Housing Choice Vouchers

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

Year Started: 1974

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

Funding: FY20 was $21.5 billion for contract renewals plus $1.98 billion for PHAs to administer the program.

Housing Choice Vouchers (HCVs) help people with the lowest incomes afford housing in the private housing market by paying landlords the difference between what a household can afford to pay for rent and the rent itself, up to a reasonable amount. The HCV program is HUD's largest rental assistance program, assisting approximately 2.3 million households.

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

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, with no more than about 17,000 for special populations, mostly for homeless veterans under the HUD-Veterans Affairs Supportive Housing Program. In FY19 Congress appropriated $40 million for new Veterans Affairs Supportive Housing (HUD-VASH) vouchers and $20 million for new Family Unification Program (FUP) vouchers to serve youth aging out of foster care, for a total of 7,600 new vouchers.

PROGRAM SUMMARY

Today, about 2.3 million households have HUD Housing Choice Vouchers (HCVs), also called Section 8 tenant-based rental assistance. Of voucher households, 75% have extremely low incomes (less than 30% of the area median income, AMI, or the federal poverty level, whichever is greater), 36% have a head of household who has a disability, and 27% are elderly. The national average income of a voucher household is $14,863. Thirty percent of the households have wage income as their major source of income, while only 3% have welfare income.

Housing vouchers are one of the major federal programs intended to bridge the gap between the cost of housing and the incomes of low-wage earners, people on limited fixed incomes, and other low-income 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.

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 vouchers can be distributed to residents with incomes up to 80% of AMI.

HUD has annual contracts with about 2,200 PHAs to administer vouchers, about 800 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 HUD based on the number of vouchers in use in 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 waiting 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 vouchers receives any form of federal rental assistance. The success of the existing voucher program and any expansion with new vouchers depends on annual appropriations.

Local PHAs distribute vouchers to qualified families who have 60 days to conduct their own housing search to identify private apartments with rents within the PHA's rent payment standards. 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 with the Low-Income Housing Tax Credit, HOME, or national Housing Trust Fund programs must rent to an otherwise qualifying household that has a voucher. In addition, some states and local governments have source-of-income laws that prohibit landlords from discriminating against households with vouchers.

The amount of the housing voucher subsidy is capped at a payment standard set by the 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 pays $379 a month for rent and utilities. Often, 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 rents.

A PHA may request HUD Field Office approval of an exception payment standard up to 120% of the FMR for a designated part of the FMR area. In addition, an exception payment greater than 120% of the FMR may need to 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 time limit allowed to search for a landlord who will accept a voucher.

As a result of recent legislation, 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.

Once a household selects an apartment, the 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, then makes up the difference between the tenant's rent payment and rent charged by the 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 its income toward rent.

Housing vouchers are portable, meaning households can use them to move nearly anywhere in the country where there is a functioning 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.

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:

- Rent must be based on an applicant's estimated income for the upcoming year.
- For residents already assisted, rents must be based on a household's income from the prior year.
- A household may request an income review any time its 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 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 as opposed to 3% of income before HOTMA.
  - The dependent deduction remains at $480 but will be indexed to inflation.
  - HUD must establish hardship exemptions in regulation for households that would not be able to pay rent due to hardship. These regulations must be made in consultation with tenant organizations and industry participants.
  - Any expenses related to aid and attendants for 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.
- Physical Inspections:
  - HOTMA provides PHAs with two options for initial inspections:

    HOTMA allows a household to move into a unit and begin making housing assistance payments to the owner if the unit does not meet HQS, as long as the deficiencies are not life-threatening. However, the PHA must withhold payments to the owner if the unit does not meet HQS standards 30 days after the household first occupies the unit. If an initial inspection identifies non-life-threatening (NLT) deficiencies, a PHA must provide a list of the deficiencies to the household and offer the household an opportunity to decline a lease without jeopardizing its voucher. The PHA must also notify the household that if the owner fails to correct the NLT deficiencies within the time period specified by the PHA, the PHA will terminate the HAP contract and the family will have to move to another unit. If the household declines the unit, the PHA must inform the household of how much search time they have remaining to find another unit. In addition, the PHA must suspend (stop the clock) of the initial or any extended term of the voucher (to search for another unit) from the date the household submitted the request for PHA approval of the tenancy until the date the PHA notifies the household in writing whether the request has been approved or denied.

Alternatively, PHAs 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. The PHA may withhold assistance 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, the PHA must withhold any further HAP payments until those conditions are addressed and the unit meets HQS. A PHA may withhold payments up to 180 days. 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), the PHA must abate assistance, notifying the household and owner of the abatement and that the household 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 it chooses. The household must have at least 90 days to find another unit to rent. 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.
- 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 homeless, 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 indeed confusing; HUD staff agree that an owner could renew a HAP contract after 40 years.
  - If the 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 the PHA's payment standard.
- 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.

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, proposing that households be ineligible if net household assets are greater than $100,000 (adjusted for inflation each year) or if the household owns real property suitable for occupancy; to allow 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); to revise 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 to allow PHAs to choose to not enforce the asset limit.

ADDITIONAL REGULATORY CHANGES

- A "streamlining rule" was published on March 8, 2016. Key HCV provisions include 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). If that person or household 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 the 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 like the Low-Income Housing Tax Credit program.
- Small Area FMRs (also referred to as SAFMRs) must be used by 24 designated metropolitan areas to administer their voucher program. SAFMRs reflect rents for U.S. Postal ZIP Codes, while traditional FMRs reflect a single rent standard for an entire metropolitan region. The intent is to provide voucher payment standards that are more in line with neighborhood-scale rental markets, resulting in lower subsidies in neighborhoods with lower rents and concentrations of voucher holders, and relatively higher subsidies in neighborhoods with higher rents and greater opportunities. A goal of SAFMRs is to help households use vouchers in areas of higher opportunity and lower poverty, thereby reducing voucher concentrations high poverty areas.

  In a surprise move without public notice, on August 11, 2017 HUD suspended the obligation of PHAs to implement SAFMRs for two years in all but one of the 24 metropolitan areas (the Dallas metro area was still required to comply under a 2011 legal settlement). Fair housing advocates sued HUD, and a court issued a preliminary injunction against HUD. Early in 2018, HUD issued guidance requiring PHAs in those 24 metro areas to begin using SAFMRs by April 1, 2018.

FORECAST FOR 2020

Each PHA's eligibility for renewal funding is based on the cost of vouchers in use in the prior year. For FY20 both houses of Congress proposed adequate funding to renew all existing vouchers; the House proposed $21.4 billion while the Senate proposed $21.5 billion. The Trump Administration proposed only $20.1 billion. The final enacted appropriation for FY20 is $21.5 billion for contract renewals.

President Trump's FY20 budget proposal again included so-called rent reforms that would have placed serious financial burdens on voucher households. For example, non-elderly and non-disabled households would pay 35% of their gross income (up from 30% of their adjusted income). Elderly and disabled households would pay 30% of gross income (not adjusted income). The proposal would also allow PHAs to impose work requirements. Congress has not taken steps to adopt these provisions, but the president has proposed them again for FY21.

WHAT TO SAY TO LEGISLATORS

Advocates should encourage members of the House and Senate to:

- Fully fund the renewal of all vouchers.
- Oppose burdensome and costly time limits and work requirements for people receiving federal housing assistance.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

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

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

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, http://bit.ly/2ijlWUs

HUD's Non-Elderly Disabled webpage, http://bit.ly/2ifnv9I

HUD's VASH webpage, http://bit.ly/2h5yHRr

HUD's Family Unification Program (FUP) webpage, https://bit.ly/38CuBMw