

The ABCs of PBV

AGENDA

- Types of Section 8
- Establishing a PBV Program
- Development & Selection Issues
 - Selecting PBV Projects
 - QAP Considerations
 - Underwriting & Subsidy Layering
 - AHAP & HAP
 - Crosscutting Requirements
- Compliance Issues
 - Tenant Eligibility
 - Income and Deduction Definitions
 - PBV Rents
 - Combining PBV with LIHTC or HOME



3 TYPES OF SECTION 8

	Housing Choice Voucher (HCV)	Project Based Voucher (PBV)	Project Based Rental Assistance (PBRA)
HUD Division	Public & Indian Housing	Public & Indian Housing	Multifamily
Tenant or project based?	Tenant	Project	Project
HUD income cert form #	50058	50058	50059
Rent standard	Lesser of FMR or Rent Reasonableness	Lesser of FMR, Rent Reasonableness, or Rent requested by owner (some special rules for LIHTC)	Adjusted by annual OCAF
Voucher source and oversight	Public Housing Agency (PHA)	Public Housing Agency (PHA)- up to 30% of HCV	HUD / Contract Administrator (CA)
Housing Assistance Payment (HAP) contract	PHA + Owner	PHA + Owner	HUD + Owner
Utility Allowance	PHA chart (Form 52667)	PHA chart (Form 52667)	Project-specific – full baseline analysis every 3 years, adjust by UAF

ESTABLISHING A PBV PROGRAM

24 CFR 983.5 & 983.6

PBV is funded by the PHA using a portion of its available HCV. There is no special or additional funding for PBV.

PHAs have the discretion as to whether to operate a PBV program

- Does not require HUD approval
- However, PHA must notify HUD of its intent to project-base
- PBV must be included in the PHA's HCV Admin Plan

PHA is responsible for determining the amount of budget authority it has available to project-base

Max 30% of voucher allocation can be used for PBV

DEVELOPMENT & SELECTION ISSUES: FUN WITH NUMBERS, DOCUMENTS, & TIMING

SELECTING PBV PROJECTS

SELECTION PROCESS 24 CFR 983.51

Awarded through a Public Housing Agency (PHA)

PHA must use 1 of 2 possible methods of selection, as identified in admin plan:

1. Issue a **competitive RFP** specific for PBV issuance
 - Must be released with public notice
 - Must not limit RFP to a single site or impose other restrictions that “explicitly or practically preclude owner submission of proposals for PBV housing on different sites”
 - PHA may select units it owns, but HUD must review to approve selection was appropriate
2. Use a **previous competition** process from another funder that did not involve consideration that the project would receive PBV and was selected within 3 years of PBV selection
Ex: IHCDAs admin plan = utilizes Supportive Housing Institute as previous competition

Most IN PHAs = RFP

SELECTING PBV PROJECTS

PROJECT LIMITATIONS

24 CFR 983.56 25% Cap Rule- PHA may only project-base up to 25% of the units in a project unless the units are specifically for elderly, persons with disabilities, or tenants receiving supportive services

- Units in a single-family building do not count in cap

24 CFR 983.53 & 983.54 Ineligible Units

- Shared housing
- Units on grounds of penal, reformatory, medical, mental, or similar public or private institution
- Nursing homes or facilities with continuous psychiatric, medical, nursing services, board and care, or intermediate care. Home health care services are fine.
- Units owned or controlled by an educational institution or affiliate for occupancy by students
- Manufactured homes
- Transitional housing
- Owner-occupied units
- Public housing, Section 8 PBRA, and other subsidized housing units

SELECTING PBV PROJECTS

PROJECT LIMITATIONS

24 CFR 983.157 Broadband Infrastructure

- New construction or rehabilitation projects selected after 1/19/17 must include installation of broadband infrastructure if project > 4 units
- Some exceptions if cost prohibitive or broadband unavailable in location

QAP CONSIDERATIONS FOR LIHTC

If the applicant requesting PBV is also applying for Low Income Housing Tax Credits (“LIHTC”) through IHCD’s Qualified Allocation Plan, they likely want to qualify for project-based rental assistance points

Scoring category 6.4(B): Non-IHCD Rental Assistance

Up to 2 points if proposed Development has a commitment of non-IHCD project-based rental assistance

- Must be a federal or state project-based program
- Term must be at least 15 years
- Must cover at least 20% of units to maximize points; 1 point if at least 10% of units
- Must provide letter from funding agency
 - May be conditional upon receipt of LIHTC, completion of ERR, and completion of SLR
 - Must certify the assistance meets the requirements above
 - Must identify the payment standard used to set rents

PBV qualifies if PHA provides appropriate conditional commitment letter

THE PHA HAS SELECTED A PROJECT...NOW WHAT

Two important steps must occur before taking any additional action

Step 1 = Complete Part 58 Environmental Review and obtain HUD Release of Funds (Form 7015.16)

Must occur before SLR review, execution of AHAP, and start of construction

HUD Request for Release of Funds (Form 7015.15) must include PBV as funding sources

Step 2 = Initiate Subsidy Layering Review (“SLR”)

- Developer compiles necessary information
- PHA ensures complete package and submits to appropriate SLR reviewer for approval

WHAT IS AN SLR?

A review that is “undertaken to ensure the amount of assistance provided by HUD is not more than necessary to make the PBV project feasible in consideration of all other government assistance.”

“SLRs prevent excessive public assistance that could result when a development proposes combining (layering) the HAP subsidy from the PBV program with other public assistance from Federal, State, or local agencies, including assistance through tax concessions or credits”

See Federal Register Notice 3/13/23 “Administrative Guidelines: Subsidy Layering Review for Project-Based Vouchers”

WHEN IS AN SLR REQUIRED?

Test 1: Other Governmental Assistance

An SLR is required only if the proposed PBV project “includes other governmental assistance”

Definition of other governmental assistance

“Any loan, grant, guarantee, insurance, payment, rebate, subsidy, tax credit, tax benefit, or any other form of direct or indirect assistance from the Federal government, as State, or a unit of general local government, or any agency or instrumentality thereof”

WHEN IS AN SLR REQUIRED?

Test 2: Project Type

SLR is required for proposed PBV new construction and rehabilitation projects

SLR is not applicable to “existing housing”

- Existing housing = “units that already exist on the proposal selection date that substantially comply with Housing Quality Standards (HQS) on that date.”
 - Reminder, HQS is converting to NSPIRE
- Must be fully compliant with NSPIRE before execution of HAP

WHO WILL APPROVE MY SLR

The updated 3/31/23 SLR guidelines state

“Prior to issuance of this notice, the Department had delegated SLR authority to participating Housing Credit Agencies only when assistance included LIHTCs. This Notice expands the option to delegate SLR authority to HCAs for proposed PBV projects when PBV is combined with other governmental assistance even if no LIHTCs are included.”

Status in IN:

- IHCD's HCA designation/HUD approval to conduct SLRs was expanded in 2023 to cover all projects in Indiana regardless of funding source
- IHCD will approve all SLRs in Indiana

DOCUMENTATION CHECKLIST FOR SLR

1. PHA Cover Letter
2. Narrative Description of Project
3. Statement of Permanent Sources and Uses
4. Description of Funding Sources- construction, bridge, and permanent financing
 - For loans must include principle, interest, amortization, term, etc.
5. Commitments for all funding sources
 - Commitment letters, conditional commitment letters, grant agreements, or loan agreements
6. Development Commitment Letter or Development Agreement
7. Supportive Services MOU – if project is exceeding 25% project cap
8. Appraisal- “as is” value, dated within 18 months of SLR submission
9. Stabilized Operating Pro Forma
10. LIHTC, Historic Tax Credit, HOME, and/or Housing Trust Fund letters (if applicable)
11. Equity Contribution Schedule (if LIHTC project)
12. HUD Form 2880- Applicant/Recipient Disclosure/Update Report
13. PBV Award Letter from awarding PHA
14. Rent Certification Letter from awarding PHA- must identify initial rents, utility allowances, and rent reasonableness certification
15. HUD Form 7015.16- Authority to Use Grant Funds (Environmental Clearance)
16. IHCD SLR Submission Checklist

UNDERWRITING AND SUBSIDY LAYERING

Underwriting requirements for development budget:

- Developer fee max 15%
- General Contractor fee max 14% of total hard costs
 - Builder's general requirements 6% of construction contract amount
 - Builder's overhead 2% of construction contract amount
 - Builder's profit 6% of construction contract amount

Underwriting requirements for pro forma:

- Cash flow (minus any acceptable reserve amounts) cannot exceed 10% of total expenses
- Vacancy rate in pro forma must be between 4-7% (instead of typical 6-8%)
- Debt Coverage Ratio must be between 1.10-1.45 for all years
- Operating Expense Growth and Rental Income Growth at 2% per year (same as all LIHTC)- if not LIHTC, must be between 1-3%
- If IHCDQA QAP/HOME Policy vs HUD SLR guidelines contradict, must use strictest requirement

AHAP

AHAP = Agreement to Enter into Housing Assistance Payment Contract

- HUD Forms 52531A & 52531B (AHAP Part 1 & Part 2)
- Formal commitment of PBV- comes after ERR, Release of Funds, and SLR
- **Must be executed before construction begins**

Part 1 (52531A) identifies:

- Parties to the contract- owner & PHA
- If the project is being completed as a single-stage or multi-stage project
- Proposed construction timeline- commencement and completion of work
- Nature of work- new construction or rehabilitation
- If Davis Bacon labor standards/prevaling wages will be triggered by the PBV award

Part 2 (52531B) identifies applicable compliance requirements and reporting, with a focus on labor standards

- This part is all HUD legalese- there are no elections made in Part 2

AHAP CONTRACT MANDATED EXHIBITS

REQUIRED BY HUD

Exhibit A- Approved Owner's PBV Proposal. For IHCD, this is a copy of the Form O1

Exhibit B- Description of Work to be Performed

- Identifies number of units and bedrooms, other funding received, summary of services to be provided, and design requirements required by the PHA

Exhibit C- Description of Housing

- Identifies project address, number of PBV units, and number of bedrooms
- Defines which utilities are owner-paid and which are tenant-paid. IHCD requires all owner-paid utilities for PBV units.
- Sets the initial estimated contract rent. Rents are updated at HAP execution. This just identifies the initial rents used for underwriting and subsidy layering.
- Identifies “services and equipment to be supplied by owner without charge to tenants”

Exhibit D- Draft HAP Contract

- Draft of HAP to be executed after completion
- Effective date left blank
- Not signed at this point
- Does not include all exhibits

DAVIS BACON APPLICABILITY

9+ PBV units = Davis Bacon applies

- Developer must pay prevailing wages
- Budget accordingly! Can increase labor costs 20-30%
- Developer and PHA should both identify a Labor Standards Officer to track and monitor compliance

HAP

HAP = Housing Assistance Payment Contract

- HUD Forms 52530A Part 1 & 2- if new construction or rehabilitation
- HUD Forms 52530B Parts 1 & 2- if existing housing
- Executed after certificate of occupancy issued by local authority and NSPIRE inspection passed by IHCD

Part 1 identifies:

- Parties to the contract- owner & PHA
- If the project is being completed as a single-stage or multi-stage project
- Initial term of contract
 - Minimum 1 year, maximum 20 years
 - IHCD matches to 15-year LIHTC federal compliance period or length of HOME affordability period
- If project is receiving any other HUD rental assistance contracts
- Number of PBV contract units and if applicable the target population for such units (elderly, families receiving supportive services, or youth receiving FUP/FYI assistance)

Part 2:

- Mainly HUD legalese- definitions and compliance
- PHA can elect to “not reduce rents below the initial rent to owner.” IHCD allows elects.

HAP CONTRACT MANDATED EXHIBITS

REQUIRED BY HUD

Exhibit A- Number of Units Covered, Initial Rents, and Description of Contract Units

Exhibit B- Services and Equipment to be Charged Without Charges in Addition to Rent to Owner

Exhibit C- Utilities to be Paid by the Owner and Utilities to be Paid by the Tenant

- IHCD requires all owner-paid utilities for PBV units

Exhibit D- Accessibility Features to Comply with Section 504

HAP CONTRACT OPTIONAL EXHIBITS

REQUIRED BY PHA

PHAs must include Exhibits A-D but may add additional exhibits, so long as such exhibits comply with PBV regulations and the PHA's voucher administrative plan

IHCDA attaches the IHCDA-approved Tenant Selection Plan as **Exhibit E**

- Any future updates to the TSP must be approved by IHCDA in writing prior to implementation

HAP CONTRACT AMENDMENTS & RENEWALS

Amendments:

PHA may amend an existing HAP contract, for example to change the number of units covered by the contract or to change the unit mix (e.g., change number of 1BR units vs. 2BR units)

Does not require execution of a full contract. PHA may amend via a letter on PHA letterhead.

Renewals/Extensions up to Total HAP Term of 20 Years:

If the initial HAP contract term was less than 20 years, the PHA may renew/extend the contract. The extension must be for a period of time that would not cause the total contract period (original term + extension period) to exceed 20 years.

Such a renewal does not require execution of a full contract. PHA may renew/extend via a letter on PHA letterhead.

PUTTING IT ALL TOGETHER- ORDER OF OPERATIONS

- PHA amends admin plan to allow PBV
- PHA issues RFP
- Developers/owners apply for PBV through PHA
- PHA selects awards
- Complete Part 58 Environmental Review and obtain HUD Release of Funds
- Complete SLR packet- IHCD or HUD conducts review
- Execute AHAP (PHA + Owner)
- Close and start construction – **if pre-AHAP, lose PBV!**
- Complete construction
- Certificate of occupancy issued
- PHA conducts HQS inspection (soon to be NSPIRE...)
- Execute HAP Contract (PHA + Owner)
- Comply throughout contract term
- Possible renewals



Mandatory order. Not a suggested checklist!

COMPLIANCE ISSUES: ELIGIBILITY, RENTS, AND COMBINING PROGRAMS

ELIGIBILITY

Four minimum criteria all PHAs and voucher types must use:

1. The family must have a total gross household income at or below 50% Area Median Income*
2. Must be a citizen or have eligible immigration status
3. No member of the applicant household is subject to the national lifetime sex offender registry
4. No member of the household has ever been convicted of manufacturing methamphetamine in federally assisted housing

Other screening criteria is flexible and varies by PHA per their Admin Plan policy:

- E.g., criminal history
- Because IHCD only uses PBV for permanent supportive housing, IHCD's plan is low-barrier

***REMINDER:**

Eligibility is based on gross income.

Tenant-paid rent calculation is based on adjusted income.

INCOME DEFINITIONS

Income is calculated as follows:

Earned income of adult household members +
Unearned income of all household members +
Asset income from all household members =
Gross Income

Gross Household Income-
Deductions* =
Adjusted Income

*4 types of deductions- dependent, elderly/disabled, health and medical care, & childcare

Income inclusions, exclusions, calculation methodologies, deduction definitions, and verification methodologies are set by HUD regulation 24 CFR Part 5

DEDUCTIONS FOR ADJUSTED INCOME

Dependent Deduction

A \$480 allowance is provided for each dependent.

- Going forward, amount will be adjusted annually by HUD by September 1, with the new amount effective the following January 1

Elderly/Disability Deduction

If a head of household, spouse, co-head, or sole member is either 62 years or older or has a disability, the household qualifies for an Elderly/Disabled Allowance. This allowance is \$525 for the entire household regardless of how many individuals in the household are elderly/disabled.

- Going forward, amount will be adjusted annually by HUD by September 1, with the new amount effective the following January 1

DEDUCTIONS FOR ADJUSTED INCOME

Health and Medical Care Expenses Deduction

If a head of household, spouse, co-head, or sole member is either 62 years or older or has a disability, the household qualifies for a medical expense deduction. In these instances, the out-of-pocket cost for all documented, unreimbursed medical expenses that exceed 10% of the family's annual income can be deducted from annual income.

Child Care Deduction

Any reasonable childcare expense (for children under 13, including foster children) necessary to enable a member of the family to seek employment, to be employed, or to further their education is deducted from annual income. The amount deducted must not exceed the amount of employment income included in annual income.

PBV RENTS

As with tenant-based HCV, a household pays a tenant-paid rent portion and the PBV subsidy pays the balance of the contract rent.

Tenant-paid rent is the highest of the following, rounded to the nearest dollar:

- 30% of family's monthly adjusted income
- 10% of family's monthly gross income
- Minimum rent established by the PHA

PBV RENTS

Contract rent = total rent payment to the owner (i.e., tenant-paid rent + subsidy)

Gross rent = contract rent + utility allowance for tenant-paid utilities, if applicable

Gross rent is the lesser of the (1) the PHA's payment standard (based on FMR) or (2) a reasonable rent determined by analyzing comparable rents in the market.

Payment Standard:

- IHCDCA utilizes 100% of the applicable Fair Market Rent (FMR) as its payment standard
- Other PHAs may utilize another HUD-approved payment standard (e.g., 110% or 120% of FMR) if identified in Administrative Plan.

PBV RENT INCREASES

Rent increases must be requested annually by the owner

- Not automatic
- PHA sets timeframe for requests. For example, IHCD requires the owner to submit request 15-60 days prior to the anniversary date of the HAP contract
- If approved by PHA, will be effective on the anniversary date of the HAP contract

PHA must confirm that the requested rent increase does not exceed the lesser of the PHA's payment standard or rent reasonableness

PBV RENT STANDARDS

SPECIAL RULE FOR LIHTC (24 CFR 983.301 C & D)

If project is (1) not in a Qualified Census Tract, (2) contains non-PBV LIHTC units of comparable size without other subsidy, and (3) tax credit rent exceeds FMR, then rent to owner is the lesser of:

- Tax credit rent limit minus utility allowance
- Reasonable rent
- Rent requested by the owner

For all other tax credit projects, rent to owner is the lesser of:

- PHA's FMR standard minus utility allowance
- Reasonable rent
- Rent requested by owner

RENT LIMITS- LIHTC + SECTION 8 (ALL TYPES)

LIHTC gross rent must be at or below the LIHTC rent limit

- LIHTC gross rent = tenant paid rent + utility allowance + non-optional fees
- Does not include rental assistance portion (e.g., HAP)

Gross rent may exceed the LIHTC rent limit if:

- The household is receiving at least \$1 of HAP
- The rent charged complies with Section 8 requirements

RENT LIMITS- HOME + HCV

HOME gross rent must be at or below the HOME rent limit

- HOME gross rent = tenant paid rent + tenant-based rental assistance + utility allowance + non-optional fees
- **Does** include tenant-based rental assistance portion (e.g., HCV HAP)

Gross rent may not exceed the HOME rent limit

RENT LIMITS- HOME + PBV OR PBRA

Instead of following the HOME rent limit, the owner may charge the rent allowed by PBV or PBRA if:

- The unit is designated as a Low-HOME unit (50% AMI rent and income restriction or less); and
- The unit is occupied by a household at or below 50% AMI; and
- The unit is PBV or PBRA HAP; and
- Household does not pay more than 30% of adjusted income as tenant-paid rent

EXAMPLE

PBV rent standard for unit is \$1000

Low HOME rent limit for unit is \$750

Owner paid utility

Tenant Adjusted Income is \$18,000

Tenant paid rent= $\$18,000 / 12 \times 30\% = \450

PHA rent payment to the owner = $\$1000 - \$450 = \$550$

THIS IS ALLOWED FOR HOME COMPLIANCE EVEN THOUGH
HOME RENT LIMIT IS EXCEEDED!

UTILITY ALLOWANCE – LIHTC + SECTION 8

Type of Section 8	Which UA must be used?
HCV	PHA chart (Form 52667) for HCV units
PBV	PHA chart (Form 52667) for PBV units
PBRA*	Project specific approved by HUD/CA for entire building

*Considered a “HUD-regulated building” for purposes of LIHTC UA regs

UTILITY ALLOWANCE – HOME + SECTION 8

Received HOME commitment on or before 8/23/13	
Type of Section 8	Which UA must be used?
HCV	May use PHA chart (Form 52667) but not required
PBV	May use PHA chart (Form 52667) but not required
PBRA	Project specific approved by HUD/CA for entire building

Received HOME commitment after 8/23/13	
Type of Section 8	Which UA must be used?
HCV	Must create project specific. CANNOT USE PHA chart (Form 52667)
PBV	Must create project specific. CANNOT USE PHA chart (Form 52667)
PBRA	Project specific approved by HUD/CA for entire building

UTILITY ALLOWANCE – LIHTC + HOME + SECTION 8

LIHTC & received HOME commitment on or before 8/23/13	
Type of Section 8	Which UA must be used?
HCV	PHA chart (Form 52667) for HCV units- LIHTC requires, HOME allows
PBV	PHA chart (Form 52667) for PBV units- LIHTC requires, HOME allows
PBRA	Project specific approved by HUD/CA for entire building

LIHTC & received HOME commitment after 8/23/13	
Type of Section 8	Which UA must be used?
HCV	CONFLICT! = Will have two separate UAs <ul style="list-style-type: none">• For LIHTC gross rent must use PHA chart (Form 52667) for HCV units• For HOME gross rent must use project-specific
PBV	CONFLICT! = Will have two separate UAs <ul style="list-style-type: none">• For LIHTC gross rent must use PHA chart (Form 52667) for PBV units• For HOME gross rent must use project-specific
PBRA	Project specific approved by HUD/CA for entire building

WHAT MUST BE IN THE TENANT FILE?

COMBINING LIHTC OR HOME WITH SECTION 8

To verify a household receives assistance, the LIHTC or HOME tenant file must contain

Type of Section 8	Document required in LIHTC or HOME tenant file
HCV	Either: <ul style="list-style-type: none">• Original HAP contract and current HAP amendment; or• Current HUD Form 50058
PBV	Either: <ul style="list-style-type: none">• Current HUD Form 50058• HUD Form 52530 Tenancy Addendum for PBV
PBRA	Current HUD Form 50059

Do **not** keep EIV paperwork in LIHTC or HOME files

- Not a LIHTC or HOME compliance issue, but violates HUD/EIV user agreement

LIHTC OR HOME – USING PHA INCOME VERIFICATION

If a LIHTC or HOME unit is also a PBV unit or is housing an HCV tenant, the owner is not required to obtain traditional income verification if instead they receive one of the following from the PHA:

- Most recent HUD Form 50058; or
- IHCD's PHA Income Verification (IHCD Form #16A) dated no more than 120 days prior to the effective date of the LIHTC or HOME certification

IHCDA TIC must still be created and must compare income to LIHTC or HOME income limit

- Make sure to use the gross income for LIHTC or HOME qualification, not adjusted income

RESOURCES

[PBV Regulations- 24 CFR 983](#)

[Administrative Guidelines and Requirements for Project Based Voucher Subsidy Layering Reviews 3/13/23](#)

[IHCDA PBV Webpage](#)

Questions?

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