Project-Based Vouchers

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

Year the Current Version Started: 2001

Number of Persons/Households Served: Nearly 304,000 households

Population Targeted: Extremely low- and low-income households

See Also: For related information, refer to the *Housing Choice Vouchers* and *Public Housing Agency Plan* sections of this *Guide*.

Public housing agencies (PHAs) may project-base up to 20% of their authorized Housing Choice Vouchers (HCVs), plus an additional 10% (for total of up to 30%) if the additional units contain certain 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 a household. According to PIH's Data Dashboard, as of August 2022, about 304,000 units had project-based voucher (PBV) assistance, with another 23,000 units in the pipeline. In addition, more than an additional 97,000 former public housing or other federally assisted units converted to PBVs under the Rental Assistance Demonstration, RAD, (see the Rental Assistance Demonstration section of this *Advocates' Guide*). Only one-third (about 815) of the approximately 2,200 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 is particularly important in higher cost areas, where the PBV regulations may allow higher subsidies than tenant-based vouchers.

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)]. The PBV program replaced the project-based certificate program, which was rarely used because it was cumbersome (e.g., PIH 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 household 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 if a previously assisted household moves so that another household can be assisted. This mobility requirement helps ensure that PBV recipients remain able to choose where they want to live. Congress also included statutory requirements to promote mixed-income housing and to deconcentrate poverty.

PIH 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. PIH revised the PBV rule incorporating the HERA amendments and make some additional changes, which became effective in July 2014.

Section 106 of the "Housing Opportunity Through Modernization Act of 2016" (HOTMA), which the president signed into law on July 29, 2016 (Pub.L. 114-201), made substantial changes to the PBV program. PIH published a notice in the *Federal Register* on January 18, 2017 makng most of these changes effective in 90 days (i.e., April 18, 2017). PIH issued technical corrections to the January notice in July 2017 and consolidated all PBV policy guidance in Notice PIH 2017-21 on October 30, 2017. In July 2019, PIH issued revised forms for the PBV program that comply with these HOTMA changes. On October 8, 2020, PIH issued proposed regulations to implement the remaining provisions of HOTMA and make other changes in the PBV program; a final rule has not been published as of the drafting of this *Advocates' Guide*. Properties selected to receive PBVs prior to April 18, 2017 will be subject to the pre-HOTMA requirements, unless the PHA and owner agree to the HOTMA changes. This article reflects the HOTMA changes currently in effect, which include the basic regulations at 24 CFR part 983, yet to be updated to reflect HOTMA changes such as those implemented by the January 18, 2017 Federal Register notice and Notice PIH 2017-21.

PROGRAM SUMMARY

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 allows a more streamlined process. 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 PHA Plan. A PHA must include in its HCV Administrative Plan, details about how it will select properties at which to project base vouchers, how it will maintain waiting lists, along with what, if any, supportive services will be offered to PBV residents. PIH approval is not required, but PHAs have to submit certain information to the local PIH Field Office prior to selecting properties to receive PBV contracts.

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 just at the project level.

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 LIHTCs, except if project-basing is part of an initiative to improve, develop, or replace a public housing property or site and the PHA has an ownership interest in or control of the property.

The locations where PBVs are used must be consistent with the goal of deconcentrating poverty and expanding housing and economic opportunity, but PHAs have substantial discretion to make this judgment as long as they consider certain factors specified in the PBV regulations.

Statutory and Regulatory Limits

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 increases the number of vouchers that may be project-based nationally by about 300,000. In addition, HOTMA allows a PHA to project-base an additional 10% of its vouchers, up to a total of 30%, in units that:

1. House individuals and families meeting the McKinney homelessness definition.
2. House veterans.
3. Provide supportive housing to persons with disabilities or to elderly people.
4. Are located in areas where the poverty rate is

20% or less, based on census data at the time of the PBV contract.

Former public housing or other federally assisted or rent-restricted housing, including units converted to PBVs as part of RAD, generally do not count toward this cap.

To achieve a mix of incomes, in general PBVs can be attached to no more than the greater of 25% of the units in a project or 25 units, although there are several exceptions to this requirement. The limitation does not apply to projects that were previously federally assisted or rent restricted. Also, up to 40% of the units in project can be PBV-assisted if located in a census tract that has a poverty rate not exceeding 20%. The income mixing limitation does not apply to units housing seniors, as well as non-elderly residents (including, but not limited to, people with disabilities) who are eligible for supportive services that are made available to assisted tenants in the project. (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 PIH 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.

HOTMA increased the maximum term of the initial contract or any extension to 20 years, and PHAs may project-base vouchers provided under the Family Unification or HUD-VASH programs. PHAs and owners can modify PIH's form PBV contracts to adjust to local circumstances and to add units to existing contracts.

Units receiving PBV assistance must meet PIH's housing quality standards (HQS) before initial occupancy. HOTMA provides some new flexibility to speed initial occupancy if units have been approved under a comparable alternative inspection method (such as with the LIHTC or HOME programs) or if defects are not life-threatening and are fixed within 30 days. In situations allowing tenants to remain in place, instead of inspecting each PBV-assisted unit, PHAs may inspect a sample of PBV units biannually, reducing administrative costs.

PIH'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 leases expire, without cause, unless state laws are more stringent). In addition, if a PBV contract is terminated or expires without extension, families have a right to use tenant-based voucher assistance to remain in the unit or move to other housing of their choice.

RENT

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 rent to owner, 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 for PBV units:

1. There is no risk that a household will have to pay more than 30% of its income if the rent is above the PHA's payment standard, which is generally between 90% and 110% of the Fair Market Rent (FMR).
2. The unit rent is not limited by the PHA's payment standard but may be any reasonable amount up to 110% FMR or HUD-approved exception payment standard (up to 120% FMR). This flexibility on unit rents applies even in the case of units that receive HOME Program funds, which usually cap rents at 100% of the HUD-designated FMR. Special and more flexible rent rules apply to LIHTC units.
3. PHAs in metro areas required to or that voluntarily set FMRs at the ZIP code level (Small Area FMRs, or SAFMRs) rather than standard metro-wide FMRs, continue to use metro-wide FMRs at 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 reduce allowable unit rents below market based on the property's receipt of other government subsidies. 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.

WAITING LISTS

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 can pay the rent on vacant units for up to 60 days.

PHAs may use different preferences for their PBV waiting list, or the lists for individual PBV properties, than those used for the regular tenant-based list. This may include 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 PBVs 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 everyone 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.

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 2023

HUD will likely finalize proposed regulatory changes published in October 2020 to implement HOTMA policy changes that are not already effective and to incorporate other HOTMA changes already in effect into HUD rules. These policy changes include defining areas where vouchers are difficult to use differently than the initial guidance (which uses a poverty rate of 20% or less for this concept). Such a new definition could expand the types of households or areas that qualify a PHA to use more PBVs overall. The final HOTMA regulations also will likely allow owner-managed, site-based waiting lists, authorize the use of an operating cost adjustment factor to adjust PBV contract rents, streamline environmental review requirements for existing housing, and allow PHAs to enter into a contract for a property under construction.

FOR MORE INFORMATION

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

A "policy basic" on PBVs is at https://www.cbpp.org/research/housing/policy-basics-project-based-vouchers.