, it allows an agency to project-base an additional 10% of its vouchers, up to a total of 30% in units that:

- a. House individuals and families meeting the McKinney homelessness definition.

- b. House veterans.
- c. Provide supportive housing to persons with disabilities or elderly people.
- d. Are located in areas where the poverty rate is 20% or less.

Public housing or other federally-assisted or rent-restricted housing, including units converted to project-based vouchers (PBVs) as part of the Rental Assistance Demonstration, generally do not count toward this cap. When HUD revises its regulations to incorporate HOTMA changes, it could expand the types of households or areas that qualify a PHA to use more PBVs, including by specifying other types of areas where vouchers are “difficult to use.”

In general, PBVs can be attached to no more than the greater of 25% of the units in a project or 25 units in order to achieve a mix of incomes, although there are several exceptions to this requirement. The limitation does not apply to properties with four units or less and projects that were previously federally-assisted or rent-restricted. In projects located in census tracts where the poverty rate does not exceed 20%, the PBV limit is increased to 40%. (HUD could expand the types of neighborhoods with such a higher limit.) Units housing seniors, or whose non-elderly residents (including but not limited to people with disabilities) are eligible for supportive services that are made available to the assisted tenants in the project, are not subject to the income-mixing limitation. (Prior to HOTMA, residents had to receive services – not just be eligible for them – in order for the units they occupied to be eligible for the supportive services exception.) By requiring owners to attract unsubsidized tenants for a majority of the units, the requirement imposes market discipline in place of direct HUD oversight. The “resident choice” feature described above also is intended to promote market discipline, as owners’ costs will increase if there is a great deal of turnover in their units.

Units receiving PBV assistance, like other HCV units, must meet HUD’s housing quality standards prior to initial occupancy. HOTMA provides some new flexibility to speed initial occupancy where units have been approved under a comparable alternative inspection method or where defects are not life-threatening and are fixed within 30 days. Where tenants remain in place, PHAs may inspect only a sample of PBV units in a property biannually rather than each assisted unit, reducing administrative costs.

With a PBV, a family typically pays 30% of its adjusted income on housing, and the voucher covers the difference between that amount and the unit rent plus the PHA's allowance for tenant-paid utilities. As in the tenant-based voucher program, the unit rent must not exceed the rents for comparable unassisted units in the area. However, there are three important differences in rent policy in PBV units:

1. There is no risk that families will have to pay more than 30% of their income if the rent is above the agency's payment standard;
2. The unit rent is not limited by the PHA's payment standard, but may be any reasonable amount up to 110% of HUD's Fair Market Rent (FMR), or HUD-approved exception payment standard. This flexibility on unit rents applies even in the case of units that receive HOME Program funds, where rents usually are capped at 100% of the HUD FMR. Special and more flexible rent rules apply in LIHTC units.
3. In metro areas where HUD sets FMRs at the zip-code level (Small Area FMRs) rather than metro-wide, the metro-wide FMRs continue to apply to PBV projects unless the PHA and owner agree to set rents based on the Small Area FMRs, which could expand use of PBVs in higher-cost neighborhoods.

PHAs may consider other government subsidies to reduce allowable unit rents below market. This could be an important tool to stretch voucher funding to assist more units that receive additional capital subsidies through the national Housing Trust Fund.

PHAs must maintain the waiting list for PBV units and refer applicants to owners with anticipated vacancies for selection. PHAs can maintain the PBV waitlist as part of their full voucher waitlist, or maintain a separate PBV waitlist, or even maintain separate waitlists for different properties. To minimize the risk to owners of losing income due to a PHA's failure to promptly refer applicants, PHAs are allowed to pay the rent on vacant units for up to 60 days. HOTMA authorizes owner-managed, site-based waiting lists, subject to PHA oversight and responsibility, as well as requirements of applicable civil rights laws, but HUD opted not to make this provision effective without revised regulations.

PHAs may use different preferences for their PBV

waiting list or the lists for individual PBV properties than for the regular tenant-based list, including a preference based on eligibility for services offered in conjunction with a property, which may include disability-specific services funded by Medicaid. Applicants for regular tenant-based vouchers must be notified of the right to apply for project-based vouchers, and retain their place on the tenant-based list if they decline to apply for PBV units or are rejected by a PBV owner. Such notice need not be provided directly to each individual on the tenant-based waiting list at the time the project-based list is established; PHAs may use the same procedures used to notify the community that the waiting list will be opened.

HOTMA makes PBVs more flexible in other ways. The maximum term of the initial contract or any extension is increased to 20 years, and PHAs may project-base vouchers provided under the Family Unification or HUD-VASH programs. PHAs and owners can modify HUD's form PBV contracts to adjust to local circumstances and to add units to existing contracts. However, HUD has delayed the effective date of other HOTMA changes to increase PHA flexibility, including streamlining environmental reviews, allowing PHAs to enter into a contract for a property under construction, and permitting rent adjustments using operating cost adjustment factors (rather than market rent comparisons).

PHAs are bound by the PBV contract with an owner and may not refuse to refer applicants to vacant units in order to reduce costs. If Congress drastically reduces or eliminates funding for the HCV program making it impossible to avoid terminating vouchers, PHAs could terminate PBV contracts, but otherwise funding for PBV units is more secure than for other vouchers.

Families admitted to PBV units count for purposes of determining a PHA's compliance with the HCV program's targeting requirement that 75% or more of the families admitted annually have extremely low incomes. Targeting compliance is measured for a PHA's entire HCV program, not at the project level.

HUD's rules now make clear that owners may evict a family from a PBV unit only for good cause. (In contrast, families may be evicted from units assisted by tenant-based vouchers when their lease expires, without cause, unless state laws are more stringent.)

FUNDING

PBVs are funded as part of the overall Tenant-based Rental Assistance account. PHAs use a portion of their HCV funding for PBVs if they decide to offer the program. The formula Congress directs HUD to use to allocate annual HCV renewal funding provides additional funding to agencies that had to hold back some vouchers in order to have them available for use as project-based assistance in new or rehabilitated properties.

FORECAST FOR 2017

The number of project-based vouchers may increase if PHAs take advantage of the expanded authority and increased flexibility HOTMA provides. Funding uncertainty for the HCV program as a whole, however, may deter PHAs from making long-term PBV commitments.

Statutory changes. Further statutory changes are unlikely.

Regulatory changes. HUD may issue guidance to clarify rent-setting and adjustments in PBV units, and may modify the January 18, 2017 policy based on comments due in March. HUD has to update its regulations to reflect the HOTMA provisions made effective by notice, and to implement the remaining HOTMA policy changes. It is not clear, however, when HUD will initiate the rulemaking process.

FOR MORE INFORMATION

Center on Budget and Policy Priorities,
202-408-1080, www.cbpp.org

A “policy basic” on PBVs is at <http://www.cbpp.org/sites/default/files/atoms/files/12-7-15hous-pb.pdf>

Information on housing policy and funding is at <http://bit.ly/1d2pkIR>.