

## **Public Housing Repositioning Wednesday - Project-Based Voucher Program Overview, 12/2/20**

Dan Esterling: Okay. Thanks, Caila. Welcome, everybody. I'm just going to dive right in, because we have a lot of material to cover.

So our presenters today are Amaris Rodriguez and Eva Tafoya from the housing voucher program office and they are our two PBV experts in all of HUD. So I'm very excited to have them share their knowledge with us today.

And just as an introduction here, the project-based voucher program is complicated. You know, this isn't 101 style presentation and I'm happy that this is being recorded, because this is the type of thing that you may want to come back to and reference again after you've heard it the first time and I've had several PBV trainings myself and I'm always learning more each time I listen. So just bear that in mind as you listen to Eva and Amaris today. Next slide.

And again -- so today the big focus, project-based vouchers. They're also going to touch on tenant-protection vouchers. So these are the vouchers awarded to housing authorities after they do a -- or complete a repositioning action and in what circumstances they might receive tenant-protection vouchers and then how housing authority, along with our partners, may project-base those vouchers that they have in hand. Next slide.

And somebody smarter than me put in links to all of our past repositioning Wednesday webinars. So you can access them there from the slides that Caila sent out and this will be our final webinar of the year and as Caila mentioned, we send out a survey at the end, please do provide us with any suggested topics that folks want to hear about.

We're going to continue these in 2021. We have a few ideas floating around, but requests from the audience are always very welcomed. So we will take those into account, I promise you, in 2021. And with that, I'm going to turn it over to Amaris. Amaris.

Amaris Rodriguez: Thank you, Dan. Hopefully everybody can hear me well enough. If we can move onto the next slide. Like Dan said, I guess I'll introduce myself before I start, my name is Amaris Rodriguez. I'm with the Office of Housing Voucher programs in HUD Headquarters. I'm a senior housing program specialist. I've been with the voucher office for about 10 years now and happy to be here with you sharing some of the knowledge that I've acquired during that time.

So I will start with a very high-level explanation of what is the PBV program, project-based voucher program and I'll touch on some very specific items on this particular slide, but as we go along in the training, we will definitely provide more detail that will help give more information about what are PBVs and give you more context about the program.

So first of all, I'll point out that the project-based voucher program is a discretionary component of a PHA's housing choice voucher program. There's no dedicated funding for PBV; it comes from voucher funds obligated by HUD to a PHA through an annual contributions contract for the housing choice voucher program.

Under PBV, the housing authority, the PHA executes a long-term HAP contract with a project owner and the rental assistance is tied to specific housing units unlike the tenant-protection voucher program where the assistance follows the family. There are specific PBV requirements that apply and there's a specific part of the regulation that covers the project-based voucher program, it's under 24 CFR Part 983.

But there are many voucher regulations that apply to the PBV program and those are listed in Part 983. The voucher regulations are listed in 24 CFR Part 982. And also, I'd like to point out that there are some waivers for alternative requirements that apply under the rental assistance demonstration.

Now, we're not going to cover RAD in a whole lot of detail, but we will point out where there is a particular RAD waiver in part of our presentation. Next slide, please.

So here we'll go over fairly quickly the benefits of the project-based voucher program, specifically in contrast with the public housing program. The PBV program provides a long-term extendable contract and the funding is based on market rents. So it provides a predictability that allows owners and developers to leverage capital to cover the cost of development and of ongoing maintenance of the project. Typically, PBV contract rents are higher than public housing formula funding and there is no declaration of trust on the property.

So there's no encumbrance on the property unlike public housing programs. And then in a more general sense, PBVs can be used to improve or increase the supply of portable housing in the community and to address unmet housing needs.

So for example, PBVs can be used to provide supportive housing for low-income families to expand accessible housing for families that include individuals with disabilities and address the unmet housing needs of the homeless, the elderly or veteran families. Now, PHAs may look to the PHA planning process to assist in determining what local housing needs and goals are best suited to be addressed with PBV.

And lastly but not less importantly, in tight rental markets where they can see rents are low, PBVs may increase the supply of affordable housing for voucher-eligible families and it can assist housing authorities in improving and meeting their utilization targets.

Next slide, please. Thank you. So now I'm going to cover, in a very high-level way, the main repositioning tools that I'm sure most of you are familiar with and the first one is RAD, or rental assistance demonstration, conversion to PBV. I'm just going to provide a very high-level information here, but of course, there's many resources of RAD conversions that are available to you that you can ask us after this presentation.

So under a RAD conversion to PBV to PHA applies to HUD and must be approved for the conversion of subsidy. Here HUD is converting the public housing funding to Section 8 assistance, either project-based vouchers or project-based rental assistance. So there is no incremental funding associated with a RAD conversion to PBV.

So initial contract rents are established on public housing levels and after the first year, the HUD financial management center for the voucher programs will start dispersing half funding to the PHA and the funds become part of the voucher budget authority at that point.

Under RAD, the PBV HAP contract is executed at closing and there are -- there's a possibility of rehab assistance payments for units that are vacant during their rehab of the property to cover operational costs.

And then the last thing I'll mention here is the RAD Section 18 blends where a percentage of the project is converted through RAD and another percentage is converted through a Section 18 public housing action which is typically through an award of tenant-protection vouchers and this slide provides information where you can find -- or the link where you can find the webinar where the blends were discussed and a link for more information can be found on RAD.

Next slide. And then the other ways that -- or other repositioning tools are conversioned through a Section 18 demo/dispo, Section 22 voluntary conversion or Section 33 required convergence. In this particular conversion method, there's not a direct conversion of subsidy like there is in RAD.

After PIH, the Office of Public and Indian Housing, at HUD approved the public housing action, the PHA may request tenant-protection voucher funding to HUD or the PHA may use its existing housing choice voucher allocation to meet its comparable housing requirement or I should say, the relocation requirements that accompany the public housing action.

The TPV funding -- tenant-protection funding may be used as tenant-based or project-based assistance with certain caveats depending on the action and the type of TPV that we're talking about and we'll get into that as I go along in the presentation. And then I also wanted to point out I mentioned that typically PBV projects don't have encumbrances like in the public housing program.

There's no declaration of trust, however, there might be a use restriction requirement as part of the public housing action and whenever I refer to a public housing action, I'm talking about either a Section 18 demo/dispo, Section 22 voluntary conversion or Section 33 required conversion.

And the public housing action might also require a transfer to any new owner entity. Next slide. Thank you. So we'll get into tenant-protection vouchers and I have provided, on this first slide, a link where you can find more information about tenant-protection vouchers, or TPVs. Next slide, please.

So in this chart, we'll cover the public housing actions that trigger eligibility for tenant-protection vouchers and we'll also touch on certain specific requirements to project-base those tenant-protection vouchers.

So the first one is the Section 18 demo/dispo. This particular public housing action does trigger eligibility for tenant-protection vouchers. And those TPVs may be project-based if they are replacement tenant-protection vouchers and I'll cover what are replacement TPVs in the following slide, I believe. We'll get into that.

For RAD Component 1, which is the conversion of public housing subsidy through RAD, does not trigger eligibility for tenant-protection voucher. Instead, as I mentioned previously, the public housing funding converged to either project-based vouchers or project-based rental assistance.

Now, I should note in this particular case that -- or the blends, the RAD Section 18 blends, the Section 18 component of the blend does trigger eligibility for tenant-protection vouchers. Moving on to Section 33 required conversions, this public housing action does trigger eligibility for tenant-protection vouchers and a PHA may project-base on the same side but only if current buildings are demolished and new housing is constructed.

For Section 22, voluntary conversions, again, does trigger eligibility for tenant-protection vouchers, however, there's a requirement to obtain written tenant consent if the project will be used as rental housing after conversion in order to be able to project -base replacement tenant-protection voucher awarded in connection with the Section 22 voluntary conversion.

The reason for this is under the Section 22 statute; the tenant has a right to tenant-based assistance at the property if the property or portion of the property will be used as rental housing after conversion. And the tenant-based tenant-protection voucher in that context could potentially be used in the property if the unit meets full housing choice voucher program requirements, including HQS, or housing quality standards inspections.

And then lastly, on this chart we have 2 CFR Part 200 retentions, those are not eligible for tenant-protection vouchers. Next slide, please.

Okay. So getting into general tenant-protection voucher provisions, I'll first cover that there must be an indication in the public housing application, this is the application that you make to the SAC for a public housing action, either Section 18, 22, 33, whichever it is. There has to be an indication in that application that the PHA plans to use the tenant-protection voucher as the replacement housing.

If the public housing application shows that another form of housing, for example, another public housing unit or a project-based rental assistance unit, will be used as the replacement housing or the comparable housing for the family, then there would be no TPV eligibility and this is because tenant-protection vouchers are primarily appropriated or funded for the protection of families impacted by the conversion action.

In this case, the public housing conversion action. Now, getting into the differences between relocation and replacement tenant-protection vouchers there are, in fact, two types of TPVs. This classification comes directly from the Appropriations Act. The relocation tenant-protection

voucher is -- would be awarded if the housing authority is planning to redevelop the property as public housing.

So at the end of the day, the property will continue to be public housing and in that case, a relocation tenant-protection voucher would be awarded. In contrast, there is no plan to redevelop the property as public housing, but rather if PHA intends to move the property to the Section 8 class, then a replacement tenant-protection voucher would be awarded.

Now, the difference between these two types of TPVs is whether or not the housing authority can use that TPV or a waiting list family once the original family exits the voucher program. Under our relocation TPV, the housing authority cannot use that voucher for a waiting list family upon turnover and this is what we call the sunset provision.

The ACC is amended to reduce those units once the original family exits the voucher program. A replacement TPV, in contrast, does not have this sunset provision and can be used upon turnover for another waiting list family. In terms of relocation tenant-protection vouchers, those are only awarded for impacted families.

So they're only awarded for units that are occupied and there's not an opportunity to project-base those relocation people. Replacement tenant-protection vouchers, in contrast, are awarded for a unit occupied by a HUD-assisted family within the previous 24 months from DIH approval of the public housing action.

In that Section 18 demo/depo context, there is a percentage limitation under a number of PBVs that may be awarded if the action is approved under the more efficient/effective low-income housing provision or if approved under a 75/25 RAD Section 18 blend. Next slide, please.

Continuing with general TPV provisions, once a tenant-protection voucher is awarded it has to be offered to the family that has been impacted by the public housing action. The family must be eligible for the tenant-protection voucher under voucher requirements.

This means that the family has to either be a very low-income family or a low-income family if the family is considered to be continuously assisted. So a low-income family would be eligible under voucher requirements if the family is considered continuously assisted.

Continuously assisted means that the family is already receiving assistance under any program enacted under the 1937 U.S. Housing Act when admitted to the voucher program.

Now, the PHA's administrative plan would determine whether and to what extent a brief interruption between assistance would be considered to break the continuity of assistance for applicability of this provision and the family must meet all other voucher eligibility requirements beyond income eligibility requirements, including any conditions for admission established by the PHA.

For example, under the voucher program, the housing authority could have a policy to deny assistance if a family's in breach of a repayment agreement with the PHA. If that's the case, a family that is in breach, such an agreement would be ineligible for the tenant-protection voucher.

That's just an example of that particular provision. And TPVs issued to families impacted by the public housing action are considered to be special admissions vouchers meaning that there's no need to pull the family from the voucher waiting list and they are not subject to income targeting requirements.

Now, I realize that some of you on the call might not be as familiar with the housing choice voucher program. So I'll cover what are the income targeting requirements, which is a feature that requires that not less than 75 percent of the families admitted to the PHA's housing choice voucher program from the waiting list be extremely low-income families. So tenant-protection vouchers issued to impacted families are not subject to this particular provision. Next slide, please.

So now we are going to cover how to apply for the tenant-protection vouchers. I would note that the PHA that will administer the vouchers has to apply for TPV funding outside of the public housing application process after the public housing application has been approved.

I just want to point out that that's done after the PIH approval of the public housing action to a different HUD office. Like I mentioned, a PHA cannot apply until after the public housing action is approved with a limited exception or projects with imminent health and safety risks.

So that's the only circumstance where HUD does not require a public housing action to have been approved before application for tenant-protection funding. The PHA that will administer the vouchers must submit a TPV application when vouchers are needed to relocate families, which is generally no sooner than 30 to 60 days before the plans start of relocation with the tenant-protection voucher.

In terms of required documentation for applying for TPVs, the application requires a leasing schedule, the HTB funding form, HUD-52515, a cover letter and PIH approval of the public housing action. Now, the PIH approval of the public housing action can either be a copy of HUD's approval or a reference to the DBA number and data [inaudible].

In terms of the cover letter, it must include the name and IMS [inaudible] number of project and number of relocation or replacement TPV [inaudible]. Next slide, please.

In cases where the PHA does not have a voucher program, does not administer a housing choice voucher program but it's a public housing-only agency, the public housing-only PHA will have to partner or have a written agreement with a voucher agency, an agency that does administer the housing choice voucher program.

And as I mentioned previously, the voucher agency will be the one that applies for the tenant-protection vouchers and the voucher agency will be the one to award the tenant-protection vouchers to the project for project-basing in cases where the TPVs will be used for PBV.

The voucher agency must be authorized under state law to administer voucher assistance in the geographic location in which the former public housing project is located; and the voucher agency must either already have a PBV program or will have to establish one in order to be able to PBV the transaction vouchers.

Next slide. As I mentioned previously in the context of Section 22, streamlined voluntary conversion, families have a statutory right to remain in their units with tenant-based assistance if the property will be used as rental housing following the conversion.

For that reason, if the housing authority intends to PBV the unit, you must conduct a family briefing before the tenant assents to give -- relinquish their right to tenant-based assistance. The tenant must be given at least 30 days from the briefing to make their decision whether or not to assent to give up the right to tenant-based assistance.

The PHA must obtain the tenant's written voluntary consent. That means that if the family does not respond, the family affirmatively withholds consent or informs the PHA that they wish to retain tenant-based assistance, then the PHA will not be able to PBV [inaudible] and there is more information about the [inaudible] requirements and other details on this particular provision in Appendix A of PIH Notice 2019-05.

Next slide, please. And staying on the topic of streamlined voluntary conversions and tenant consent to PBV, if the tenant moves -- in cases where the tenant does not consent to PBV, a tenant that may move with the tenant-based tenant-protection voucher at the time of conversion and the PHA can then project-base the unit using existing HCV resources.

If the tenant would like to remain in the unit with the tenant-based tenant-protection vouchers and assuming that the unit meets all applicable housing choice voucher requirements, then the PHA must exclude that unit from the PBV HAP contract but may later amend the PBV HAP contract to add that unit if the tenant leaves provided all PBV requirements are met.

And with that, I'm going to stop for a second and see if there are any questions before I turn it over to Eva.

Caila Prendergast: Okay. Great. Thanks. We did have a few questions come in while you were presenting. So let me just scroll to find them. So some came in relatively early and it says -- they mentioned that PBV rents are higher than public housing formulas, but can they be different from the HCV FMR or SAFMR?

Amaris Rodriguez: No. The same -- if I'm understanding the question correctly, the same fair market rents is used in the Tenant-Based and the project-based voucher programs to set the rent, however, the process of setting the PBV rents is fairly different in the PBV program and the amount of subsidy that the housing authority pays, the way that's determined is fairly different in the PBV program as well.

I'm not sure if that answered the question, but we will be getting into how PBV rents are determined a little bit later on in the presentation. So that may help put it in context.

Caila Prendergast: Okay. Great. Thanks. So another question that came in is, we are in the process of submitting a Section 18 application. We are going to be requesting TBVs. Will we then have to do a separate application for PBVs?

Amaris Rodriguez: You will have to do a separate application for the tenant-protection voucher funding, yes, unless you intend to use your regular voucher allocation to PBV the units in which case you don't need to submit a separate application, but if you intend to apply for tenant-protection voucher funding, you will have to submit a separate application for that.

Dan Esterling: I think, Amaris, just to clarify that question, what they're asking is once they have this in hand is there a separate application process to do the PBV? But I think you got [inaudible] into this -- to that process itself later on in the presentation.

Amaris Rodriguez: Yes, that's right. Thank you, Don, for clarifying that. We'll get to that.

Caila Prendergast: Okay. So that was actually the only other question that I had come in and I think if that's all, I just want to give folks a few seconds in case there is one or two that trickles in once people are getting their thoughts down, but I think we're maybe good to go ahead and pass it over to Eva.

Eva Tafoya: Okay. Great.

Caila Prendergast: Oh, I knew this would happen. There was one that came in while I was talking just then.

Eva Tafoya: Okay. I'll pause.

Caila Prendergast: So are these rules applicable to enhanced vouchers or are they different?

Amaris Rodriguez: So good question, thank you for asking that. Enhanced vouchers are not -- I'm sorry, tenant-protection vouchers awarded in connection with the public housing actions are - - will never be enhanced vouchers. Enhanced vouchers are only provided in very specific situations in the context of housing conversation actions, not public housing actions.

I hope that that was clear. If not, feel free to follow up with another question if that was not clear.

Caila Prendergast: Okay. Thanks. So I think with that we'll go ahead and pass it over to you, Eva. Thanks.

Eva Tafoya: Okay. Great. Thank you. My name is Eva Tafoya. I'm a program analyst with the Voucher Offices Program Support Division and what I'm going to cover next are some types of issues a housing authority should plan for when repositioning public housing and providing project-based vouchers.



Next slide, please. So Amaris had mentioned this earlier, but the housing authority that will administer the vouchers, so the HCV PHA, must establish a PBV program before any project-basing can occur. The PHA must adopt PBV policies in the PHA's administrative plan covering discretionary PBV matters and also the PHA must describe plans to project-base units in the PHA's annual plan.

Next slide, please. Another important consideration when project-basing is how mobility will impact the PHA's overall voucher program. In PBV, each family residing in a PBV unit generally can move with the next available tenant-based assistance after one year of residing in a PBV unit.

There's one exception, RAD projects may apply a turnover cap if RAD causes the PHA's PBVs to exceed 20 percent of voucher ACC units. Under a turnover cap, an eligible voucher agency would not be required to provide more than 3/4 of its turnover vouchers in any single year to the residence of RAD-covered projects.

This does not apply to the Section 18 units in a RAD Section 18 blend, only the RAD units in the RAD-covered project. PHAs that are considering providing PBVs after repositioning should keep in mind how the choice mobility rules will impact their overall voucher programs.

For instance, what will be the impact if PBV family moves with tenant-based assistance on the PHA's HCV waiting list. Also, whether future funding proration or shortfalls could increase the percentage of PBVs in the PHA's overall voucher program. Let's go to the next slide, please.

If a PHA is intending to use PBVs as part of a repositioning strategy, it should also consider the advantages and disadvantages of different repositioning tools depending on whether the plan is to attach PBVs to the former public housing project or to a different project.

Depending on whether the PBVs will be located in the former public housing project, the PBVs may be exempt from program and project caps which I'll discuss later in the presentation. I just want to clarify, though, that RAD units are always exempt from both caps and we'll go over that in a little while.

If the PHA wants to locate PBVs in a different project or rehabilitate the former public housing project in order to project-base it, then the PHA does need to have a plan for any needed relocation of tenants.

RAD offers advantages in this respect, because owners may be able to get rehab assistance payments for vacant RAD units that are undergoing rehab and RAD has a great guidance notice on relocation, it's PIH Notice 2016-17 and that notice applies to both RAD units and Section 18 units in a RAD Section 18 blend.

I just want to reiterate here one issue that Amaris discussed earlier, under streamlined voluntary conversion, or Section 22, if the PHA wishes to attach PBVs to former public housing units,

families must consent to allow their assistance to be project-based, but this can also present an issue if the PHA wishes to locate project-based vouchers in a different project.

In that circumstance, the PHA also needs to be aware that the families may have the ability to choose to remain in the former public housing unit if that unit is used as rental housing. If the family decides to do that, then the PHA would have to use its existing voucher allocation to project-base units at the new project. Next slide, please.

Another consideration for PHAs in the planning stage is when project-based voucher contracts can be executed. If the PHA is project-basing tenant-protection vouchers in the former public housing units, then no contract can be executed for the PBV program while the units are still public housing.

So for newly-constructed or rehabilitated housing, the PHA and the owner execute an agreement to enter into housing assistance payments, or an AHAP, once the units are removed from the public housing program. The PHA and owner would then execute the HAP contract once the units are developed and meet HQS.

For existing housing, the PHA and owner execute the HAP contract once the units are removed from the public housing program since there's no AHAP requirement for existing housing. And again, a RAD HAP contract is different in that that is executed at closing prior to rehab.

Next slide, please. Thanks. A PHA should also plan for some differing procedures depending on who owns the intended PBV unit.

So a couple of considerations relating to noncompetitive selection, which is a method to select PBV projects that I'll discuss a little bit later, but just for purposes of this slide I want to mention that if the voucher PHA, the PHA that's administering the vouchers -- if that PHA has an ownership interest in the project at the time of selection, the project is typically eligible to be selected noncompetitively.

When instead a public housing-only PHA has an ownership interest, then the project is typically not eligible to be selected noncompetitively. A project owned by a public housing-only PHA could only be selected noncompetitively after the units are removed from the public housing program if the voucher PHA gains an ownership interest at that time.

Another issue is whether a project may be considered PHA owned under PIH Notice 2017-21. If a project is considered PHA owned, a HUD-approved independent entity must perform some PHA functions, such as HQS inspections, housing quality standard inspections and that independent entity must perform those PHA functions at least until the time the project is no longer PHA owned.

If the voucher PHA has a large ownership interest, then the project could be PHA owned, however, if only the public housing PHA has an ownership in the project and not the voucher PHA, then the project is not considered PHA owned. We're really looking at what interest the housing authority that administers the vouchers has in the project.

PBVs typically can be owned by any kind of ownership entity, but I just wanted to mention here that RAD projects generally must be owned or controlled by a public or nonprofit entity. So that's important planning consideration. Go to the next one. Thank you.

So this is continuing on the discussion about when a project qualifies as PHA owned. In that case, the PHA should be aware that it cannot sign a HAP contract with itself. A separate legal entity must sign as the owner and there are a variety of ways to accomplish that described in PIH Notice 2017-21.

One method that the voucher agency can take is the voucher agency can enter into an agreement with a separate entity that has the authority, under state law, to lease the project unit and then that separate entity can sign as the owner. So it's really important for a housing authority to consider what the ownership structure will look like in the planning stage if the project would be considered PHA owned.

The same person may have the authority to sign the HAP contract on behalf of both entities, but the contract administrator and the owner must be two distinct legal entities. Let's go to the next slide, please. So now we'll get into a few of the requirements for project-basing.

Let's go to the next one. Thank you. For non-RAD PBVs, this is a bird's eye view of the process to project-base a particular project. Generally, this process occurs mostly after a housing authority receives an award of tenant-protection vouchers, but it's really independent from the tenant-protection voucher award.

This is a requirement -- these are requirements of the project-base voucher program and must occur whenever a housing authority project-bases any units outside of the context of RAD.

So just really briefly to go through it, what's -- what a housing authority is going to do, in order to project-base a particular project, is notify HUD that it intends to do some project-basing, a competition may be required, then the housing authority or an independent entity, if the project is PHA owned, will conduct a preselection inspection of the project.

The housing authority will select the project by sending a letter to the owner. The responsible entity of the jurisdiction will conduct an environmental review and then we get to three steps in the process that are only applicable to newly-constructed or rehabilitated projects.

For those projects, a subsidy layering review may be required if the project receives funding other than PBVs, other government funding, then PBVs. The housing authority and owner would enter into an AHAP, an agreement to enter into housing assistance payments prior to construction, and then once construction is complete we get back to some steps that apply to all three types of housing, newly-constructed, rehabilitated and existing.

The housing authority or an independent entity, if the project is PHA owned, would determine the rent and conduct a pre-HAP contract inspection. After those two things are done, then the

HAP contract is executed between the owners and the housing authority and then the project is ready for occupancy.

So that's a high-level overview. I'm not going to go through all of these kinds of PBV requirements, but I'm going to focus in on a few PBV program requirements that have repositioning implications in the next couple of slides. Can we go to the next one? Thank you.

Okay. The program cap, PHAs may project-base up to 20 percent of the PHA's authorized voucher units. PHAs can project-base an additional 10 percent of units if they are units serving the homeless, veterans or that provide supportive housing to persons with disabilities or elderly persons or if the units are located in a census tract with a poverty rate that does not exceed 20 percent.

Former public housing units that are project-based are generally exempt from this cap and the next cap that I'll talk about. Let's go to the next slide. This is a slide on the project cap. The project cap refers to the number of project-based vouchers that can be placed within a single project.

The cap is generally the greater of 25 units or 25 percent of units and accepted units that serve elderly families or families eligible for supportive services do not count toward the cap. Projects that are in a census tract with a poverty rate of 20 percent or less are subject to a cap that is the greater of 25 units or 40 percent of units.

Again, former public housing units that are project-based are generally exempt from this cap. Let's go to the next slide. So let's talk about that exemption. These are the criteria for how former public housing units can be exempt from both the program and project caps.

First, the units must previously have received HUD assistance. So public housing funding. Second, the PBV HAP contract effective date must be on or after April 18, 2017 when this rule was implemented. And then for existing or rehabilitated units, the units must have received that public housing funding within five years of the date of selection or of the Request for Proposal issuance, or RFP, if there was one.

For newly-constructed units, units being replaced must have received public housing funding within five years since the date of selection or of RFP issuance. In addition, for newly-constructed units, the units must be on the same site as the unit being replaced with some flexibility for an expansion or modification of the site boundaries and one of the primary purposes of the new unit must be to provide replacement housing.

There's some additional criteria and nuances I'll not go into here, but you can find them in PIH Notice 2017-21, Attachment F. One thing I will mention, though, is RAD PBVs are always exempt from the program and project caps. Go on to the next one. Thanks.

Competitive selection rules are something that I alluded to earlier. The general rule is that PHAs must publish a request for proposals and select PBV project from among those proposals received, but there are two major exceptions.

A PHA can skip the RFP if it has a project in mind that was competitively selected in another comparable competition in the past three years and that prior competition did not consider that the project would have PBVs. The second exception tends to be very useful in repositioning.

PHAs may attach project-based vouchers to project in which the HCV's PHA has any ownership interest without competition if the PHA is engaged in an initiative to improve, develop or replace a public housing property or site. The PHA must be planning either rehabilitation or construction on the project with a minimum of \$25,000 per unit in hard cost or replacement with existing housing that complies with HQS.

Just note here that RAD PBVs are always exempt from competitive selection requirements. Next slide, please. So here is that explanation of rents, generally, rent must not exceed the lowest of three amounts, the reasonable rent, the rent requested by the owner or a PHA determined amount.

The PHA determined amount can be any amount up to 110 percent of the applicable FMR or the approved exception payment standard, if there is one, minus any utility allowance. Tax credit exception may apply if the project is not located in a qualified census tract.

RAD rents are subject to the same rent caps I just described, but they cannot exceed the public housing subsidy amount determined by HUD and increases to RAD rents are made via an OCAF, an operating cost adjustment factor. Next slide, please. So at this point, I think I'll turn it over to Amaris to finish out the presentation before we go to a question session.

Amaris Rodriguez: All right. Thank you, Eva. So now we're going to be covering some resident considerations in the context of PBV on stipends.

Before I get started on this, I should note that this information is also covered in a PBV Repositioning FAQ document that is available in HUD's website and at the end, there will be a resource slide that I believe Dan is going to go over that includes a link to the PBV webpage where you can find the FAQ form I'm talking about.

So with that, let's talk about over-housed families. A family under the PBV program has to occupy an appropriately-sized unit as determined by PHA subsidy standards and for those of you that don't know what that is, subsidy standards are standards used by the PHA to determine the appropriate number of [inaudible] for families of different sizes and composition under the housing choice voucher program and the PHA determines the size of the PBV unit for which the family qualifies using the same subsidy standard that the PHA uses in its housing choice voucher program.

If one [inaudible] subsidy the determination of the appropriate size of the unit is made, the family is determined to be over-housed, meaning in a unit that is -- that has more bedrooms than what the family qualifies for under PHA subsidy standards and the family cannot stay in the unit and receive PBV assistance.

There's a RAD exception to this provision which allows the family to remain in their over-housed unit until a right-sized unit is available. Next slide, please. So what are the PHA options when a family is over-housed?

The PHA can either move the family to an appropriately-sized PBV unit in the project and PBV the original unit with the TPV if it's possible to do that depending on vacancies or in the Section 18 demo/dispo context, if it's not possible to move a unit to an appropriately-sized PBV unit in the project, the housing -- the family may be relocated using another form of comparable housing and then the tenant-protection voucher may be used to project-base the unit.

If there is no other form of comparable housing that may be offered to the family, then the family -- the PHA could allow the family to stay in the unit at a rental rate that is comparable to what the family was paying in the public housing program. In this particular case, the unit would stay off the PBV contract and then tenant-protection voucher could be used to serve a waiting list family.

Under Section 22 voluntary conversion, on the other hand, if the housing authority is unable to move the family to an appropriately-sized PBV unit in the project, then the family must be offered a tenant-based TPV and the family may either use the tenant-based TPV in its -- in the unit if it meets housing choice voucher requirements or the family may choose to move from their current unit the best tenant-based assistance.

Now, in the context of -- if we could go back to the previous slide, thank you. In the context of Section 22 and the family staying in the unit with their tenant-based TPV, I'd like to point out a few things to consider. The first thing is that under the normal standard, the PHA will pay the subsidy based on the size -- on the family unit size, not the actual size of the unit.

So the payment standard, which is the maximum assistance of the PHA pays for the family under the voucher program, is based on the size of the unit for which the family qualifies under PBV subsidy standards, not on the actual size of the unit leased is very different.

So with that in mind, if the family wants to use the TPV in its current unit, the unit not only has to meet housing quality standard inspection requirements but it almost also needs HCV [inaudible] requirements, meaning that a family cannot pay more than 40 percent of the family suggested income towards rent once that -- when the family initially received tenant-based assistance.

Next slide, please. In terms of families that are over-income under voucher requirements and are ineligible for PBV assistance, the PHA is still responsible for meeting the Section 18 or Section 22 or 33 relocation requirements.

In this instance, the family may be relocated using a form of comparable housing other than the TPV and then the TPV may be used to either project-base the unit or if the family stays in the unit at a comparable rental rate, then the unit will have to stay off the PBV HAP contract and the tenant-protection voucher may be used to serve the HCV waiting list.

Now, there is a RAD exception to this over-income provision, because under RAD, over-income families may remain in their units, there is no rescreening under RAD based on a RAD statutory provision and this RAD exception applies in the context of RAD Section 18 blends.

Next slide, please. Okay. Moving on to zero-HAP families. So a family is considered zero-HAP when the family's total tenant payment exceeds the PBV contract rent, which therefore results in the PHA paying no housing assistance on behalf of the family. This is a zero-HAP family.

A zero-HAP family, at admission to the PBV program, is ineligible for PBV assistance. So what happens in this case? The family must be offered a tenant-based tenant-protection voucher which the family may use to relocate or to remain in the unit is that is allowable under housing choice voucher program requirements.

If the family happens to also be zero-HAP in the tenant-protection voucher program, then the family must be provided another form of comparable housing. Then the PHA will know if the family's also zero-HAP at admission to the tenant-based voucher program once the PHA processes the family's initial request for tenancy.

There is, again, a RAD exception to this zero-HAP position, because zero-HAP families may remain in their units. Again, there's no rescreening for families that will be occupying a RAD unit and again, this RAD exception also applies to the RAD Section 18 blends.

Next slide, please. So let's talk about implications that relate to flat rent families and families that are under an earned income disregard, or EID. Any families that had been paying a flat rent under the public housing program will be required to pay an income-based rent under the project-based voucher program.

That is, the family will pay the total tenant payment. There is a RAD exception to this which allows for rate phase rents to phase in, which is covered in more detail in RAD materials in the RAD as noted.

In this case, the PHA must offer the tenant-protection voucher to the flat rent family and if the family refuses the tenant-protection voucher due to this potential increase in rent or their portion of the rent, I should say, and the PHA can accommodate the family's preference not to use the tenant-protection voucher, then the PHA may provide an alternative form of housing.

Now, moving on to EID rules, once the family enters the voucher program, voucher program EID rules apply. This could mean that the family no longer qualifies for the Earned Income Disregard and in that case, the EID will end when the family moves to the PBV program and EID rules for the voucher program can be found at 24 CFR 5.617, but generally, EID and the voucher program only applies for persons with a disability.

And there is a RAD exception to this which allows EID to carry over once the units converted to the Section 8 platform. Next slide, please.

In this slide, we just wanted to point out other resident considerations that we will not cover in detail on this presentation, but they're all webinars already available where these things are discussed in more detail, specifically the impact that the conversion may have on community and supportive services program, such as ROSS, Jobs Plus and FSS and that was, I believe, covered in the Resident Considerations webinar and the link is provided in the slide.

And then the RAD resident protections and particular how it's -- they apply to RAD Section 18 blends has also been covered previously but just wanted to point out that those resources are available. And with that, I think Dan, you have the last slides of the presentation. So I'll turn it over to you.

Dan Esterling: Thanks, Amaris and thank you, Eva. Again, just one more quick one, the program voucher -- the project-based voucher website is listed in your materials that Caila sent out and we have our public housing Repositioning website which has really the compendium of our repositioning guidance and if you ever can't find something, feel free to send an email to [repositioning@hud.gov](mailto:repositioning@hud.gov).

I'll answer it for you and direct you to where you need to go or obviously, you can always contact your local field office, but if you have like a repositioning question that nuanced and you really want to get into the [inaudible] or details of your question, you can also feel free to send that to your field officer or the repositioning website and we can help you work through that. Next slide. And Caila, let's see if there's any questions from the audience.

Caila Prendergast: Yeah. Let's do it. So I just want to remind folks who maybe joined a few minutes late or later on in the presentation that there are two ways to ask questions, you can type it in the chat box and I can read it out loud or you can raise your hand using the hand icon on the right-hand little navigation panel, raise your hand and I can unmute your line to ask it out loud.

But with that, I'll just go ahead and dive right in. I see we have two in the Q&A box. So first, "Who/what kind of entity can serve as an IE, independent agency [sic], for the PHA owner -- or for the PHA owned, excuse me?"

Eva Tafoya: Yeah. So there are some good examples of that in PIH Notice 2017-21, Attachment B, as in boy, but often what we see is a housing authority partnering with another housing authority to perform some of those functions.

We've also certainly seen housing authorities use perhaps a firm that does inspections for the inspection function that an independent entity would need to do and a housing authority might choose perhaps local government or a law firm or another entity for other functions, such as reviewing the selection process.

So there is quite a bit, but I highly recommend checking out PIH Notice 2017-21, Attachment B.

Caila Prendergast: Okay. Great. Thanks. At the moment, that's the only question that I'm seeing. I did have a question about the slides. So just want to mention, again, that the slides were sent around in an email to everyone who was registered. So that was around 10:00 a.m. Eastern.



So just check to see if you got that email and if not, just let me know and I can make them available to you and they'll also be available on HUD Exchange and everyone who attended today will get a notification from me via email when all the materials are posted on HUD Exchange.

It usually takes about a week or so to get that up there. I think I had another question come and I did. So, "Who performs a subsidy layering review?"

Eva Tafoya: Yeah. The subsidy layering review is either performed by a housing credit agency or by HUD. So it depends on whether your housing authority is located in a state where HUD has approved a housing credit agency to perform the subsidy layering review and there's a list of states where there is an approved housing credit agency on HUD's website.

But basically, if a housing credit agency has been approved in your state and the project is not mixed finance and the project has low-income housing tax credits, then the housing credit agency would likely perform the subsidy layering review. HUD performs all other subsidy layering reviews and you would contact your field office to get that process started.

Caila Prendergast: Okay. Great. Thanks. I'm not seeing any other ones at this time, but I just do want to give folks enough time. So just make sure to get those in so that we get them answered. So another question about the slides. They were sent around 10:00 a.m. Eastern time.

Just if you didn't get them and you want them sooner than when they're posted on HUD Exchange, again, just post your email in the chat box and I can send them to you after we close out today. And then I actually just got an email from someone who called in and said that they want their question answered.

So let me read their question out loud. "So we were approved for Section 18 and we also received a PBV award in June. We closed on the loan 10/23/2020 and at this point, do we put the units on the -- or at this point, do we put the units on the PBV program now or do we wait until the property has been renovated before putting on the PBV program?"

Eva Tafoya: I'm trying to understand the scenario.

Caila Prendergast: Do you need me to repeat it?

Eva Tafoya: Yeah. Why don't you repeat it?

Caila Prendergast: Okay. "So we were approved for Section 18 and we also received a PBV award in June. We closed on the loan October 23, 2020. At this point, do we put the units on the PBV program now or do we wait until the property has been renovated before putting on the PBV program?"

Eva Tafoya: So when a property is considered rehabilitated, the project is -- the project goes under an AHAP, an Agreement to enter into Housing Assistance Payments no earlier than the time that the units are removed from the public housing program.

So after that declaration of trust is released, then the redevelopment occurs and then the HAP contract is executed. It's when that HAP contract is executed that the units are actually project-based voucher units available for occupancy by project-based voucher participants. So I'm hoping that answered the question.

Dan Esterling: Yeah. I think -- and Eva, just to clarify even the question I think they weren't awarded PBVs, they're awarded TPVs that they will then project-base.

Eva Tafoya: Right. There's no separate award by HUD of project-based vouchers, but there is a process after a Section 18 approval for a housing authority to submit a request for tenant-protection vouchers and receive that extra voucher funding which they can then project-base.

Caila Prendergast: Okay. Great. So I think at this point, I'm not getting any more questions and I think people have had a good amount of time to get their questions in. So I think we're good to maybe close out. Dan, I don't know, I'll pass it over to you for some -- your closing remarks.

Dan Esterling: Oh, just thanks, everybody for joining and remember to fill out your surveys and if you have topic ideas, please do include them in your survey response. Thank you.

Caila Prendergast: Okay. Thanks, everybody. Enjoy the rest of your Wednesday. Bye.

(END)