Project-Based Vouchers

By Barbara Sard, former Vice President for Housing Policy, Center on Budget and Policy Priorities. Updated by Ed Gramlich, Senior Advisor, NLIHC

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

Year the Current Version Started: 2001

Number of Persons/Households Served: Nearly 355,000 households

Population Targeted: Extremely low- and low-income households

See Also: For related information, refer to the *Housing Choice Vouchers, Public Housing Agency Plan, and Rental Assistance Demonstration* 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 Voucher Data Dashboard: https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/dashboard, as of September 30, 2024, 354,713 total units had project-based voucher (PBV) assistance, with about another 23,786 units in the pipeline. Of that total, 107,410 units were part of a Rental Assistance Demonstration (RAD) project (see the *Rental Assistance Demonstration* section of this guide). Only 833 of the approximately 2,100 PHAs that administer HCVs operate PBV programs.

PBVs are an important tool to provide supportive housing for households who have members with disabilities, formerly homeless households, 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, because owners of properties with PBVs receive financial security from the 20-year 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 of 1937," 42 U.S.C. §1437f(o)(13)]: https://bit.ly/4itPf4c. 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 at that building. The 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 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 made some additional changes, which became effective in July 2014.

Section 106 of the "Housing Opportunity Through Modernization Act of 2016" (HOTMA), which President Obama 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*: https://bit.ly/3S3hcVF on January 18, 2017 making 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: https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2017-21.pdf on October 30, 2017. Properties selected to receive PBVs prior to April 18, 2017 are subject to the pre-HOTMA requirements, unless the PHA and owner agree to the HOTMA changes.

On October 8, 2020, PIH issued proposed regulations: https://bit.ly/4iqhssB to implement additional provisions of HOTMA relating to HCVs and PBVs. This massive proposal contained many provisions already implemented through notices that had to be codified in the Code of Federal Regulations (CFR), as well as provisions not yet implemented, and numerous non-HOTMA related changes. A final rule (dubbed the "Voucher rule": https://bit.ly/3S6Xus8) was published on May 7,2024. In addition, a HOTMA-related final rule pertaining to income determination and asset limitations: https://bit.ly/4js9X5W was published on February 14, 2023.

This article reflects some of the key HOTMA changes, which include the basic regulations at 24 CFR part 983: https://bit.ly/3Emk0u8 that is not yet fully updated to reflect all HOTMA changes.

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 toward 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 (for more information about PHA Plans, see the *Public Housing Agency Plan* entry in this guide). A PHA must include in its HCV Administrative Plan, details about how it will select properties at which vouchers could be project based, 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.

Households 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 households admitted annually have extremely low income (households with income equal to or less than 30% of the area median income, AMI). 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, such as the Rental Assistance Demonstration.

The locations where PBVs are used must be consistent with the goal of deconcentrating poverty and expanding housing and economic opportunity as reflected in the PBV "site and neighborhood standards": https://bit.ly/4iyvXuD regulations, but PHAs have substantial discretion to make this judgment as long as they consider certain factors specified in the PBV regulations.

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 waiting list, or maintain a separate PBV waiting list, or even maintain separate waiting lists 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.

PBV-SPECIFIC PROVISIONS IN HOTMA (HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT)

A final rule HOTMA rule (dubbed the "Voucher rule": https://www.federalregister.gov/documents/2024/05/07/2024-08601/housing-opportunity-through-modernization-act-of-2016-housing-choice-voucher-hcv-and-project-based) was published on May 7,2024. implementing provisions of the "Housing Opportunity Through Modernization Act of 2016" (HOTMA) affecting the Housing Choice Voucher (HCV) tenant-based program and the Project-Based Voucher (PBV) program.

Changes to the PBV "Program Cap"

HOTMA increased the share of a PHA's "authorized" vouchers that a PHA could project base by shifting the measure from 20% of voucher funding to 20% of authorized vouchers, which increases the potential 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%, provided the additional 10% meet one of the following targeted populations or locations:

1. The extra units are specifically made available individuals and families meeting the McKinney homelessness definition.
2. The extra units are specially made available to a veteran.
3. The extra units provide supportive housing to persons with disabilities or to elderly people.
4. The extra units are located in an area where vouchers are difficult to use, which are:
    a. A Census tract with poverty rate of 20% or less;
    b. A ZIP code where the rental vacancy rate is less than 4%; or
    c. A ZIP code where 90% of the Small Area Fair Market Rent (SAFMR) is more than 110% of the metropolitan area FMR or county FMR.
5. The extra units are occupied by youth eligible for assistance through the Family Unification Program's Foster Youth to Independence program (FUP/FYI);
6. The extra units replace, on a different site, units from types of properties "excluded" from the program caps (see below). The purpose of this option is to help facilitate siting properties in order to deconcentrate poverty and to place units in higher opportunity areas.

The HOTMA statute excludes from the program cap, PBV units attached to properties previously subject to federally required rent restrictions or that received other HUD project-based assistance. Units are "excluded" from the program cap (the 20% basic cap and the 10% targeted cap) if in the five years prior to requesting PBVs:

- A property's units previously received assistance from various HUD programs, including: public housing, privately owned properties assisted by the Section 8 Project-Based Rental Assistance (PBRA) program, Section 202 Supportive Housing for the Elderly, and Section 811 Supportive Housing for Persons with Disabilities, or
- A property's units were previously subject to a federally required rent restriction, including: the Low Income Housing Tax Credit (LIHTC), Section 515 Rural Rental Housing (administered by the Rural Housing Service of the U.S. Department of Agriculture), Section 202, and Section 811.

What the exclusion provisions mean is that a PHA can project base more HCVs than the basic 20% plus 10% targeted caps, project basing 50% or more of its authorized vouchers. The preamble to the final rule states that the use of PBV assistance can be an effective preservation tool that can prevent the loss of affordable housing units in communities. However, PIH also states in the preamble and in the final rule text that a PHA should consider its ability to meet the variety of needs for tenant-based vouchers as well as project-based vouchers. In particular, the final rule concerns a PHA's ability to meet its statutory obligation to provide a tenant-based voucher to a PBV household that chooses to move from a PBV unit after living in it for at least one year. PIH is also concerned about households on a PHA's HCV waiting list if too many tenant-based vouchers are project-based. To that end, the final rule requires a PHA to conduct an analysis of the impact of project basing 50% or more of its authorized voucher units.

Rental Assistance Demonstration (RAD) and HUD-Veterans Affairs Supportive Housing (VASH) units are not mentioned in the final rule. The proposed rule explicitly excluded RAD and VASH from the program cap in the proposed rule, but PIH removed the explicit reference in the final rule. The preamble states that the RAD notice and VASH explicitly exclude them so there is no need to refer to them in the final rule.

Changes to the PBV "Project Cap"

Prior to the statutory changes made by HOTMA, the PBV statute and regulations limited the number of units in a project that could be project-based to 25% of all the units in the project (assisted and unassisted). This is called the "project cap" or the "income mixing" requirement.

The HOTMA statute changed the project cap to be either 25% of all units *or 25 units,* whichever is greater. The statute also allowed the project cap to increase to *up to 40%* of a project's units *if the project is in an area where it is difficult to use a regular tenant-based Housing Choice Voucher* ("difficult to use areas" as specified above). The final rule follows the statute.

HOTMA also does not count toward the project cap, units that are project based through the PBV program that previously received other forms of HUD project-based rental assistance or that were previously subject to federally required rent restrictions, as described above.

Before HOTMA, some units did not count toward the 25% "project cap." In general, these "exception" units were those made available to elderly and/or disabled households and units made available to households ***receiving*** supportive services. HOTMA changed the "exception" unit supportive services option from units made available to households receiving supportive services to households eligible for supportive services, even if a household chooses not to participate in the services. If any member of a household is eligible for one or more of the supportive services, the unit qualifies as an exception unit. The final rule reiterates additional aspects pertaining to the supportive service exception as detailed in a January 18, 2017 *Federal Register* notice: https://bit.ly/3S3hcVF. As before, the final rule considers units exclusively made available to elderly households to be exception units. The final rule also added another category of exception unit, one made available to youth assisted by the FUP/FYI program.

The final rule adds a new clarifying clause stating that a project is not limited to a single exception category; a project may combine any of the above exception categories. For example, some of the units may be designated for elderly households that do not need supportive services and some may be designated for households who are eligible for supportive services but are not elderly.

Other PBV-Specific HOTMA Provisions

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 (for more details on how HOTMA affects the PBV inspection process, see the *Housing Choice Voucher* entry in this guide). 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, households have a right to use tenant-based voucher assistance to remain in the unit or move to other housing of their choice. If the household chooses to remain in their unit, they can be required to pay any amount by which the unit rent exceeds their PHA's payment standard.

HOTMA INCOME AND ASSET PROVISIONS

On February 14, 2023, PIH published a final rule: https://bit.ly/4js9X5W implementing HOTMA's income determination (Section 102) and asset limitation (Section 104) provisions that apply to both HCVs and PBVs. In addition, PIH issued implementing guidance through joint Notice PIH 2023-27/H 2023-10: https://bit.ly/42H0lgj, revised on February 2, 2024. Attachment A of the Notice provides clear and specific guidance regarding a PHA's discretion to not enforce the asset limit provision.

PIH posted fact sheets tailored to HCV, PBV, and public housing residents about the HOTMA new asset limits and income calculations. Separate worksheets can help residents calculate whether they might exceed the asset and income limits. In addition, there are two video trainings, one about income calculations and reviews and one about asset limits. These materials are available in English and Spanish.

On September 18, 2024, PIH sent an email to PHAs: https://www.hud.gov/sites/dfiles/PIH/documents/9.18.24%20HOTMA%20102%26104%20Income%20and%20Assets%20Rule%20Compliance.pdf informing them that they would not have to comply with the income and asset provisions of HOTMA on January 1, 2025 because PIH's new Housing Information Portal (HIP) was not ready (HIP is intended to replace PIH's IMS/PIC system to accommodate HOTMA changes). The email informed PHAs that PIH will issue guidance on additional HOTMA provisions that can be implemented, and that in the meantime, PHAs should refer to FAQs: https://www.hud.gov/sites/dfiles/PIH/documents/PIH%20HOTMA%20Implementation%20FAQ%209.13.2024.pdf?utm_medium=email&utm_source=govdelivery for provisions that currently may be implemented and guidance related to updating Admission and Continued Occupancy Policies (ACOPs) and Administrative Plans.

Income Determination and Recertification

For residents already assisted, rents must be based on a household's income from the prior year. For applicants for assistance, rent must be based on estimated income for the upcoming year. A PHA may determine a household's income, before applying any deductions, based on income determination made within the previous 12-month period using the income determination made by other programs, such as Temporary Assistance for Needy Families (TANF), Medicaid, the Supplemental Nutrition Assistance Program (SNAP), the Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Earned Income Tax Credit (EITC), Supplemental Security Income (SSI), and the Low Income

Housing Tax Credit (LIHTC).

A household may request an income review any time their income or deductions are estimated to decrease by 10%. A PHA has the discretion to set a lower percentage threshold. Rent decreases are to be effective on the first day of the month after the date of the actual change in come – meaning the rent reduction is to be applied retroactively.

A PHA must review a household's income any time that income with deductions is 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; it disregarded certain increases in earned income for residents who had been unemployed or were receiving welfare.
- The deduction for elderly and disabled households increased from $400 to $525 with annual adjustments for inflation (this became effective January 1, 2024).
- The deduction for elderly and disabled households for medical care (as well as for attendant care and auxiliary aid expenses for disabled members of the household) used to be for such expenses that exceeded 3% of income. HOTMA limits the deduction for such expenses to those that exceed 10% of income.
- 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 (this became effective January 1, 2024).
- The deduction of anticipated expenses for the care of children under age 12 that are needed for the caregiver to seek or maintain employment or education is unchanged.
- Any expenses related to aiding and attending to a veteran 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.
- If a household is not able to pay rent, a PHA has the discretion to establish policies for determining a household's eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption.

Asset Limits

To be eligible for voucher assistance, a household must not own real property that is suitable for occupancy as its residence or have assets greater than $100,000 (adjusted for inflation each year). However, PHAs have the discretion to not enforce these asset limits.

There are a number of things that do not count as "assets" and instead are considered "necessary personal property" such as a car needed for everyday use, furniture, appliances, personal computer, etc. So-called "non-necessary personal items that have a combined value less than $50,000 are excluded from the calculating household assets. Also exempt are retirement savings accounts. A household may self-certify that it has assets less than $50,000 (adjusted for inflation each year).

NLIHC reiterates that Attachment A of Notice PIH 2023-27/H 2023-10: https://bit.ly/42H0lgj, revised on February 2, 2024 provides clear and specific guidance regarding a PHA's discretion to **not enforce** the asset limit provision.

THE NATIONAL STANDARDS FOR PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)

The National Standards for Physical Inspection of Real Estate (NSPIRE) is a protocol intended to align, consolidate, and improve the physical inspection regulations that apply to multiple HUD-assisted housing programs (24 CFR part 5 subpart G). NSPIRE replaces the Uniform Physical Condition Standards (UPCS) developed in the 1990s and it absorbs much of the Housing Quality Standards (HQS) regulations developed in the 1970s. NSPIRE physical inspections focus on three areas: the housing units where HUD-assisted residents live, elements of their building's non-residential interiors, and the outside of buildings, ensuring that components of these three areas are "functionally adequate, operable, and free of health and safety hazards."

NSPIRE applies to HUD programs previously inspected using the Housing Quality Standards (HQS) regulations: the HCV program, including Project-Based Vouchers, PBVs, and the programs administered by the Office of Community Planning and Development (CPD) – HOME Investment Partnerships (HOME), national Housing Trust Fund (HTF), Housing Opportunities for Persons with AIDS (HOPWA), Emergency Solutions Grants (ESG), and Continuum of Care (CoC) homelessness assistance programs. NSPIRE also applies to all HUD housing previously inspected by HUD's Real Estate Assessment Center (REAC), including Public Housing and Multifamily Housing programs such as Section 8 Project-Based Rental Assistance (PBRA), Section 202 Supportive Housing for the Elderly, Section 811 Supportive Housing for Persons with Disabilities, and FHA Insured multifamily housing.

HUD published a final rule: https://bit.ly/3RxtUvK.pdf implementing NSPIRE in the *Federal Register* on May 11, 2023. The new inspection protocol started July 1, 2023 for public housing and October 1, 2023 for the various programs of HUD's Office of Multifamily Housing Programs, such as PBRA, Section 202 and Section 811. The Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) programs as well as the CPD programs will not need to implement the NSPIRE changes until October 1, 2025 (postponed from October 1, 2024).

HUD published three "Subordinate Notices" that supplement the final rule addressing NSPIRE "standards: https://bit.ly/4iyp8t6," "scoring," and "administration." The Standards notice included a link to 295 pages of detailed "inspectable items": https://www.hud.gov/sites/dfiles/PIH/documents/6092-N-05nspire_final_standards.pdf that includes items important in the PBV program indicating whether a deficiency in a given inspectable item could entail a life-threatening deficiency. The Scoring Notice does not apply to the HCV and PBV programs; NSPIRE retains the pass/fail indicator for them. The intent of issuing the subordinate notices instead of incorporating their content in regulation is to enable HUD to more readily provide updates as appropriate.

For more information about NSPIRE, see the *National Standards for Physical Inspection of Real Estate (NSPIRE)* article in this guide.

Funding

PBVs are funded as part of the overall Tenant-Based Rental Assistance (TBRA) 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 2025

The 2024 election resulted in a sweep for Republicans, who will control the House, Senate, and White House in 2025 and 2026. It is difficult to predict the impact for the Housing Choice Voucher program, and consequently for PBVs, as *Advocates' Guide* goes to press; however, appointees to the second Trump Administration have expressed ideas to aggressively cut federal spending.

For More Information

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

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

National Housing Law Project's PBV webpage is at https://www.nhlp.org/resource-center/project-based-vouchers.

PIH's Project-Based Voucher webpage is at https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/project.

PIH's HOTMA Resources webpage, https://www.hud.gov/program_offices/public_indian_housing/hotmaresources.

HUD's HOTMA webpage on HUD Exchange, https://www.hudexchange.info/programs/hotma.

PIH's HOTMA HCV/PBV Rule webpage, https://www.hud.gov/program_offices/public_indian_housing/hotma_voucher.

PIH's HOTMA Income and Assets Rule webpage, https://www.hud.gov/program_offices/public_indian_housing/hotma_income_assets.

PIH's Notice PIH 2024-34 providing a handy overview of HCV and PBV policies, https://bit.ly/4ixeFOr.

HUD's NSPIRE webpage is at https://www.hud.gov/program_offices/public_indian_housing/reac/nspire.