

Chapter 15

Project-Based Vouchers

This chapter describes HUD regulations [24 CFR 983.1 through 983.354] and AHFC policies related to the project-based voucher (PBV) program in eight parts:

1. General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.
2. PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors that AHFC will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.
3. Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.
4. Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.
5. Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at AHFC's discretion.
6. Selection of PBV Program Participants. This part describes the requirements and policies governing how AHFC and the owner will select a family to receive PBV assistance.
7. Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.
8. Determining Rent to Owner. This part describes how the initial rent to owner is determined and how rent will be determined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.
9. HUD-VASH Vouchers. This part describes special exceptions to PBV rules when project-basing HUD-VASH vouchers.

1. General Requirements [24 CFR 983.5]

The program rules discussed within this plan are primarily those required by HUD. AHFC is authorized under the Moving to Work (MTW) Demonstration program to develop and adopt reasonable policies and processes to explore and test innovative methods of delivering project-based voucher assistance to low-income families in Alaska. MTW policies and procedures may conflict with HUD regulatory requirements. Where no MTW policy or procedure exists, then standard Housing Choice Voucher (HCV) rules and regulations apply.

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to attach up to 20 percent of its voucher program budget authority to specific units [24 CFR 983.6]. HUD approval is not required; except that AHFC must notify a HUD field office of its intent to project-base its vouchers before issuing a Request for Proposal in accordance with 24 CFR 983.51(b)(1). AHFC may only operate a PBV program if doing so is consistent with AHFC's Annual Plan and the goal of de-concentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

AHFC Policy

The AHFC Board of Directors approved Resolution 09-34 on October 20, 2009 allowing up to ten (10) percent of its HCV budget authority for project-based voucher rental assistance.

AHFC's MTW annual plans and reports are posted on the AHFC website at www.ahfc.us.

1.A Tenant-Based vs. PBV Assistance [24 CFR 983.2]

Unless specifically indicated in this chapter, PBV regulations follow tenant-based regulations. The tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

AHFC Policy

AHFC policies, including policies and processes developed under the MTW demonstration-program for the tenant-based voucher administration may also apply to the PBV program and its participants.

1.B Relocation Requirements [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR 24, subpart B. It is the responsibility of AHFC to ensure the owner complies with these requirements.

1.C Equal Opportunity Requirements [24 CFR 983.8]

AHFC must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, AHFC complies with all applicable nondiscrimination and equal opportunity requirements set forth in 24 CFR 5.105 and administers its programs and activities in a manner to affirmatively further fair housing (Moving to Work Agreement, Section II, signed June 24, 2008).

2. Owner Proposals

AHFC must describe the procedures for owner submission of PBV proposals and for AHFC selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, AHFC must determine that the PBV proposal complies with HUD program regulations and requirements.

Prior to issuing a Request for Proposals in accordance with CFR 983.51(b)(1) or making a selection in accordance with CFR 983.51(b)(2), AHFC must submit the following information to the HUD field office for review:

1. The total amount of annual budget authority
2. The percentage of annual budget authority available to be project-based; and
3. The total amount of annual budget authority AHFC is planning to project-base pursuant to the selection and the number of units that such budget authority will support.

2.A AHFC Selection Procedures

AHFC may select PBV proposals in accordance with the selection procedures in this Administrative Plan. AHFC may select PBV Proposals by the following methods.

1. An AHFC request for PBV Proposals. AHFC may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the AHFC request.
2. AHFC may select proposals previously selected based on an independent competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.
3. AHFC may select projects under MTW authority without engaging in a competitive process, subject to the approval of the AHFC Board of Directors. In accordance with MTW policy, certain project-based voucher proposals may be selected without engaging in a competitive process. Projects selected must be approved by the AHFC Board of Directors and are subject to HUD's requirements regarding environmental and subsidy layering reviews.

2.B Solicitation of PBV Proposals [24 CFR 983.51(b) and (c)]

PHA procedures for selecting PBV proposals must be designed and operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public input.

2.C Request for Proposals for Rehabilitated and Newly Constructed Units

AHFC will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing through its on-line procurement software, ARIBA, and in the *Alaska Dispatch News* newspaper. In addition, AHFC will post the RFP and proposal submission and rating and ranking procedures on its electronic web site (www.ahfc.us).

AHFC will publish its advertisement in the locations mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units that AHFC estimates it will be able to assist under the funding that AHFC makes available. The advertisement will contain a statement that participation requires compliance with Fair Housing and Equal Opportunity requirements and that the Federal Labor Standards provisions may be applicable.

In order for the proposal to be considered, the owner must submit a proposal to AHFC by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

AHFC will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

1. Owner experience and capability to build, rehabilitate, or operate housing as identified in the RFP;
2. Extent to which the project furthers AHFC's goal of de-concentrating poverty and expanding housing and economic opportunities;
3. Extent to which the project preserves or replaces affordable housing units at risk of nonrenewal or loss of a previously committed affordable housing subsidy; and
4. If applicable, the extent to which services for special populations are available on site or in the immediate area for occupants of the property.

2.D AHFC Requests for Proposals for Existing Housing Units

AHFC will advertise its request for proposals (RFP) for existing housing in the *Alaska Dispatch News* newspaper. In addition, AHFC will post the notice inviting such proposal submission and the rating and ranking procedures on its ARIBA procurement software and the AHFC web site (www.ahfc.us).

AHFC will publish its advertisement in the newspaper mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units that AHFC estimates it will be able to assist under the funding that AHFC is making available. The advertisement will contain a statement that participation requires compliance with Fair Housing and Equal Opportunity requirements.

In order for the proposal to be considered, the owner must submit a proposal to AHFC by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

AHFC will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

1. Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
2. Owner experience and capability to operate housing as identified in the RFP;
3. Extent to which the project furthers AHFC's goal of de-concentrating poverty and expanding housing and economic opportunities;
4. Extent to which the project preserves or replaces affordable housing units at risk of loss of a previously committed affordable housing subsidy;
5. If applicable, owner experience and capability to operate special needs housing as identified in the RFP; and

6. If applicable, extents to which services for special populations are available on site or in the immediate area for occupants of the property.

2.E AHFC Selection of Proposals Subject to Competition under a Federal, State, or Local Housing Assistance Program

AHFC may accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program. In order to both maximize the impact of its project-based vouchers and to minimize the number of application processes developers face, AHFC may distribute project-based assistance via the competitive processes for the release of affordable housing funding distributed through its Planning and Program Development Department GOAL Program, Special Needs Housing Grant program, or other similar RFP addressing special needs populations. AHFC will announce that it is accepting PBV proposals as part of the competitive solicitation.

AHFC may:

- Limit the number of vouchers available in a funding round or competition,
- Elect not to participate in a particular NOFA, funding round, or competition, or
- Award less than the number of vouchers requested by an owner proposal.

A project selected for funding through a Planning and Program Development Department competitive solicitation must have occurred within three years of a possible PBV selection date.

2.F AHFC Selection of Projects Under MTW Authority Without Engaging in a Competitive Process

AHFC may select projects under MTW authority without engaging in a competitive process. Projects that may be selected for project-based voucher assistance without engaging in a competitive process include:

1. Properties owned directly or indirectly by AHFC that are not Public Housing;
2. AHFC Public Housing modernization activities including the replacement on a one for one basis of public housing units that are being permanently removed from the Public Housing program inventory.

A PBV award to projects selected without engaging in a competitive process must be approved by the AHFC Board of Directors.

2.G PHA-Owned Units [24 CFR 983.51(e) and 983.59]

The initial contract rent must be established by a HUD approved independent entity based on PBV program requirements. The initial and renewal HAP contract term must be agreed upon by AHFC and the independent entity.

HUD requires PHA owned units be inspected by an independent agency.

AHFC Policy

Moving to Work Activity 2010-6 approved by the AHFC Board of Directors with Resolution 09-10 on April 23, 2009 allows inspection of AHFC-owned units by AHFC in specific locations. This was implemented by AHFC on March 22, 2011 with Numbered Memo 11-11.

2.H Housing Type [24 CFR 983.52]

AHFC may attach PBV assistance for units in existing, newly constructed, or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started after owner's proposal submission do not qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

2.I Prohibition of Assistance for Certain Units - Ineligible Housing Types [24 CFR 983.53]

AHFC may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; transitional housing; or the homeownership option.

In addition, AHFC may not attach or pay PBV assistance for a unit occupied by an owner (including a principal or other interested party). A member of a cooperative who owns shares in the project assisted under the PBV program shall not be considered an owner for purpose of participation in the PBV program. AHFC may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

2.J Subsidized Housing Prohibitions [24 CFR 983.54]

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

1. A public housing dwelling unit;

2. A unit subsidized with any other form of Section 8 assistance (tenant-based or project-based);
3. A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);
4. A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
5. A unit subsidized with Section 236 rental assistance payments (12 USC 1715z-1). However, AHFC may attach assistance to a unit subsidized with Section 236 interest reduction payments;
6. A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, AHFC may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
7. A Section 202 project for non-elderly persons with disabilities (assistance under Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701q note);
8. Section 811 project-based supportive housing for persons with disabilities (42 U.S.C. 8013);
9. Section 202 supportive housing for the elderly (12 U.S.C. 1701q);
10. A Section 101 rent supplement project (12 U.S.C. 1701s);
11. A unit subsidized with any form of tenant-based rental assistance (as defined at 24 CFR 982.1(b)(2)) (*e.g.* , a unit subsidized with tenant-based rental assistance under the HOME program, 42 U.S.C. 12701 *et seq.*);
12. A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or by AHFC in accordance with HUD requirements. For this purpose, “housing subsidy” does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

2.K AHFC Requests for Proposals for Sponsor-Based Housing Units

Under MTW authority, “Broader Uses of Funds,” AHFC may award project-based funding directly to a service provider that will administer the rental assistance as Sponsor-Based Housing. The objective of PBV Sponsor-Based Housing is to enhance the delivery of supportive services to severely underserved populations under a housing first model. The service provider must utilize PBV Sponsor-Based Housing to provide rental assistance for either transitional or permanent supportive housing units committed to the service program. Eligible units must be committed to the service provider under a long term master lease or agreement or as a set aside reserved for housing only a special needs population.

AHFC will provide details that will include sponsor reporting requirements and restrictions on how PBV Sponsor-Based housing funds may be utilized in its Request of Proposals. A proposal to fund a Sponsor Based Housing project must be included in the

AHFC MTW Plan and may only be selected in response to an AHFC Request for Proposals (RFP). AHFC will advertise any RFP for Project-Based Sponsor-Based Housing in the same manner as any other PBV solicitation.

In order for the proposal to be considered, the applicant must submit a proposal to AHFC by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

AHFC will rate and rank proposals for Sponsor Based Housing using the following criteria:

1. Extent to which there is a need for housing and services for special populations in the immediate area or for occupants of the project;
2. Service provider experience and capability to operate housing as identified in the RFP;
3. Length, term and stability of service provider's funding source and commitment for available rental unit(s);
4. Extent to which the service provider has maintained successful working agreements in operating service enhanced housing in partnership with affordable housing developers;
5. Extend to which the project preserves or replaces affordable housing units at risk of loss of a previously committed affordable housing subsidy;

2.L Subsidy Layering Requirements

Subsidy layering reviews are conducted by AHFC Planning Department.

2.M Cap on Numbers of PBV in Each Project

HUD has established a 25 percent cap per project. Exceptions are listed under 24 CFR 983.56.

AHFC Policy

Moving to Work Activity 2011-5 approved by the AHFC Board of Directors with Resolution 10-14 on May 4, 2010 allows AHFC to project-base vouchers at its own properties and to exceed the building cap.

2.N Site Selection Standards

AHFC will comply with terms of the selection process and the environmental review described in the RFP.

3. Dwelling Units

This part identifies the housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

3.A Housing Quality Standards [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. Title II of Division L of Public Law 113-76, 128 Stat. 5, approved January 17, 2014 (HUD's Appropriation Act) allowed HUD to change the requirement for an annual inspection of units assisted under a HAP Contract (Federal Register dated June 25, 2014) to a biennial schedule. The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

AHFC Policy

All units must fully comply with HQS.

3.B Lead-Based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

3.C Housing Accessibility for Persons with Disabilities

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR 8. AHFC must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

3.D Unit Inspections

AHFC Policy

Moving to Work Activity 2014-3 approved by the AHFC Board of Directors with Resolution 13-11 on February 27, 2013 allows AHFC further flexibility when determining the number of annual and quality assurance inspections.

3.D.1. Pre-HAP Contract Inspections [24 CFR 983.103(b)]

AHFC must conduct an HQS for each contract unit before execution of the initial HAP contract. AHFC may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

3.D.2. Turnover Inspections [24 CFR 983.103(c)]

AHFC may accept the move-in inspection conducted by the owner to begin housing assistance to a new family in a contract unit if stated in the HAP contract. The owner must use the HUD-approved inspection form.

3.D.3. Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, AHFC must inspect a random sample, consisting of at least 20 percent of the contract units in each development. This sample will determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units fails the initial inspection, the AHFC must re-inspect 100 percent of the contract units.

AHFC Policy

Moving to Work Activity 2014-3 approved by the AHFC Board of Directors with Resolution 13-11 on February 27, 2013 allows AHFC further flexibility when determining the number of annual and quality assurance inspections. See the exhibits to this chapter for specific move-in, annual, and quality assurance inspection requirements for each PBV development.

3.D.4. Other Inspections [24 CFR 983.103(e)]

AHFC must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. AHFC must take into account complaints and any other information coming to its attention in scheduling inspections.

AHFC Policy

AHFC will conduct other inspections in accordance with the Housing Choice Voucher Administrative Plan.

4. Rehabilitated and Newly Constructed Units

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

AHFC Policy

AHFC will comply with the requirements listed under 24 CFR 983.151.

4.A Agreement to Enter into HAP Contract

To offer PBV assistance in rehabilitated or newly constructed units, AHFC must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152].

AHFC may not enter into an agreement if commencement of construction or rehabilitation has commenced after proposal submission.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and AHFC agrees that upon timely completion of such development in accordance with the terms of the Agreement, AHFC will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

4.B Completion of Housing

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

5. Housing Assistance Payments (Hap) Contract

AHFC must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

AHFC Policy

Moving to Work Activity 2010-14 approved by the AHFC Board of Directors with Resolution 09-10 on April 23, 2009 allows the development of custom forms using HUD forms as the base.

5.A Term of HAP Contract [24 CFR 983.205]

AHFC may enter into a HAP contract with an owner for an initial term of no less than one (1) year and no more than fifteen (15) years. AHFC may agree to enter into an extension at the time of the initial HAP contract term or any time before expiration of the contract, for an additional term of up to 15 years. AHFC may provide multiple extensions not to exceed 15 years cumulatively.

5.B Amendments to the HAP Contract

AHFC Policy

Moving to Work Activity 2010-14 approved by the AHFC Board of Directors with Resolution 09-10 on April 23, 2009 allows the development of custom forms using HUD forms as the base.

5.B.1. Substitution of Contract Units or Floating Assistance

At AHFC's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, AHFC must inspect the proposed unit and determine the reasonable rent for the unit.

The contract may be written that the PBV assistance floats throughout the property with a specific number of units and bedroom size. For these contracts, the entire project will be inspected for compliance with HQS prior to signing the HAP contract.

AHFC Policy

For developments with less than 100 percent PBV assistance, AHFC and the owner will negotiate which units will be associated with PBV. In all cases, no unit will be assisted unless it conforms to the Housing Quality Standards.

5.B.2. Addition of Contract Units

AHFC will comply with CFR 24 983.207. The HAP contract may be amended during the three-year period immediately following the execution of the HAP contract to add additional PBV contract units in the same project. An amendment to the HAP contract is subject to all PBV requirements except that a new PBV request for proposals is not required. The anniversary date and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally placed under the HAP contract.

5.B.3. Removal of Unit from the HAP [24 CFR 983.211]

Units occupied by families whose income has increase resulting in the tenant rent equaling the rent to the owner shall be removed from the HAP contract 180 days following the last housing assistance payment on behalf of the family.

If the project is fully assisted, AHFC may reinstate the removed unit to the HAP contract after the ineligible family vacates the property. If the project is partially assisted, a unit may be substituted of the same size when the first eligible substitute becomes available in accordance to 24 CFR 983.207.

5.C Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with AHFC and in the lease with each assisted family. In addition, maintenance, replacement, and redecoration must be in accordance with the standard practice for the building as established by the owner.

AHFC may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

AHFC Policy

AHFC will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. AHFC will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

5.D Vacancy Payments [24 CFR 983.352(b)]

AHFC Policy

AHFC does not accept vacancy claims or make vacancy payments.

6. Selection of PBV Program Participants

Unless specifically listed below, AHFC will follow eligibility and waiting list selection policies and procedures in the HCV Administrative Plan.

AHFC Policy

Moving to Work Activity 2010-7 approved by the AHFC Board of Directors with Resolution 09-10 on April 23, 2009 allows owner management of site-based waiting lists. Owner managed waiting list and selection procedures will be subject to regular AHFC audit.

6.A Waiting List Management

All project-based voucher developments utilizing waiting list management methods will be required to ensure that their tenant selection plans and other documents reflect this process as needed.

To minimize duplication of the applicant qualification process, if a family's income was verified by the owner as a requirement of participation in another low-income program committed to the project, AHFC may use copies of the family information regarding

income, expenses, and family composition including certification of third party verifications collected by the owner, for determination of family eligibility for the PBV program.

AHFC Policy

Any family documentation received from a PBV site owner must be dated within 60 days of a family's application date. AHFC may elect to re-verify any information as needed. Families selected for the PBV program must meet all AHFC's screening criteria under the Housing Choice Voucher Administrative Plan, Chapter 2. The date the "Project-Based Briefing Statement and Obligations" is signed will be considered the eligibility date.

6.B In-Place Families

An "in-place family" is defined as a PBV eligible family occupying a contract unit on the date AHFC awards a PBV proposal. These families are afforded protection from displacement under the PBV program.

AHFC Policy

If an "in-place family" occupies a wrong size unit (a unit size inconsistent with AHFC subsidy standards), the family must agree to move into a correct size unit. If one is not available or they refuse to move, they are not eligible for PBV unless they are willing to pay the difference between the correct PBV payment standard and contract rent.

6.C Public Housing Conversions

In-place public housing conversion families are continuously assisted applicants since the family is currently receiving assistance under a 1937 Housing Act program (24 CFR 982.201(d)(1)). The family is therefore not subject to the new admissions criteria for program eligibility and admission to the Section 8 PBV program.

AHFC Policy

AHFC complies with the requirements of 24 CFR 982.201.

6.D Organization of the Waiting List

Under MTW authority, AHFC is authorized to determine waiting list procedures, tenant selection procedures, and criteria.

AHFC Policy

Moving to Work Activity 2010-7 approved by the AHFC Board of Directors with Resolution 09-10 on April 23, 2009 allows owners of project-based voucher developments to be responsible for all project-based voucher waiting list intake and management functions.

All project-based voucher developments utilizing waiting list management methods will be required to ensure that their tenant selection plans and other documents reflect this process as needed. Owner managed waiting list and selection procedures will be subject to regular AHFC audit.

6.E Selection from the Waiting List and Determining Unit Size

The owner's tenant selection plan must establish selection criteria or preferences for occupancy of particular PBV units.

AHFC Policy

The owner's tenant selection plan may use the same selection preferences that are used by AHFC for the HCV tenant-based program or may establish selection criteria or preferences independently for occupancy of particular units in a PBV development. Changes in the tenant selection plan are subject to AHFC review.

6.E.1. PBV Site-Based Waiting List Oversight and Auditing

AHFC Policy

AHFC will audit site-based waiting lists in accordance with the Housing Choice Voucher Administrative Plan, Chapter 12, Quality Assurance.

6.E.2. Determining Family Unit Size for Project Based Voucher Assisted Units

AHFC Policy

AHFC will follow the Housing Choice Voucher Administrative Plan Subsidy Standards.

6.E.3. Offer of PBV Assistance, Refusal of Offer [24 CFR 983.251(e)(3)]

AHFC is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

1. Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
2. Deny any admission preference for which the applicant qualifies;
3. Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under AHFC's selection policy;
4. Remove the applicant from the tenant-based voucher waiting list.

6.E.4. Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection will not affect the family's position on AHFC tenant-based voucher waiting list.

6.E.5. Family Briefing [24 CFR 983.252]

When a family accepts an offer for PBV assistance, AHFC must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, AHFC must provide a briefing packet that explains how AHFC determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

6.E.6. Persons with Disabilities and Persons with Limited English Proficiency

AHFC will apply policies and procedures in the Housing Choice Voucher Administrative Plan, Chapter 1.

6.F Selection and Screening [24 CFR 983.255]

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease.

At a minimum, the owner is responsible for screening for rental history and suitability as a tenant. Selection of the family to occupy the unit must be in accordance with the owner's tenant selection plan.

AHFC Policy

AHFC will screen in accordance with the Housing Choice Voucher Administrative Plan, Chapter 2.

6.G Filling Vacancies

AHFC Policy

The owner must promptly notify AHFC of any vacancy or expected vacancy in a contract unit. The next eligible applicant must be referred to AHFC from the site-based waiting list.

If any contract units have been vacant for 120 or more days since owner notice to AHFC of the vacancy, AHFC may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period [24 CFR 983.254(b)].

AHFC Policy

If any contract units have been vacant for 120 days, AHFC may give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period.

A reduction in the number of HAP contract units will be reviewed by AHFC on a case-by-case basis. A unit may be allowed to remain vacant for over 120 days subject to good faith efforts by the owner to fill the vacancy. If AHFC decides to remove a unit by amending the HAP contract, AHFC will provide the notice to the owner within 10 business days, after the 120th day of vacancy. The owner will have 10 business days to submit a request for further consideration.

The request will be forwarded to an AHFC review committee and a decision letter will be issued within 10 business days of the request. The amendment to the HAP contract will be effective on the first day of the month following the date of AHFC's notice.

AHFC will take steps to enforce the contract if it appears that the owner is maintaining vacancies intentionally to evade contract obligations.

7. Occupancy

After an applicant has been selected from the site-based waiting list, determined eligible by the owner and AHFC, the unit meets HQS requirements; the family will sign the lease and occupancy of the unit will begin.

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

7.A Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include word-for-word the AHFC Tenancy Addendum.

The lease requirements will be in accordance with [24 CFR 983.256(c)] and the Alaska Landlord and Tenant Act. The lease for a PBV unit must specify all of the following information:

1. The names of the owner and the tenant;
2. The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
3. The initial term of the lease must be for at least one year and provide for automatic renewal for successive definite terms;
4. The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
5. A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
6. The amount of any charges for food, furniture, or supportive services.
7. All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

If a lease is executed for a unit with accessibility features that the family does not require, the lease agreement must contain language or a lease addendum notifying the family that they may be required to move to another unit (with continued assistance) if the unit is needed by a family that does require the features. The owner should state the transfer policy in the tenant selection plan.

7.A.1. Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give AHFC a copy of all changes. AHFC will follow the guidelines for changes in the lease agreement in accordance with AHFC's HCV Administrative Plan.

7.A.2. Tenant Absence from Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by AHFC policy. Project-based tenants are required to inform AHFC of absences from the unit as discussed in AHFC's HCV Administrative Plan, Absences from the Unit.

7.A.3. Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. AHFC may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

AHFC Policy

AHFC will allow the owner to collect a security deposit amount the owner determines is appropriate and in accordance with Alaska state law. When the tenant moves out of a contract unit, the owner is subject to state and local law regarding disposition of the security deposit. AHFC has no liability or responsibility for payment of any amount owed by the family to the owner.

7.B Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

AHFC will review the owner's tenant selection plan for policies regarding overcrowded, under-occupied, and accessible units.

AHFC Policy

If, while occupying a unit, family size changes, the family must report the change to AHFC. AHFC must then determine whether to assign a new subsidy level to the family. If the owner does not have an appropriately sized PBV unit available for the family, AHFC will continue to offer subsidy for the current unit at the current subsidy level until the second annual certification following the family's decrease in size.

If, by the second annual certification, the owner does not have an appropriately sized PBV unit available, AHFC will reduce the family's subsidy to the appropriate level. If the family elects to remain in the unit, it is responsible for paying the difference in rent.

The owner may offer a unit of the appropriate size to the family at any time during this period. If the family refuses to move, AHFC will give the family a 30-day notice to reduce subsidy to the appropriate level. This action is subject to the AHFC Grievance Procedures.

HUD regulations state that a family may choose to end their PBV assistance after the initial term of the lease and receive a tenant-based voucher from the housing authority (24 CFR 983.260).

AHFC Policy

Moving to Work Activity 2011-3 approved by the AHFC Board of Directors with Resolution 10-14 on May 4, 2010 authorizes AHFC to waive the requirement to provide a tenant-based voucher upon termination of PBV assistance. AHFC will not provide a tenant-based voucher to any family terminating from a PBV unit.

7.C Exceptions to the Occupancy Cap

AHFC Policy

Moving to Work Activity 2011-5 approved by the AHFC Board of Directors with Resolution 10-14 on May 4, 2010 allows project-based vouchers at AHFC properties and grants authority to exceed the 25 percent PBV cap per building.

8. Determining Rents To Owner

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or

newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term. The initial rent to owner must meet rent reasonableness guidelines as stated in the HCV Administrative Plan.

If the HAP Contract Begin Date is any day other than the first of a month, the HAP Contract anniversary date will be the first of the month following the Begin Date.

8.A Rent Limits

The rent to owner will be in accordance with 24 CFR 983.301. Except for certain tax credit units, the rent to owner must not exceed the lowest of:

An amount determined by the PHA not to exceed 110 percent of the applicable fair market rent for the unit bedroom size minus the utility allowance;
The reasonable rent; or
The rent requested by the owner.

To comply with HUD subsidy layering requirements, at the direction of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized financing.

AHFC Policy

AHFC will comply with the regulations at 24 CFR 983.301.

8.A.1. Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, AHFC must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, AHFC must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the PBV program. HUD will not approve a different exception payment standard amount for use in the PBV program.

Likewise, AHFC may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

8.A.2. Redetermination of Rent [24 CFR 983.302]

AHFC must determine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

8.A.3. Rent Increase

If an owner wishes to request an increase in the rent from AHFC, it must be requested at the annual anniversary of the HAP contract. The request must be in writing and in the form and manner required by AHFC. AHFC may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

AHFC Policy

An owner's request for a rent increase, with the justification for the increase, must be submitted to AHFC prior to the anniversary date of the HAP contract and must include the new proposed rent amount. The increase will take effect 60 days from the first of the following month.

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

8.A.4. Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

To comply with HUD subsidy layering requirements, at the direction of HUD or its designee, AHFC shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized financing (24 CFR 983.304).

8.A.5. Notice of Rent Change

The rent to owner is determined by written notice by AHFC to the owner specifying the amount of the determined rent. AHFC notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract.

AHFC Policy

AHFC will provide the owner with at least 30 days written notice of any change in the amount of rent to owner with a revised "Exhibit A" or Amendment to the HAP Agreement. Changes to rent will begin on the first day of a month and will be applicable for 12 calendar months.

At AHFC's discretion, AHFC may apply the current payment standard to a PBV family, regardless of their regular examination due date, to coincide with an approved change of rent.

8.A.6. PHA-owned Units [24 CFR 983.301(g)]

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. AHFC must use the rent to owner established by the independent entity.

8.B Reasonable Rent [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by AHFC.

HUD Regulation – 24 CFR 983.303

(c) How to determine reasonable rent.

(1) The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units.

(2) In determining the reasonable rent, the PHA must consider factors that affect market rent, such as:

- (i) The location, quality, size, unit type, and age of the contract unit; and
- (ii) Amenities, housing services, maintenance, and utilities to be provided by the owner.

(d) Comparability analysis.

(1) For each unit, the PHA comparability analysis must use at least three comparable units in the private unassisted market, which may include comparable unassisted units in the premises or project.

(2) The PHA must retain a comparability analysis that shows how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.

(3) The comparability analysis may be performed by PHA staff or by another qualified person or entity. A person or entity that conducts the comparability analysis and any PHA staff or contractor engaged in determining the housing

assistance payment based on the comparability analysis may not have any direct or indirect interest in the property.

AHFC Policy

Moving to Work Activity 2010-6 approved by the AHFC Board of Directors with Resolution 09-10 on April 23, 2009 authorizes AHFC to determine rent reasonableness at properties owned by AHFC.

8.C Tenant Rent to Owner

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by AHFC. Any changes in the amount of tenant rent will be effective on the date stated in the AHFC notice to the family and owner.

AHFC Policy

AHFC will determine rent in accordance with AHFC's HCV Administrative Plan, Chapter 3.

8.D Meals and Supportive Services [24 CFR 983.354]

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

8.E Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

9. HUD-VASH Vouchers¹

These exceptions to project-based voucher regulations at 24 CFR 983 are exclusively for Veterans Affairs Supportive Housing (VASH) Program vouchers.

1. Section 8(o)(13)(D) of the USHA of 1937 (42 U.S.C. 1437(o)(13)(D)), as amended by Section 106(a)(3) of the Housing Opportunities Through Modernization Act

¹ [*Federal Register, September 27, 2021*](#), "Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program."

(HOTMA) (Pub. L. 114-201, 130 Stat. 782), is waived for HUD-VASH vouchers so that all units exclusively made available to HUD- VASH families in a PBV project are exempted from the PBV income-mixing requirements (project cap).

The project cap refers to the number of units in a project that may receive PBV assistance and is generally the higher of 25 units or 25 percent of units in the project. Units exclusively made available to HUD-VASH families are excluded from (do not count against) this PBV project cap. Additionally, HUD-VASH supportive services only need to be provided to all HUD-VASH families in the project, not all families receiving PBV assistance in the project. If a HUD- VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit for as long as the family resides in that unit. Likewise, Section 8(o)(13)(B) of the USHA of 1937, 42 U.S.C. 1437f(o)(13)(B)), as amended by Section 106(a)(2) of HOTMA, is waived for HUD-VASH vouchers so that HUD- VASH units made available under a competitive PIH notice for HUD-VASH PBV units, are exempt from the PBV program limitation. This exception only applies to HUD-VASH PBV vouchers awarded through the HUD-VASH PBV set-aside process. All other HUD-VASH vouchers that the PHA opts to project-base, are still subject to the PBV program limitation.

2. Pursuant to the HUD-VASH case management and termination requirements, a HUD-VASH family's PBV assistance must be terminated for failure to participate in case management as required by the VAMC or DSP. Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period (as established by the PHA) to vacate the unit. The PHA must terminate assistance to the family at the earlier of (1) the time the family vacates or (2) the expiration of the reasonable time period given to vacate (the lease terminates at the same time as termination of assistance per 24 CFR 983.256(f)(3)(v)).

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. A PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

3. If a HUD-VASH family is eligible to move from its PBV unit and there is no HUD-VASH tenant-based voucher available at the time the family requests to move, the PHA may require a family that still requires case management to wait for a HUD-VASH tenant-based voucher for a period not to exceed 180 days. If a HUD-VASH tenant-based voucher is still not available after that time period, the

family must be allowed to move with its HUD-VASH voucher. Alternatively, the PHA may allow the family to move with its HUD-VASH voucher without having to meet this 180-day waiting period. In either case, the PHA may either replace the assistance in the PBV unit with one of its regular vouchers if the unit is eligible for a regular PBV (for instance, so long as the unit is not on the grounds of a medical facility and so long as the unit is eligible under the PHA's program and project caps) or the PHA and owner may agree to temporarily remove the unit from the HAP contract.

If a HUD-VASH veteran has been determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no HUD-VASH voucher is immediately available and cannot require the family to wait for a HUD-VASH voucher to become available.

4. Under HOTMA, PHAs no longer need authorization from HUD to convert tenant-based HUD-VASH vouchers to project-based HUD-VASH vouchers. However, PHAs must consult with the partnering VAMC or DSP to ensure approval of the project. PHAs and the partnering VAMC or DSP are expected to communicate regarding the PBV planning and development.

PHAs may project-base HUD-VASH vouchers in projects alongside other PBV units (the other PBV units must be attached in accordance with PBV requirements) and may execute a single HAP contract covering both the HUD-VASH PBVs and the other PBVs. In the description of units in Exhibit A of the HAP contract, PHAs must indicate the number of units that will be exclusively made available to HUD-VASH families. The PHA must refer only HUD-VASH families to PBV units exclusively made available to HUD-VASH families and to PBV units funded through a HUD-VASH PBV set-aside award. The PHA and owner may agree to amend a PBV HAP contract to re-designate a regular PBV unit as a unit specifically designated for HUD-VASH families, so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to re-designate a unit specifically designated for HUD-VASH families as a regular PBV unit, so long as the unit is not funded through a HUD-VASH PBV set-aside award and is eligible for a regular PBV (for instance, the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

5. PBV project selection for HUD-VASH must follow all regular project selection regulations.