

## Chapter 22

### HOUSING CHOICE VOUCHER PROJECT-BASED PROGRAM

[24 CFR 983]

#### **A. OVERVIEW**

**1. Purpose of Program:** The program goals for the Project-Based Voucher (PBV) Program are:

1. To contribute to the improvement and long-term viability of the area's housing stock.
2. To increase the supply of affordable housing and location choice for very low-income households.
3. To integrate housing and supportive services such as education, case management, job training, and day care to help families and individuals achieve stability and self-reliance.
4. To promote the coordination and leveraging of resources of public, semi-public, or nonprofit agencies with compatible missions.

#### **2. Program Elements:**

1. A PHA may attach up to 20 percent of its voucher baseline to PBV units. Additionally, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) authorizes the PHA to project-base an additional 10% of its baseline above the 20% program limit for HAP Contracts executed on or after April 18, 2017. The additional units must fall into at least one of the following eligible categories:
  - a. The units are specifically made available to house individuals and families who meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act and contained in the Continuum of Care Interim Rule at 24 CFR 578.3
  - b. The units are specifically made available to house families that are comprised of or include a veteran.
  - c. The units provide annual supportive services to persons with disabilities or elderly persons. Potential services may include meal service, housekeeping aid, personal aid,

transportation services, health-related services, case management, child care, educational services, employment services, job training, counseling and financial literacy. The service provision must be clearly defined at the time of the application and will be considered in addition to other criteria.

- d. The units are located in a census tract with a poverty rate of 20% or less, as determined in the most recent American Community Survey 5-year Estimates. The units eligible for the additional 10% exception category may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10% cap.
2. The units may be new construction, rehabilitated or existing units.
3. The greater of 25 units or 25 percent of the units in any building may be assisted with PBV. The exceptions to this limitation are for single-family properties (defined as 1-4 units in a building) and “excepted units” in a multi-family building. Excepted units are those that are specifically made available for elderly families or families eligible to receive supportive services.
4. The location of PBV units must be consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities. For HAP Contracts executed on or after April 18, 2017, the maximum amount of PBV assistance may be increased to the greater of 25 units or 40% of the units in the building. The building must be located in a census tract with a poverty rate of 20% or less as determined in the most recent American Community Survey 5-Year Estimates.

### **3. Requirements for Participation:**

1. Competitive Selection Process: HOC must follow a competitive selection process as described in the regulations at 24 CFR §983.51. Exceptions to the competitive selection process are permitted on a case by case basis, as described in item 3 of this section.
2. Developers/Owners Proposal: Developers/owners must submit a proposal for PBV assistance in response to a Request for Proposals (RFP) issued by HOC as part of the competitive selection process described in item 1, above.
3. Non-Competitive Selection Process: As per the Housing Opportunity Through Modernization Act of 2016 (HOTMA) HOC may, by amendment to this Administrative Plan, from time to time attach PBV assistance to units in a project in which HOC has an ownership interest or over which HOC has control, without following a competitive selection process. Use of this non-competitive selection exception requires HOC’s engagement in an initiative to improve, develop, or replace a public housing property or site.

- a. PHA ownership interest. In order to qualify for this exception to use a non-competitive selection process for receipt of PBV assistance, the units which receive the assistance must be in a project in which HOC has an ownership interest or over which HOC has control. For the purposes of this exception, an “ownership interest” is not limited to the definition of “PHA owned” as defined herein or otherwise by HUD, and does include any HOC connection to a project where HOC, its officers, employees, or agents hold any direct or indirect interest in the project in which the units are located, including, but not limited to, an interest as any of the following:
  - i. Titleholder;
  - ii. Lessee;
  - iii. Stockholder;
  - iv. Member, or general or limited partner;
  - v. Member of a limited liability corporation; or
  - vi. Lessor of the ground lease for the land upon which the PBV project is located or will be constructed.
  
- b. Other conditions for use of the non-competitive selection exception are as follows:
  - i. HOC must be engaged in an initiative to improve, develop, or replace public housing properties or sites. The public housing properties or sites may be in HOC’s existing public housing inventory or they may be from those previously removed from the public housing inventory through any available legal removal tool within five years of the date on which HOC entered into the Agreement to Enter a Housing Assistance Payments (AHAP) contract or Housing Assistance Payments (HAP) contract, pursuant to the non-competitive selection.
  - ii. If HOC plans rehabilitation or new construction, a minimum threshold of \$25,000 in hard costs per-unit is required, except as provided in iii, below.
  - iii. If HOC plans to replace public housing by attaching project-based assistance to existing housing in which the Agency has an ownership interest or over which HOC has control, then the \$25,000 per-unit minimum threshold does not apply as long as the existing housing substantially complies with HUD’s housing quality standards (HQS). See Chapter 10 of this Administrative Plan for further information on what it means to substantially comply with HUD’s housing quality standards.

- iv. An explanation of the work HOC plans to do on the property or site and how many units of PBV assistance the Agency plans to add via non-competitive selection must be added to this Chapter in Section G.
- v. All of the units identified by HOC for non-competitive selection must be eligible for PBV assistance in accordance with 24 CFR 983.53. Furthermore, selection of the units must satisfy all other statutory and regulatory requirements of the PBV program as per HUD and this chapter of HOC's Administrative Plan.

4. **Selection Criteria:**

HOC will review proposals requesting PBV based on the selection criteria detailed in the Request for Proposals, and in compliance with all relevant statutory, regulatory, and HOC requirements.

Before HOC will provide voucher rental assistance, all developments must have PHA Board approval, meet Housing Quality Standards and have an executed Housing Assistance Payments Contract.

**B. ELIGIBLE UNITS**

**1. Eligible Units:**

- a. All PBV selected sites must be in compliance with PBV goals, Civil Rights requirements and Housing Quality Standards. HOC will review the applications to determine if the location is consistent with the goal of deconcentrating poverty and preserving and/or expanding housing and economic opportunities. HOC will take into consideration the site selection standards listed in 24 CFR §983.57 and the PBV program goals.
- b. To define a PBV unit as a unit in a rehabilitated housing, each unit must require a minimum of \$3000 in rehabilitation costs.
- c. For units requesting an exception to the 25 units or 25 percent cap in a building, and that exception is based on providing supportive services, the services must be designed as services essential for maintaining or achieving independent living such as, but not limited to, counseling, education, job training, health care, mental health services, alcohol and/or other substance abuse services, child care services and or case management services. These services may be defined as being a participant in a PHA's FSS program.

**2. Ineligible Units:** HOC may not attach PBV assistance for units of the following types of housing:

- a. Shared housing
- b. Units on the grounds of a penal, reformatory, medical, mental or similar public or private institution
- c. Nursing homes or facilities providing continuous psychiatric medical, nursing service, board and care or intermediate care
- d. Units that are owned or controlled by an educational institution and are designated for occupancy by students of the institution
- e. Manufactured homes
- f. Transitional housing
- g. Owner occupied units
- h. Units occupied by an ineligible family.
- i. Units subsidized with any governmental rent subsidy or any governmental subsidy that covers all or any part of the operating costs of the housing. (24 CFR 983.54(c)(d)).

### **C. APPLICANT ELIGIBILITY FOR PARTICIPATION**

*Applicant eligibility for the project-based program is also covered in Chapter 2 of this document.*

1. Applicants must meet the eligibility requirements for tenant-based Housing Choice Voucher Program.
2. Persons who will reside in PBV units must come from HOC wait list and/or be referred by the owner.
  - a. When a vacancy occurs in a PBV supportive housing unit, the owner may refer applicants to HOC. The applicant names will be placed on the HOC wait list and selected as a special admission for the available unit.
  - b. HOC will survey its regular wait list no less than once a year for each bedroom size for vacancies in non-supportive housing PBV developments. If the PHA is unable to provide enough eligible applicants from its wait list to fill PBV units, the owner may refer applicants to HOC.
3. HOC will not screen applicants for family behavior or check rental references. This will remain the responsibility of the owner. HOC will screen applicants in the manner established for all voucher applicants.
4. If the owner of a PBV unit denies a PBV applicant that was selected from HOC's wait list, that denial does not affect their place on the wait list for tenant based assistance.

5. If the owner refers an applicant (because HOC was unable to provide interested, eligible applicants) that applicant will be placed on the wait list as a special admission for the PBV program. The applicant must still meet all tenant-based eligibility requirements.
6. If an applicant from HOC wait list has been approved by the owner and is in verification status with HOC and their name comes to the top of the wait list to receive tenant based assistance (TBA), the applicant will be given the option to continue to be processed for the PBV unit or to be processed for a TBA voucher. The applicant will sign a statement declaring their choice.

#### **D. LEASES AND HOUSING ASSISTANCE PAYMENTS CONTRACTS**

1. If the owner uses a standard lease form for rental to unassisted tenants, the lease for a voucher-assisted tenant must be in such standard form but it must be for a one-year initial term and it must include the HUD tenancy addendum. The lease must specify the name(s) of the owner(s) and the tenant, the address of the unit rented, the term of the lease including any provision for renewal, the amount of the tenant rent to owner, a listing of what services, maintenance, equipment and utilities to be provided by the owner and the amount of any charges that are for food, furniture or supportive services.
2. The Housing Assistance Payments contract between the owner and HOC will be for an initial term of up to 20 years, or such longer term permitted by HUD regulations than in effect. After the initial term, HOC may agree to extend the term of the contract for an additional term of up to 20 years, or such longer term permitted by HUD regulations than in effect. To be eligible for an extension, the property and owner must be in compliance with program rules and applicable HUD statutes and regulations. The length of the extension will be negotiated with the owner and the form will be subject to any HUD prescribed conditions at the time of the extension.
3. An owner may request an increase to the rent at the annual anniversary of the HAP contract by a 60 day written notice to HOC. See Chapter 11 of this Administrative Plan for further information regarding rent increase guidelines for the Housing Choice Voucher program.
4. Under the PBV program, HOC is required to remove a unit from a PBV HAP contract after 180 days of zero housing assistance payments to the unit owner. In response to the COVID-19 pandemic, at its discretion HOC may keep a unit under contract for a period of time that exceeds 180 days but does not extend beyond December 31, 2020. This temporary policy expires on December 31, 2020 in accordance with the waiver flexibility authorized in PIH Notice 2020-13.

## **E. CONTINUED PARTICIPATION**

1. A family may choose to move out of a PBV unit with continued assistance any time after 12 months of initial occupancy. If a family moves before their completion of 12 months of occupancy in their PBV unit, they are terminated from the Housing Choice Voucher program. Program termination in this context includes termination from the PBV program as well as from the opportunity to convert to a tenant-based voucher.
2. If a PBV tenant is determined no longer eligible for the Housing Choice Voucher PBV program, they are given a minimum of 30 days to vacate a unit. If the family does not vacate the unit, HOC must remove that PBV unit from the HAP contract or substitute a similar unit in the building. A PBV tenant who is terminated from the PBV program is given a minimum of 30 days notice of the termination and must vacate the unit on the effective date of the termination.
3. If the family receives no rent assistance for six months (that is, if the family's income remained at a level where their Total Tenant Payment [TTP] is equal to or exceeds the gross rent for the unit), the family will be required to vacate the unit. HOC will notify the family at least sixty days before the six months deadline that they must vacate the unit. If the family does not vacate the unit at the end of the six months, HOC must remove the unit from the HAP contract or substitute a similar unit in the same complex.
4. If HOC determines, at annual recertification, that the family is occupying a wrong size unit or determines anytime that the family is occupying a unit with accessibility features that the family does not require but another family does require, HOC will offer continued assistance in the following order:
  - a. An appropriate unit in another PBV unit either in the same building or another PBV assisted building.
  - b. Tenant based assistance if the family has been a PBV participant for at least 12 months.
  - c. Other project-based assistance.
5. For families residing in units that provide qualifying supportive services, as detailed in the HAP contract (see paragraph B. 1. in this chapter), the project must verify annually that at least one family member in each such unit receives supportive services. These services do not have to be provided by the project or at the project, but must comply with the terms of the HAP contract.

To verify the receipt of services, the project must use the format and procedures prescribed by HOC and notify HOC whether or not each family is in compliance.

If a family, without good cause, fails to participate in at least one of the qualifying supportive services, as detailed in the HAP contract, HOC will determine that the family is no longer eligible to participate in the program (see paragraph E. 2. in this chapter and in Chapter 15).

## **F: RENTAL ASSISTANCE DEMONSTRATION PROGRAM**

The Housing Opportunities Commission of Montgomery County (HOC) successfully applied to participate in the Rental Assistance Demonstration (RAD) program of the U.S. Department of Housing and Urban Development (HUD). As part of HOC's RAD process, the Agency will be converting some of its existing Public Housing (PH) portfolio to Project-Based Voucher (PBV) rental assistance. For those existing HOC PH residents whose subsidies will be converting through RAD to PBV, the following participation parameters and resident rights will apply above and beyond the existing procedures and policies detailed in this Administrative Plan which would have otherwise applied to them:

### **1. No Re-screening of Tenants upon Conversion: [PIH-2012-32 (HA), REV-2, 1.6.C.1]**

Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting. Consequently, current households will be grandfathered for conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion. For example, a unit with a household that was over-income at the time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.

### **2. Right to Return: [PIH-2012-32 (HA), REV-2, 1.6.C.2]**

Any resident that may need to be temporarily relocated to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is completed. Permanent involuntary displacement of residents may not occur as a result of a project's conversion of assistance, including, but not limited to, as a result of a change in bedroom distribution, a de minimis reduction of units, the reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery. Where the transfer of assistance to a new site is warranted and approved, residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

### **3. Renewal of Lease: [PIH-2012-32 (HA), REV-2, 1.6.C.3]**

The regulations under 24 CFR § 983.257(b)(3) require Project Owners to renew all leases upon lease expiration, unless cause exists. Examples of cause include:



- a. Serious violation or repeated violation of the terms and conditions of the lease; and
- b. Violation of federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises.

In accordance with 24 CFR § 983.257(a) for the PBV program, cause does not include a business or economic reason or desire to use the unit for an individual, family, or nonresidential rental purpose.

**4. Phase-in of Tenant Rent Increases Over 3 Years: [PIH-2012-32 (HA), REV-2, 1.6.C.4]**

If a tenant’s monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 years. The method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period. For purposes of this section “standard TTP” refers to the Total Tenant Payment calculated in accordance with regulations at 24 CFR §5.628 and the “most recently paid TTP” refers to the TTP recorded on line 9j of the family’s most recent HUD Form 50058. If a family in a project converting from Public Housing to PBV was paying a flat rent immediately prior to conversion, HOC will use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below.

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the standard TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full standard TTP

**5. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs: [PIH-2012-32 (HA), REV-2, 1.6.C.5]**

Public Housing residents that are current FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any remaining PH FSS funds, to serve those FSS participants who live in units converted by RAD. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY 2014 Appropriations Act (and was continued in the FY 2015 Appropriations Act), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, there are certain FSS requirements (e.g. escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and HOCs must follow such requirements accordingly. HOC administers the FSS program in accordance with FSS regulations at 24 CFR Part 984, the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100. Further, upon conversion to PBV, already escrowed funds for FSS participants shall be transferred into the HCV escrow account and be considered Tenant-Based Rental Assistance (TBRA) funds, thus reverting to the HAP account if forfeited by the FSS participant.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants, which, by statute, can only serve public housing residents.

**6. Resident Participation and Funding: [PIH-2012-32 (HA), REV-2, 1.6.C.6] [ PIH-2012-32 (HA), REV-2, Attachment 1B]**

In accordance with Attachment 1B of PIH-2012-32 (HA), REV-2, residents of Covered Projects with converted PBV assistance will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

- a. Legitimate Resident Organization. A Project Owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate only if it has been established by the residents of a Covered Project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives. In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate residents organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization; and
- b. Protected Activities. Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:

- i. Distributing leaflets in lobby areas;
- ii. Placing leaflets at or under residents' doors;
- iii. Distributing leaflets in common areas;
- iv. Initiating contact with residents;
- v. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
- vi. Posting information on bulletin boards;
- vii. Assisting residents to participate in resident organization activities;
- viii. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
- ix. Formulating responses to Project Owner's requests for:
  - 1. Rent increases;
  - 2. Partial payment of claims;
  - 3. The conversion from project-based paid utilities to resident-paid utilities;
  - 4. A reduction in resident utility allowances;
  - 5. Converting residential units to non-residential use, cooperative housing, or condominiums;
  - 6. Major capital additions; and
  - 7. Prepayment of loans.

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

- c. Meeting Space. Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
  - i. Residents or a resident organization and used for activities related to the operation of the resident organization; or
  - ii. Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities unless this is impractical for reasons beyond the organization's control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed and in accordance with procedures prescribed by the Secretary, for the use of meeting space. HOC may waive this fee.

- d. Resident Organizers. A resident organizer is a resident or non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

Project Owners must allow resident organizers to assist residents in establishing and operating resident organizations.

- e. Canvassing. If a Covered Project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the project.

If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

A resident has the right not to be re-canvassed against his or her wishes regarding participation in a resident organization.

- f. Funding. Project Owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization at the covered property. These funds must be used for resident education, organizing around tenancy issues, and training activities. In the absence of a legitimate resident organization at a Covered Project:
  - i. HOC encourages the Project Owners and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate residents organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization; and
  - ii. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner.

HOC's Resident Advisory Board (RAB) will serve as the required resident organization described herein and in compliance with this section.

## 7. Resident Procedural Rights: [PIH-2012-32 (HA), REV-2, 1.6.C.7]

The following items are incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum, as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

a. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (the termination procedure for RAD conversions to PBV requires that HOC provide adequate written notice of termination of the lease which shall not be less than:

- i. A reasonable period of time, but not to exceed 30 days:
  1. If the health or safety of other tenants, HOC employees, or persons residing in the immediate vicinity of the premises is threatened; or
  2. In the event of any drug-related or violent criminal activity or any felony conviction;
  3. 14 days in the case of nonpayment of rent; and
  4. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

b. **Grievance Process.** In accordance with the RAD Statute, the following procedural rights are required in order to comply with section 6 of the Act.

For issues related to tenancy and termination of assistance, PBV program rules require the Project Owner to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
- ii. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i). For any additional hearings required under RAD, the Project Owner will perform the hearing.

- iii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or contract administrator. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- iv. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in HOC's Section 8 Administrative Plan. See Chapter 19: Complaints and Appeals.

**8. Earned Income Disregard (EID): [PIH-2012-32 (HA), REV-2, 1.6.C.8]**

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in as described in Section 1.6.C.4 of the RAD Notice; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to disabled persons is waived. The waiver and the resulting alternative requirements apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion) is covered by this waiver.

**9. Jobs Plus: [PIH-2012-32 (HA), REV-2, 1.6.C.9]**

Jobs Plus grantees awarded in FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance at that site unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project.

**10. When Total Tenant Payment Exceeds Gross Rent: [PIH-2012-32 (HA), REV-2, 1.6.C.10]**

Under normal PBV rules, HOC may only select an occupied unit to be included under the PBV HAP contract if the unit's occupants are eligible for housing assistance payments (24 CFR §983.53(d)). Also, HOC must remove a unit from the contract when no assistance has been paid

for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent)) (24 CFR §983.258). Since the rent limitation under this Section of the Notice may often result in a family's TTP equaling or exceeding the gross rent for the unit, for current residents (i.e. residents living in the public housing property prior to conversion), HUD has waived both of these provisions and requires that the unit for such families be placed on and/or remain under the HAP contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that the rent to owner for the unit equal the family's TTP until such time that the family is eligible for a housing assistance payment. HUD has waived this policy as necessary to implement this alternative provision, the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR 983.301 as modified by Section 1.6.B.5 of the RAD Notice. In such cases, the resident is considered a participant under the program, and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under a HAP contract. Assistance may subsequently be reinstated if the tenant becomes eligible for assistance. HOC is required to process these individuals through the Form-50058 submodule in PIC.

Following conversion, 24 CFR §983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means that their TTP may not exceed the gross rent for the unit at that time. Further, HOC must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that HOC must reinstate the unit after the family has vacated the property; and, if the project is partially assisted, HOC may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where "floating" units have been permitted, Section 1.6.B.10 of PIH-2012-32 (HA), REV-2.

#### **11. Under-Occupied Unit: [PIH-2012-32 (HA), REV-2, 1.6.C.11]**

If a family is in an under-occupied unit under 24 CFR 983.259 at the time of conversion, the family may remain in that unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate-sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency. HOC has determined this time frame to be 60 days. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR 983.259 is waived.

**12. Wrong-sized Unit: [Quick Reference Guide for Public Housing Project Converting to PBV Assistance 3.4.1]**

In cases where, after initial tenancy, the family is occupying a wrong-sized unit or a unit that has accessibility features not required by the family and where the unit is needed by a family that requires this accessibility feature, HOC will promptly notify the owner and the family can be offered assistance in:

- a. Another appropriate size unit (in the same building); or
- b. The form of a tenant-based voucher, if funding is available.

**13. Establishment of Wait List: [PIH-2012-32 (HA), REV-2, 1.6.D.4]**

24 CFR §983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based wait list from which residents for the Covered Project will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of wait list and other wait list policies. HOC shall consider the best means to transition applicants from the current public housing wait list, including:

- a. Transferring an existing site-based wait list to a new site-based wait list. If HOC is transferring the assistance to another neighborhood, HOC must notify applicants on the wait list of the transfer of assistance and of how they can apply for residency at the new project site or other sites. Applicants on a project-specific wait list for a project where the assistance is being transferred shall have priority on the newly formed wait list for the new project site in accordance with the date and time of their application to the original project's wait list.
- b. Informing applicants on the site-based wait list on how to apply for a PBV program-wide or HCV program-wide wait list.
- c. Informing applicants on a public housing community-wide wait list on how to apply for a voucher-wide, PBV program-wide, or site-based wait list. If using a site-based wait list, HOC shall establish a wait list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide wait list have been offered placement on the converted project's initial wait list. In all cases, HOC has the discretion to determine the most appropriate means of informing applicants on the public housing community-wide wait list given the number of applicants, HOC resources, and admissions requirements of the projects being



- d. converted under RAD. HOC may consider contacting every applicant on the public housing wait list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Applicants on the agency's public housing community-wide wait list who wish to be placed onto the newly established site-based wait list must be placed in accordance with the date and time of their original application to the centralized public housing wait list. Any activities to contact applicants on the public housing wait list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).

HOC is required to maintain any site-based wait list in accordance with all applicable civil rights and fair housing laws and regulations unless the project is covered by a remedial order or agreement that specifies the type of wait list and other wait list policies.

To implement this provision, HUD has specified alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial wait list is established, HOC shall administer its wait list for the converted project in accordance with 24 CFR § 983.251(c).

#### **14. Choice-Mobility: [PIH-2012-32 (HA), REV-2, 1.6.D.9]**

One of the key features of the PBV program is the mobility component; this component provides that if a family elects to terminate the assisted lease at any time after the first 12 months of occupancy in accordance with program requirements, HOC must offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Similarly, former Public Housing residents converted via RAD to Project-Based Rental Assistance (PBRA), also receive special choice mobility. For RAD-converted PBRA customers, if the family elects to terminate their assisted lease at any time after the first 24 months of occupancy in accordance with program requirements, HOC must offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Once a RAD-converted PBV or PBRA family elects to terminate their assisted lease so that they can convert from their current project-based subsidy to a tenant-based subsidy, their name is added to HOC's Choice Mobility Wait List. As customers on this Choice Mobility Wait List reach the top of the list, they are selected for their tenant-based voucher and will continue through the voucher issuance process described in Chapter 8 of this Administrative Plan.

## **RAD Voucher Turnover Cap**

All RAD-converted PBV and PBRA customers who reach their eligibility for Choice Mobility (12 months and 24 months, respectively) are subject to the following procedures of HOC's RAD Voucher Turnover Cap:

- Up to 15 percent of turnover units at each RAD project in any given Calendar Year may be used by customers called from the Choice Mobility Wait List.
- For eligible customers who are unable to exercise their Choice Mobility option at a property because the cap is exhausted for that year, HOC will add their names to the Choice Mobility Wait List.
- HOC's Choice Mobility Wait List is stored within Housing Path and is a unified list across all RAD properties.
- Among all available HOC turnover vouchers, every third voucher is available to a customer coming off the Choice Mobility Wait List.

This RAD Voucher Turnover Cap does not apply to PBVs entered into outside of the context of RAD.

### **15. Vacancy Payments:**

In order to receive vacancy payments, Project Owners assisted under RAD must meet the following requirements:

a. Payments for the Move-out Month:

If an assisted family moves out of the unit, the Project Owner may keep the housing assistance payment payable for the calendar month when the family moves out. However, the owner may not keep the payment if HOC determines the vacancy is the owner's fault.

b. Vacancy Payment:

At its discretion, HOC will make vacancy payments of the monthly rent, but not to exceed two full months following the move out month. Any vacancy payment may cover only the period the unit remains vacant. In order to claim the vacancy loss, the unit must be available for lease and the landlord must:

- i. Notify HOC within 48 hours, excluding weekends and holidays, upon learning of the vacancy, or prospective vacancy; and
- ii. Pursue activities to fill the vacancy, including:
  1. Seek eligible applicants by listing the unit with HOC;

2. Notify HOC of the availability of the unit; and
3. Not reject potentially eligible applicants except for good cause.

**G: PROJECT DESCRIPTIONS OF PROJECT-BASED VOUCHER ASSISTANCE PROVIDED USING A NON-COMPETITIVE SELECTION PROCESS**

Each property or site which will receive PBVs through the non-competitive selection process provided for in this Administrative Plan, are identified below.

1. In December of 2017, HOC used the non-competitive selection process provided for herein to award HOC 40 Project-Based Vouchers (PBV). These vouchers are reserved for use at HOC's Park View apartment project. Park View is a new construction, age-restricted property which is currently under development, and is expected to open for occupancy in April of 2019. Park View is located at 3132 Bel Pre Road in Aspen Hill, Maryland. HOC is developing Park View as a mixed-income property with a total of 120 units. HOC expects to exceed the required minimum threshold of \$25,000 in hard costs per unit during construction of Park View. At closing, Park View had an estimated hard cost per unit of \$142,610.
2. In November of 2018, HOC used the non-competitive selection process provided for herein to award HOC 26 Project-Based Vouchers (PBV). These vouchers are reserved for use at HOC's Elizabeth House III apartment project. Elizabeth House III is a new construction, age-restricted property which is currently under development, and is expected to open for occupancy in 2021. Elizabeth House III is located in downtown Silver Spring, Maryland; an area rich in amenities, including multiple public transit, entertainment, employment, education, and retail options. HOC is developing Elizabeth House III as part a mixed-income group of properties known together as Elizabeth Square. The full Elizabeth House III will include approximately 267 units. HOC expects to exceed the required minimum threshold of \$25,000 in hard costs per unit during construction of Elizabeth House III.