

Section 25.0 PROJECT-BASED VOUCHER PROGRAM

The Section 8 Project-Based Voucher (PBV) program is a component of the Statewide Section 8 Housing Choice Voucher (HCV) program and provides long-term project-based rental assistance contracts for very low and extremely low-income households. Unlike tenant-based assistance where the assisted unit is selected by the family, rental assistance is paid only for contracted units in specific housing developments under the PBV program.

The PBV program is discretionary and allows HCR to contract up to 20 percent of its total HCV budget authority for the use of project-based voucher assistance by means of Housing Assistance Payments (HAP) contracts. Unlike the Tenant-Based Voucher (TBV) Program, PBV subsidies are attached to specific units in specific projects for the term of the Housing Assistance Payments (HAP) contract. They can be used for newly constructed properties or rehabilitated units or for units in existing buildings.

This section pertains to LAs with current project-based developments or LAs that have been approved for project-basing of vouchers. All LAs should fully familiarize themselves with Project-Based Voucher Program, Final Rule (24 CFR Part 983) issued October 13, 2005 and the Housing and Economic Recovery Act of 2008 (HERA) as enacted July 30, 2008 and further established June 25, 2014 and the Housing Opportunity Through Modernization Act of 2016 (HOTMA).

25.01 PBV Contract Selection

HCR will set aside a certain number of vouchers each year to be made available as Project Based Vouchers (“PBVs”), not to exceed the aggregate limit for the program as set forth by HUD regulations. Unless otherwise specified, PBVs will be made available through a competitive process such as a Request for Proposals (“RFP”). Projects selected will comply with all HUD requirements in 24 CFR Part 983. HCR seeks to leverage PBVs with other state and federal affordable housing resources. As such, PBVs may be made available as part of the agency’s annual Unified Funding (“UF”) round, the Multi-Family Open Window RFP, or another competitive selection process as determined appropriate by the agency. Interested parties will be notified of the opportunity to request PBVs through publication of the RFP on the Agency’s web site and one or more of the following methods: 1) Publication of a notice in the New York State Register or another publication of general circulation; 2) Targeted outreach to potential applicants through email, technical assistance workshops, etc.; 3) Other methods as determined appropriate by HCR. HCR will evaluate proposals on a competitive basis as provided in pertinent program statute and regulations and for consistency with the goals and objectives set forth in the RFP. Among other factors, selection will be based on a project’s ability to meet local housing needs and/or its consistency with State or regional strategies to assist underserved communities, expand housing opportunities and deconcentrate poverty. Evaluation factors may also include a project’s consistency with relevant state, local or regional planning documents. Where PBVs are leveraged with other federal and state development financing sources, staff in HCR’s Office of Finance and Development will take a lead role in evaluating the appropriate level of subsidy, connecting with other internal HCR units to coordinate timely compliance

reviews for Section 3, MWBE, environmental, etc. and executing contract documents as required. LAs will be responsible for administering all PBVs assigned to them by HCR.

Funding applications initially received in response to a previously issued competitive selection RFP may also be considered for project-based voucher awards as long as the proposed project's application was received within three years of the initial PBV proposal date, was selected in accordance with the competitive selection process and did not previously involve consideration to receive PBV assistance.

For questions received regarding the Unified Funding process, please refer any prospective applicants to the following link to review HCR's available resources and application process: <https://hcr.ny.gov/funding-opportunities>

25.01.01 Single-Stage and Multi-Stage Contracts

All PBV contracts will be executed as a single stage project (where all contracted units are leased up at the same time) unless the project sponsor at the time of application seeks to lease units incrementally (multi-stage project). Multi-stage contracts may only be requested for projects with more than one building or where a building is five (5) stories or greater. Project sponsors who request a contract to be considered for multi-stage must provide a timeline as part of their application. That timeline shall include approximate lease up times for a maximum of three (3) stages and a minimum of three (3) vouchers in each stage. Each stage must be at least 30 days apart. HAP payments to owners may take up to 60 days from the initial request for each stage. All requests subject to review and approval.

25.02 Deconcentration of Poverty/Expanding Housing Opportunities Standards

As part of HCR's commitment to assist underserved communities, expand housing opportunities and deconcentrate poverty, all applications that include PBVs as a part of their request for funding are reviewed for site selection eligibility. These eligibility reviews are conducted in accordance with Section 983.57(b)(1) of PBV regulations and this Administrative Plan to determine the extent to which a project supports the deconcentration of poverty and expanding housing and economic opportunities as part of their proposal.

The PBV eligibility review is conducted using data derived from local and census tract demographics and is performed on all PBV applications with consideration of the following: current poverty levels as well as changes in the level of poverty over the past five years in an application area; the availability of similarly assisted units in the project area, whether they are sufficient to support the current need and if their availability is likely to increase or decline in the future; the availability of professional, social and/or economic advancement opportunities within the census tract; and any additional public/private dollars currently invested (or to be invested) in the area for purposes of achieving the same goals.

HCR will not select a proposal for existing, newly constructed, or rehabilitated PBV housing or enter into an AHAP contract or HAP contract for PBV units unless HCR has determined that PBV assistance is consistent with these goals.

25.03 HAP Term

The term of the PBV HAP contract can be no less than one (1) year and no more than twenty (20) years. While the term of all PBV HAP contracts will be reviewed on a case- by-case basis within HCR policy and HUD parameters, in most cases the initial term will be twenty (20) years.

HCR will consider and may agree to enter into an extension of the HAP contract prior to expiration of the initial contract term if it is determined an extension is appropriate to continue providing eligible families needed affordable housing opportunities.

The LA is responsible for making housing assistance payments to the owner on behalf of a family and only in accordance with a successfully executed HAP contract. Payment of the tenant's portion of the rent is the responsibility of the family. The LA is not responsible for paying any part of the tenant's portion of the rent, or for paying any other claim by the owner against a family.

25.04 HAP Contract Amendments (Unit Substitution/Addition/Removal)

25.04.01 Unit Substitution

Since PBV assistance is assigned to specific units throughout the duration of a project's HAP contract term, HCR may consider unit substitutions by means of a contract amendment in situations only where a reasonable accommodation is needed. In order to be considered, the substituted unit must be located within the same project, have the same number of bedrooms, be HQS compliant and meet the same PBV requirements as the previously covered contract unit. Should HCR approve the requested substitution, the LA must inspect and pass the proposed unit prior to assistance being transferred.

Exception: Should a unit under contract at a project become vacant *and* the next available applicant on that project's site-specific waiting list is a current occupant in an unassisted unit within the same project, a unit substitution will be considered providing the replacement unit has the same number of bedrooms, is HQS compliant and meets the same PBV requirements as the covered unit.

25.04.02 Unit Addition

A request to amend the HAP contract by adding PBV units may only be considered during the three-year period following the execution date of a project's contract. HCR, at its sole discretion, will consider amending the HAP contract to accommodate additional PBV units under the following general circumstances: a sudden housing shortage caused by a disaster or other loss of housing units, an influx of displaced families, or if an inordinately high percentage

of voucher-holders are unable to find housing prior to the expiration of their voucher (taking into consideration all approved extensions).

Although a new PBV request for proposal is not required, any amendment to a HAP contract is subject to all applicable PBV requirements. Units approved to be added to a HAP contract must use the anniversary and expiration date of the existing contract.

25.04.03 Unit Removal

If, while occupying a PBV unit, a family's portion of the rent exceeds the rent to owner and the family goes to "zero HAP" for a period of 180 days, the unit must be removed from the PBV HAP contract. At such time the LA must notify HCR to amend the contract accordingly. This action does not prohibit the tenant from remaining in the unit in accordance with the terms of their lease.

Once the ineligible family vacates the unit (or gives written notice they intend to vacate), the unit must be reinstated to the PBV contract. The LA must notify HCR of the requested reinstatement and begin to refer eligible applicants from the project's site-specific waiting list in accordance with HCR's Administrative Plan. If notice from the project entity is not received and the unit is filled in violation of the established PBV leasing requirements (as found in CFR 983.253(a)(1)), the unit will be permanently removed from the contract.

The anniversary and expiration dates of the HAP contract for the reinstated unit remains the same as it was when it was originally placed under the HAP contract.

25.05 Selection of Families from the Waiting List for Project-Based Units

Local Administrators who have Project-Based Voucher (PBV) developments in their operating areas are required to maintain individual waiting lists for each PBV development. PBV waiting lists will be established by canvassing the LA's current tenant-based waiting list, accepting owner referrals and by conducting community outreach as needed, taking into consideration the type of development (i.e., family, elderly/disabled) and/or bedroom sizes. Canvassing the general waiting list may be accomplished through individual applicant notification, advertising through local and minority newspapers and the internet, local postings at post offices, libraries, and community centers, or an outreach to social service organizations that have been identified as serving the same clientele that will be occupying the PBV units.

Applicants will be permitted to apply for any/all PBV waiting list(s) within the LA's jurisdiction, and can maintain positions on both the tenant-based and PBV waiting lists at the same time. Placement on a waiting list will be based on the date and time the application/referral is received by the LA for each specific waiting list. HCR's automated Section 8 Housing Choice Voucher System (SHCVS) has been modified to allow for the implementation of multiple waiting lists.

As vacancies occur in a project-based development, it is the LA's responsibility to refer eligible families (based on HCV program criteria) to vacant units from the specific PBV waiting list

for that project. **Regulations require all persons selected for PBV assistance must be selected from HCR's site-specific waiting list.** Communication between the LA and project management should be maintained in order to facilitate the rental process.

If a family is rejected by a project during the project's screening process, the family must be advised in writing that they have 60 days in which to resolve the reason for the rejection. If the issues are resolved, the family must be allowed to remain at the top of that site's waiting list. If, after the 60 days has transpired the reason for the rejection is unresolved, the family goes to the bottom of the site-specific wait list. Once the family is referred and rejected by the project a second time, they will have another 60-day timeframe in which to resolve the issue(s). At that time, if after 60 days the reason for rejection goes unresolved, the family is considered ineligible for that project's waiting list and notified accordingly. Applicants may re-apply for the site-specific waiting list based on their re-application time/date. Such rejection does not affect the family's position on the LA's waiting list for tenant-based assistance.

All eligible applicants may remain in place on the site-specific waiting list if they decline two opportunities for PBV assistance at the property. Once a third opportunity is declined, the applicant is removed from the PBV site-specific waiting list. Applicants may re-apply for the site-specific waiting list based on their re-application time/date. Such declination does not affect the family's position on the LA's waiting list for tenant-based assistance.

HCR will open and close the site-based waiting lists pursuant to the procedures outlined in Section 1.0 of this Administrative Plan.

25.05.01 Preferences

No additional local preferences have been established for selection of families admitted for project-based voucher assistance.

Exception: Any current or future PBV contract executed in a Mitchell-Lama (interest reduction program)/236 rental subsidy project must provide any eligible veteran who applies to a project's site-specific waiting list (or their surviving spouse), who served on active duty in time of war, as defined in Section 85 of the Civil Service Law, and resides in New York State, absolute preference and be referred to the next available appropriately sized unit.

25.06 Tenant Screening

As provided for in Section 983.255 of PBV regulations, HCR as PHA is authorized to establish a policy to engage in applicant screening as further defined in Section 1.08 of this Administrative Plan. Applicant screening for purposes of determining suitability for occupancy is the responsibility of the project owner and must be conducted in conjunction with the project's approved affirmative fair housing marketing plan and should not be confused with HCR's responsibility as PHA to determine PBV eligibility.

25.07 HOS/Inspections

HCR will ensure PBV units are in accordance with the Housing Quality Standards (HQS) found at 24 CFR 983.101, 982.401 and this Administrative Plan. Unit inspections will be conducted in accordance with requirements found at 24 CFR 983.103.

25.07.01 New/Turnover, Annual and Special Inspections

- New: All units must fully comply with HQS standards prior to executing a PBV HAP contract.
- Turnover: At turnover, the LA must inspect and pass each vacated unit before providing assistance to a new family.
- Annual Inspections. The LA must inspect, by way of random sample, at least 20% of the contract units in each project on an annual basis to ensure the units are maintained in accordance with HQS regulations. Turnover inspections may not be counted towards meeting the required 20%. If more than 20% of the inspected units fail inspection, the LA must re-inspect **all** units in the building.
- Special Inspections: The LA will inspect units per request by participant/tenant as needed to ensure contracted units comply with HQS.

LA owned units shall be inspected by an independent third party as approved by HCR. PHA- owned units shall be inspected by an independent third party approved by HUD.

25.08 Over-Housed, Under-Housed and Accessible Units

In accordance with Section 983.260 of PBV regulations, a family in the Project-Based Voucher Program must occupy an appropriately sized unit as defined in Section 10.0 of this Administrative Plan. If a family is occupying a wrong-sized unit (and there has not been a reasonable accommodation granted) the LA must notify the family and project owner within 30 days of its determination the requirement to move and offer of continued assistance under the program.

If one family is occupying a unit with accessibility features they do not require and another family on the wait list is need of a unit with these features, the LA must notify the family currently occupying the unit within 30 days of its determination the requirement to move and offer of continued assistance in a unit not designated as accessible under the program.

Continued assistance is defined as the following, in preferential order:

- 1) PBV assistance in an appropriate-sized and/or non-designated accessible unit under contract within the same project;
- 2) Next available tenant-based voucher assistance.

When the LA offers the family project assistance, the family will be given a reasonable timeframe to move, however, not to exceed 180 days from the date the family is notified. The LA may grant extensions if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a member of the household or as a reasonable accommodation. The extension (and justification) must be documented and placed in the file.

If a tenant-based voucher is issued, the family must follow the same guidance, policies and procedures for reasonable timeframes and extensions as required under tenant-based voucher assistance.

If the family does not accept the offer for continued assistance, does not move out of the PBV unit within a reasonable time as determined by the PHA or both, the PHA must terminate the HAP payments for the wrong-sized unit at the expiration of the voucher issued to the family (if applicable) or reasonable timeframe as determined by the PHA. **If three (3) years has transpired since the execution of the PBV HAP contract, the unit must be permanently removed from the contract.**

25.09 Vacancy Payments

As provided for in Section 983.352 of PBV regulations, it is the sole election of the PHA whether or not vacancy payments will be provided. HCR's policy does NOT provide for vacancy payments. This decision applies to all current and future PBV contracts and will be indicated by striking the discretionary vacancy payment language within the HAP Contract.

25.10 Project Cap

While there is currently no limitation on the number of PBV units contracted per project, should assistance for the number of units designated as PBV exceed the greater of 25 units or 25% of the total number of units for that project (50% for PBV contracts converted under the Rental Assistance Demonstration (RAD) Program), there must be an established agreement to provide supportive services to those families that exceed the greater of 25 units or 25% (50% for PBV contracts converted under RAD) threshold cap. *(See 25.11 for PBV's Supportive Service Requirements)*

It is the responsibility of the project sponsor/management to either: (1) directly provide Supportive Services requirements or, (2) contract with an entity acceptable to HCR who will be responsible for ensuring fulfillment of required supportive services.

PBV units will be excepted from the 25 units or 25% per project cap if they are specifically earmarked for qualified families. Qualified families are elderly families or families already receiving supportive services.

(This clause applies only to those contracts initially executed prior to April 18, 2017)

If a family residing in a unit excepted because of supportive services fails to comply with any of the supportive service requirements, the family's assistance will be terminated in accordance with HUD requirements and may also be subject to eviction.

25.11 Supportive Service Requirements

In fulfilling the requirement for those units exceeding the 25 units or 25% threshold cap, the purpose of PBV supportive services is to create an opportunity for families receiving Section 8 rental assistance to improve and develop their ability to increase employment opportunities and enhance the life skills needed to become self-sufficient. This is accomplished by combining Section 8 rental assistance, case management, and the coordination of services to help participating households achieve economic self-sufficiency as well as financial fitness, and maintain a lifestyle independent of public assistance. Supportive services families are offered a variety of ways to learn new skills, enhance existing talents and meet people who share similar goals for themselves and their families.

The project sponsor/management is responsible for providing a Supportive Services Coordinator. The Coordinator may be HCR's Local Administrator or one of the project sponsors choosing providing the entity chosen outlines a plan that fulfills the supportive service obligations as set forth in this Administrative plan. Service provider plans must be submitted to, and approved by NYS HCR and the Local Administrator prior to execution of the HAP Contract.

The "excepted" families receiving Project-Based Voucher rental assistance must meet with the local Supportive Services Coordinator to review the program participation requirements and the Contract of Participation (COP). Individual Training and Services Plans (ITSPs) are developed to identify and establish participant goals. ITSP contracts must be entered into a minimum of three (3) years and may include participation of any member but must include participation of at least the head of household. Participating families are required to play a part in ongoing case management to assist them in identifying and addressing obstacles, identifying resources, and ultimately achieving their self-identified goals. The ITSP may be amended during the term of the COP.

25.11.01 Requirements

To be eligible for this exception, a family must be eligible for services in at least one of the categories listed in the ITSP and the project must offer services to all assisted families services:

- Child care
- Education
- Job training and employment counseling
- Transportation (for job training, skills training, counseling or education only)
- Substance/alcohol abuse treatment or counseling
- Household skill training
- Homeownership counseling

(This clause applies only to those contracts initially executed prior to April 18, 2017)

The household is obligated to participate in this service program as a condition of participation in the PBV program. As a requirement for graduation and service exception, each participant must complete a minimum of three (3) goals as highlighted in their ITSP (as chosen from any one or more approved category), and participate for a minimum of three (3) years. Failure by the household to meet its service obligation without good cause will require termination of PBV assistance.

The owner may not require the tenant to pay charges for any supportive services required for compliance with the PBV cap.

25.11.02 Compliance Monitoring

The project management will be responsible for regularly monitoring the supportive services requirements for the excepted units and must submit to the NYS HCR Local

Administrator, at least annually, a report listing the families, the types of services provided and accessed, and the frequency of that access. In addition, periodic progress will be monitored by the project jurisdiction's NYS HCR Local Administrator and by means of Statewide Section 8 Program Representatives during execution of SEMAP audits.

25.12 Determination and Redetermination of Rent

HCR will not approve and the owner may not receive any increase in rent until and unless the owner has complied with all requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

(A) HCR will redetermine the rent to owner:

- (1) Upon the owner's request (only at the annual anniversary of the HAP contract);
- (2) When there is a ten percent or greater decrease in the published FMR in accordance with §983.301&§983.302; or
- (3) Should the current rent to owner, as a result of a drop in the FMR as determined and published annually by HUD, exceed 110% of the fair market rent for each applicable unit bedroom size.

Use of SAFMR in PBV's

As indicated in Section 16 of this Administrative Plan, HCR reserves the right to employ SAFMR's within the Housing Choice Voucher program, including PBV's. As such, HCR

designates the use of Small Area Fair Market Rents (SAFMR's) for PBV units within its jurisdiction, as applicable. HCR will maintain a list of locations employing SAFMR's while following the requirements outlined in HUD guidance and PIH notices to effectively implement SAFMRs. If contract rents increase as a result of the use of SAFMR's, the rent increase may not be effective until the first anniversary of the HAP contract.

25.12.01 Rent Increase Request Process

The owner must submit a rent increase request in writing, which must be received no less than 60 days prior to the annual anniversary of the HAP contract to be effective at the start of the HAP contract anniversary.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. Any adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

If a rent increase request is received between 14 and 60 days prior to the HAP contract anniversary date, the rent may be approved for the contract anniversary date but will not be implemented until the first day of the month following the 60 day timeframe after receipt of the owner's request. Any request received after this period will not be considered until the following annual anniversary.

The approved rent must be the lesser of:

- (1) 110 percent of the applicable fair market rent for the unit bedroom size;
- (2) The reasonable rent; OR
- (3) The rent requested by the owner.

In addition to the rent limits detailed above, additional restrictions apply as follows:

- 1) Rents for units assisted under the HOME program may not exceed those rents established for the HOME program;
- 2) Rents for units in a HUD Section 236 insured or non-insured project, a HUD Section 221(d)(3) project or a Rural Development Section 515 project may not exceed the Basic Rent as determined in accordance with those federal programs.

Any rent adjustment approved by HCR constitutes an amendment of the rent to owner specified in the HAP contract.