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# **Chapter 4:**

RENTAL

HOUSING

PROGRAMS FOR

THE LOWEST-

INCOME

HOUSEHOLDS

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# Housing Choice Vouchers

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**Administering Agency:** HUD's Office of Public and Indian Housing (PIH) as well as nearly 2,200 state and local public housing agencies (PHAs).

**Year Started:** 1974

**Population Targeted:** Seventy-five percent of all new and turnover voucher households must have extremely low income (less than 30% of the area median income, AMI, or the federal poverty line, whichever is higher); the remaining 25% of new voucher households can be distributed to residents with income up to 80% of AMI.

**Funding:** Congress appropriated \$26.401 billion for FY23 to renew existing Housing Choice Voucher (HCV) contracts. This was an increase above the FY22 final appropriation of \$24.1 billion. For PHA administration costs, Congress appropriated \$2.778 billion, compared to the FY22 appropriated amount of \$2.4 billion. Congress only appropriated \$500 million in FY23 for incremental vouchers, the amount provided for in the Senate's bill; the president proposed \$1.55 billion for an estimated 200,000 new incremental vouchers, while the House proposed \$1.1 billion.

**See Also:** For related information, see the *Project-Based Vouchers*, *Tenant Protection Vouchers*, *Veterans Affairs Supportive Housing (HUD-VASH)*, *Family Unification Program (FUP)*, and *Mainstream and Non-Elderly Disabled (NED) Vouchers* sections of this *Guide*.

Housing Choice Vouchers (HCVs) help people with the lowest income afford housing in the private housing market by paying landlords the difference between what a household can afford to pay for rent and utilities compared to the actual rent to the owner, up to a reasonable amount. The HCV program is HUD's largest rental assistance program, assisting nearly 2.3 million households as of August 2022, according to PIH's [Data Dashboard](#).

## HISTORY AND PURPOSE

Federal tenant-based rental assistance was established as part of a major restructuring of federal housing assistance for low-income families in 1974. President Richard Nixon supported the creation of the tenant-based Section 8 program as an alternative to the government's involvement in producing affordable multifamily apartments. In recent decades, the program has had broad bipartisan support. It grew incrementally between 1974 and 1996, the first year when no new, incremental vouchers were appropriated. Since then, Congress has authorized HUD to award more than 700,000 additional vouchers, but about half of these have simply replaced public housing or other federally subsidized housing that has been demolished or is no longer assisted.

Since FY08, Congress has appropriated funding for a small number of incremental vouchers (new vouchers that are not replacements for other assisted housing) each year for special populations, including for: the HUD-Veterans Affairs Supportive Housing (HUD-VASH) Program serving homeless veterans; the Family Unification Program (FUP) serving families who are experiencing homelessness, are precariously housed and in danger of losing children to foster care, or who are unable to regain custody of children primarily due to housing problems; the Foster Youth to Independence Initiative (FYI) serving youth aging out of foster care to prevent them from becoming homeless; and the Mainstream and Non-Elderly Disabled programs. There are separate sections for each of these in this *Advocates' Guide*.

## PROGRAM SUMMARY

As of August 2022, nearly 2.3 million households had Housing Choice Vouchers (HCVs), also called Section 8 tenant-based rental assistance. HUD's [Picture of Subsidized Housing](#) reports that in 2021, of all voucher households, 77% had

extremely low incomes (less than 30% of the area median income, AMI, or the federal poverty level, whichever is greater), 25% had a household member who had a disability, and 32% were elderly. The national average income of a voucher household was \$15,577. Twenty-five percent of the households had *wage* income as their major source of income, while only 3% had welfare income.

Housing vouchers are one of the major federal programs intended to bridge the gap between the cost of housing and the income of low-wage earners, people on limited fixed incomes, and other poor people. The Housing Choice Voucher Program offers assisted households the option to use vouchers to help pay rent at privately owned apartments of their choice. A household can even use a voucher to help buy a home. PHAs may also choose to attach a portion of their vouchers to particular properties (project-based vouchers, PBVs), see *Vouchers: Project-Based Vouchers* in this guide.

PIH has annual contracts with about 2,200 PHAs to administer vouchers, about 925 of which only administer the HCV program (these do not have any public housing units). Funding provided by Congress is distributed to these PHAs by PIH based on the number of vouchers in use the previous year, the cost of vouchers, an increase for inflation, as well as other adjustments. However, when Congress appropriates less than needed, each PHA's funding is reduced on a prorated basis.

To receive a voucher, residents put their names on local PHA wait lists. The HCV program, like all HUD affordable housing programs, is not an entitlement program. Many more people need and qualify for vouchers than actually receive them. Only one in four households eligible for housing assistance receive any form of federal rental assistance. The success of the existing voucher program and any expansion with new vouchers depends on annual appropriations.

### **Obtaining and Using a Voucher**

The HCV program has deep income targeting requirements. Since 1998, 75% of all new

voucher households must have extremely low incomes, at or less than 30% of AMI. The remaining 25% of new and turnover vouchers can be distributed to residents with income up to 80% of AMI.

Local PHAs distribute vouchers to qualified households who generally have 60 days to conduct their own search to identify private apartments that have rents within a PHA's rent "payment standard" (explained, next paragraph). PHAs may (and should) allow more time to households having difficulty finding a place to rent with their voucher. Generally, landlords are not required to rent to a household with a voucher; consequently, many households have difficulty finding a place to rent with their vouchers. Housing assisted by the Low-Income Housing Tax Credit (LIHTC), Home Investment Partnerships (HOME), or national Housing Trust Fund (HTF) programs must rent to an otherwise qualifying household that has a voucher. In addition, some states and local governments have "source of income discrimination" laws that also prohibit landlords from discriminating against households with vouchers. Once a household selects an apartment, a PHA must inspect it to ensure that it meets HUD's housing quality standards (HQS).

Generally, voucher program participants pay 30% of their adjusted income toward rent and utilities. The value of the voucher, the PHA's "payment standard" (see next paragraph), then makes up the difference between the tenant's actual rent payment (based on 30% of their adjusted income) and the rent charged by an owner. Tenants renting units that have contract rents greater than the payment standard pay 30% of their income plus the difference between the payment standard and the actual rent (up to 40% of adjusted income for new and relocating voucher holders). After one year in an apartment, a household can choose to pay more than 40% of their income toward rent.

### **Payment Standards**

The amount of the HCV subsidy for a household is capped at a "payment standard" set by a

PHA, which must be between 90% and 110% of HUD's Fair Market Rent (FMR), the rent in the metropolitan area for a modest apartment. HUD sets FMRs annually. Nationally, the average voucher household in 2021 paid \$395 a month for rent and utilities. In many areas the payment standard is not sufficient to cover the rent in areas that have better schools, lower crime, and greater access to employment opportunities – often called high opportunity areas. In hot real estate markets where all rents are high, households with a voucher often find it difficult to use their voucher because households with higher incomes can afford to offer landlords higher rent.

A PHA may request HUD Field Office approval of an “exception payment standard” up to 120% of the FMR for a designated part of an FMR area. An exception payment standard greater than 120% of the FMR must be approved by the PIH Assistant Secretary. For either, a PHA must demonstrate that the exception payment is necessary to help households find homes outside areas of high poverty, or because households have trouble finding homes within the 60-day time limit allowed to search for a landlord who will accept a voucher.

A PHA may also establish a payment standard of up to 110% of the Small Area FMR (SAFMR) determined by HUD. PIH approval is not required; a PHA merely needs to email the Field Office by email. Small Area FMRs reflect rents for U.S. Postal ZIP Codes, while traditional FMRs reflect a single rent standard for an entire metropolitan region – which can contain many counties. The intent is to provide voucher payment standards that are more in line with neighborhood-scale rental markets, resulting in relatively higher subsidies in neighborhoods with higher rents and greater opportunities, and lower subsidies in neighborhoods with lower rents and concentrations of voucher holders. A goal of Small Area FMRs is to help households use vouchers in areas of higher opportunity and lower poverty, thereby reducing voucher concentrations high poverty areas. PHAs may voluntarily use SAFMRs, while Small Area FMRs must be used by

24 designated metropolitan areas.

With the coronavirus pandemic, PIH introduced various waivers to regulations. One was allowing expedited PIH Field Office review of a PHA's request to increase a payment standard up to 120% of AMI. In March 2022, PIH extended the deadline for PHAs to request expedited reviews of such requests, and in September 2022 PIH again extended to December 31, 2023, the deadline of PHAs to request expedited Field Officer review.

As a result of legislation passed in 2016, the “Housing Opportunity Through Modernization Act” (HOTMA, see below), PHAs may establish an exception payment standard of up to 120% of the FMR as a “reasonable accommodation” for a person with a disability, without having to get HUD approval. PHAs may seek HUD approval for an exception payment standard greater than 120% of FMR as a reasonable accommodation.

Also due to HOTMA, PHAs have the option to hold voucher households harmless from rent increases when FMRs decline. PHAs can do this by continuing to use the payment standard based on the FMR prior to the new, higher FMR.

### **Moving with a Voucher**

Housing vouchers are “portable,” meaning households can use them to move nearly anywhere in the country where there is a PHA administering the voucher program; use is not limited to the jurisdiction of the PHA that originally issued the voucher. A PHA is allowed to impose some restrictions on “portability” during the first year if a household did not live in the PHA's jurisdiction when it applied for assistance. However, portability has been restricted or disallowed by some PHAs due to alleged inadequate funding. Recent HUD guidance requires approval of the local HUD office before a PHA may prohibit a family from using a voucher to move to a new unit due to insufficient funding.

### **Resident Participation**

HCV households are among the most difficult residents to organize because they can choose a private place to rent anywhere in a PHA's market and are thus less likely to live close to or

have contact with each other. However, the PHA Plan process, and the requirement that voucher households be included on the Resident Advisory Board (RAB), offer platforms for organizing voucher households so that they can amplify their influence in the decision making affecting their homes.

Voucher households can play a key role in shaping PHA policies by participating in the annual and five-year PHA Plan processes. PHAs make many policy decisions affecting voucher households, including determining the value of a voucher to a household and landlord by setting “voucher payment standards.” Other key policies include minimum rents, developing admissions criteria, determining the amount of time a voucher household may search for a unit, giving preferences for people living in a PHA’s jurisdiction, as well as creating priorities for allocating newly available vouchers to categories of applicants (for example, homeless individuals, families fleeing domestic violence, working families, or those with limited English-speaking capability). Voucher households can play an integral role in setting the agenda for local PHAs because the RAB regulations require reasonable representation of voucher households on the RAB if voucher households comprise at least 20% all households assisted by a PHA. See *The PHA Plan* section of this *Advocates’ Guide*.

## STATUTORY AND REGULATORY CHANGES

### Statutory Changes

On July 29, 2016, President Obama signed into law the “Housing Opportunity Through Modernization Act” (HOTMA). This law made some changes to the Housing Choice Voucher and public housing programs. Highlights of the HCV changes include:

- **Income Determination and Recertification:**

- For residents already assisted, rents must be based on a household’s income from the prior year.
- Rent must be based on an applicant’s estimated income for the upcoming year.

- A household may request an income review any time their income or deductions are estimated to decrease by 10%.
- A PHA must review a household’s income any time that income with deductions are estimated to increase by 10%, except any increase in earned income cannot be considered until the next annual income recertification.

- **Income Deductions and Exclusions:**

- The Earned Income Disregard (EID) was eliminated, no longer disregarding certain increases in earned income for residents who had been unemployed or receiving welfare.
- The deduction for elderly and disabled households increased from \$400 to \$525 with annual adjustments for inflation.
- The deduction for medical care, attendant care, and auxiliary aid expenses for elderly and disabled households will apply to expenses that exceeded 10% of income (compared to 3% of income before HOTMA).
- The dependent deduction remains at \$480 but will be indexed to inflation; it applies to each member of a household who is less than 18 years of age and attending school, or who is a person 18 years of age or older with a disability.
- The deduction of anticipated expenses for the care of children under age 13 that are needed for employment or education is unchanged.
- Any expenses related to aiding and attending to veterans are excluded from income.
- Any income of a full-time student who is a dependent is excluded from income, as are any scholarship funds used for tuition and books.
- HUD must establish hardship exemptions in regulation for households who would not be able to pay rent due to hardship. These regulations must be made in

consultation with tenant organizations and industry participants.

- **Physical Inspections:**

- HOTMA provides PHAs with two options for initial inspections:
  - HOTMA allows a household to move into a unit and a PHA to begin making housing assistance payments to an owner if the unit does not meet HQS, as long as the deficiencies are not life-threatening. However, a PHA must withhold payments to an owner if a unit does not meet HQS standards 30 days after a household first occupies a unit. If an initial inspection identifies non-life-threatening (NLT) deficiencies, a PHA must provide a list of the deficiencies to a household and offer the household an opportunity to decline a lease without jeopardizing their voucher.

A PHA must also notify a household that if an owner fails to correct NLT deficiencies within a time period specified by a PHA, the PHA will terminate the Housing Assistance Payment (HAP) contract and the household will have to move to another unit. If a household declines a unit, a PHA must inform the household of the amount of search time they have remaining to find another unit. In addition, a PHA must “suspend” (stop the clock) of an initial or any “extended term” of a voucher (to search for another unit) from the date the household submitted a request for PHA approval of tenancy until the date the PHA notifies the household in writing whether the request has been approved or denied.
  - Alternatively, a PHA may allow a household to move into a unit before the PHA conducts its own HQS inspection, as long as the unit passed a comparable, alternative inspection within the previous 24 months.

Implementing guidance published in 2017 still requires a PHA to conduct its own inspection within 15 days.

- Enforcement of Housing Quality Standards:
  - HQS deficiencies that are life-threatening must be fixed within 24 hours and HQS conditions that are not life-threatening must be fixed within 30 days. A PHA may withhold assistance (“abate”) during this time (HOTMA places into law the 24-hour and 30-day time periods that already existed in regulation). If an owner fails to make the non-life-threatening corrections within 30 days, a PHA must withhold any further HAP payments for another 60 days or until those conditions are addressed and the unit meets HQS. Once a unit is found to be in compliance, a PHA may reimburse the owner for the period during which payments were withheld.
  - If an owner fails to make the non-life-threatening corrections after 30 days (or life-threatening violations within 24 hours), a PHA must abate assistance, notify the household and owner of the abatement, and inform the household that they must move if the unit is not brought into HQS compliance within 60 days after the end of the first 30-day period. The owner cannot terminate the household’s tenancy during the abatement, but the household may terminate its tenancy if they choose. If the owner does not correct the HQS deficiencies within those 60 days, the PHA must terminate the HAP contract with the owner.

The household must have at least 90 days to find another unit to rent (a PHA may extend the search period). If the household cannot find another unit, then the PHA must give the household the option of moving into a public housing unit. The PHA may provide

relocation assistance to the household, including reimbursement for reasonable moving expenses and security deposits, using up to two months of any rental assistance amounts withheld or abated.

- **Payment Standard for Reasonable Accommodation:**

- PHAs may establish an exception payment standard of up to 120% of the FMR as a reasonable accommodation for a person with a disability, without having to get HUD approval.
- PHAs may seek HUD approval for an exception payment standard greater than 120% of FMR as a reasonable accommodation.

- **Hold Harmless Provision:**

- PHAs have the option to hold voucher households harmless from rent increases when FMRs decline. PHAs can do this by continuing to use the payment standard based on the FMR prior to the new, higher FMR.

- **Project Based Vouchers:**

- PHAs may choose to project base up to 20% of their authorized HCVs (removing the previous PBV cap of 20% of a PHA's HCV dollar allocation).
- PHAs may project base an additional 10% of their authorized HCVs to provide units for people who are experiencing homelessness, disabled, elderly, or veterans, as well as to provide units in areas where vouchers are difficult to use (census tracts with a poverty rate less than 20%).
- A project may not have more than 25% of its units or 25 units, whichever is greater, assisted with PBVs. Prior to HOTMA, the PBV cap was 25% of units. The 25%/25 unit cap does not apply to units exclusively for elderly households or households eligible for supportive services. Prior to HOTMA, the exceptions to the 25%

cap applied to households comprised of elderly or disabled people and households receiving supportive services. For projects where vouchers are difficult to use (census tracts with poverty rates less than 20%), the cap is raised to 40%.

- The maximum term of initial PBV contracts and subsequent extensions increased from 15 years to 20 years. A PHA may agree to extend a HAP contract for an additional 20 years, but only for a maximum of 40 years according to implementation guidance. However, informally HUD staff have conveyed to NLIHC that the guidance is confusing; HUD staff agree that an owner could renew a HAP contract after 40 years.
- If an owner does not renew a PBV contract, a household may choose to remain in the project with voucher assistance; however, the household must pay any amount by which the rent exceeds their PHA's payment standard.

- **Manufactured Homes:**

- Vouchers may be used to make monthly payments to purchase a manufactured home, and to pay for property taxes and insurance, tenant-paid utilities, and rent charged for the land upon which the manufactured home sits, including management and maintenance charges.

## CARBON MONOXIDE

“The Consolidated Appropriations Act of 2021” requires Carbon Monoxide (CO) alarms or detectors to be installed in each public housing unit, as well as other HUD-assisted properties, by December 27, 2022. HUD issued joint [Notice PIH 2022-01/H 2022-01/OLHCHH 2022-01](#) clarifying that it will enforce this requirement. In the HCV and PBV programs, property owners or landlords are responsible for the cost of CO alarms or detectors. In addition, PHAs may use their HCV administration funds for landlord outreach and education about these requirements.



## PROPOSED REGULATORY CHANGES

On September 17, 2019, HUD proposed HOTMA implementation regulations echoing HOTMA's income examination, income calculation, elderly or disabled deduction, childcare deduction and hardship provisions, and healthcare deduction and hardship provisions. In addition, HUD proposed HOTMA asset limitation provisions, including: making households ineligible if their net household assets are greater than \$100,000 (adjusted for inflation each year) or if the household owns real property suitable for occupancy; allowing a PHA to determine net assets based on a household's certification that their net family assets are less than \$50,000 (adjusted for inflation each year); revising the definition of "net family assets" by eliminating a number of previously included items such as the value of necessary "personal property" (like a car); and allowing a PHA to choose to not enforce the asset limit. NLIHC [summarized](#) key provisions of the proposed changes. A final rule was not implemented before *Advocate's Guide* went to publication. Still more HOTMA regulations were proposed for vouchers on [October 8, 2020 in the \*Federal Register\*](#). This massive proposal contains many provisions already implemented through notices that must be codified in the Code of Federal Regulations (CFR), provisions not yet implemented, and numerous non-HOTMA related changes. A final rule cleared the Office of Information and Regulatory Affairs (OIRA) during 2022, but was not published in the *Federal Register* before *Advocate's Guide* went to publication.

### Additional Regulatory Changes

- A "streamlining rule" was published on March 8, 2016. Key HCV provisions included the following options for PHAs:
  - PHAs have the option of conducting a streamlined income determination for any household member who has a fixed source of income (such as Supplemental Security Income, SSI). If that person or household member with a fixed income also has a non-fixed source of income, the non-fixed

source of income is still subject to third-party verification. Upon admission to the voucher program, third-party verification of all income amounts will be required for all household members. A full income reexamination and redetermination must be performed every three years. In between those three years, a streamlined income determination must be conducted by applying a verified cost of living adjustment or current rate of interest to the previously verified or adjusted income amount.

- PHAs have the option of providing utility reimbursements on a quarterly basis to voucher households if amounts due are \$45 or less. PHAs can continue to provide utility reimbursements monthly if they choose to do so. If a PHA opts to make payments on a quarterly basis, the PHA must establish a hardship policy for tenants if less frequent reimbursement will create a financial hardship.
- The rule implements the "FY14 Appropriations Act" provision authorizing PHAs to inspect voucher units every other year, rather than annually, and to use inspections conducted by other programs such as the Low-Income Housing Tax Credit program.

## FUNDING

Congress appropriated \$26.401 billion for FY23 to renew existing Housing Choice Voucher (HCV) contracts. This was an increase above the FY22 final appropriation of \$24.1 billion. For PHA administration costs, Congress appropriated \$2.778 billion, compared to the FY22 appropriated amount of \$2.4 billion. Congress only appropriated \$500 million in FY23 for incremental vouchers, the amount provided for in the Senate's bill; the president proposed \$1.55 billion for an estimated 200,000 new incremental vouchers, while the House proposed \$1.1 billion.

## FORECAST FOR 2023

A final rule is anticipated that would implement remaining HOTMA provisions, basically echoing the statute's income examination, income calculation, elderly or disabled deduction, child-care deduction and hardship provisions, healthcare deduction and hardship provisions, and asset limitation provisions. Each PHA's eligibility for renewal funding is based on the cost of vouchers in use in the prior year.

## WHAT TO SAY TO LEGISLATORS

Advocates should encourage Members of the House and Senate to fully fund the renewal of all vouchers.

## FOR MORE INFORMATION

NLIHC, 202-662-1530, [www.nlihc.org](http://www.nlihc.org).

National Housing Law Project, 415-546-7000, <http://nhlp.org/resourcecenter?tid=121>.

Center on Budget and Policy Priorities, 202-408-1080, <https://www.cbpp.org/topics/housing>.

Technical Assistance Collaborative, *Section 8 Made Simple*, <http://bit.ly/2hWKzYa>.

NLIHC's Summary of September 17, 2019 proposed HOTMA implementation regulations, <https://bit.ly/2kr70dt>.

HUD's Housing Choice Voucher homepage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv).

HUD's HCV Guidebook webpage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/guidebook](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook).

HUD's VASH webpage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/vash](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/vash).

HUD's Non-Elderly Disabled webpage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/ned](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/ned).

HUD's Mainstream Voucher webpage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/mainstream](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/mainstream).

HUD's Family Unification Program (FUP) webpage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/family](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/family).

HUD's Foster Youth to Independence Initiative (FYI) webpage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/fyi](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/fyi).

HUD's HOTMA Resources webpage, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/hotmaresources](https://www.hud.gov/program_offices/public_indian_housing/hotmaresources).

<https://bit.ly/3pn9xms>.

The Administration's FY23 proposal for Tenant-Based Rental Assistance, [https://www.hud.gov/sites/dfiles/CFO/documents/2023\\_CJ\\_Program\\_TBRA.pdf](https://www.hud.gov/sites/dfiles/CFO/documents/2023_CJ_Program_TBRA.pdf).