

# Proposed Changes to the HCV Project Based waitlist

## Chapter 17

### PROJECT-BASED VOUCHERS

#### INTRODUCTION

This chapter describes HUD regulations and RHA policies related to the project-based voucher (PBV) program in nine parts:

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how RHA and the owner will select a family to receive PBV assistance.

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## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **17-VI.A. OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### **17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

RHA may select families for the PBV program from those who are participants in RHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and RHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to RHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

#### RHA Policy

RHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3. If an applicant is accepted into the tenant based HCV program and their name is on the PBV waitlist, the applicant will be offered an opportunity to remain on the PBV waitlist or to be removed from the PBV list at the time of admission into the tenant based program.

### **In-Place Families [24 CFR 983.251(b)]**

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by RHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on RHA's waiting list. Once the family's continued eligibility is determined (RHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and RHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

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### **17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

RHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. RHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by RHA. If RHA chooses to offer a separate waiting list for PBV assistance, RHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If RHA decides to establish a separate PBV waiting list, RHA may use a single waiting list for RHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

#### RHA Policy

RHA will establish and manage a separate waiting list for the entire PBV program. RHA may keep the waiting list open for families that meet particular preferences and are referred to RHA for placement on the waiting list by project owners. For example, if existing families on the waiting list do not meet the tenant site selection preference (e.g., supportive housing for homeless individuals), RHA may accept applications limited to eligible families to ensure the units in the project-based voucher properties are fully occupied.

### **17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from RHA's waiting list. RHA may establish selection criteria or preferences for occupancy of particular PBV units. RHA may place families referred by the PBV owner on its PBV waiting list.

#### **Income Targeting [24 CFR 983.251(c)(6)]**

At least 75 percent of the families admitted to RHA's tenant-based and project-based voucher programs during RHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

#### **Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, RHA must first refer families who require such features to the owner.

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### Preferences [24 CFR 983.251(d) , FR Notice 11/24/08]

RHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. RHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although RHA is prohibited from granting preferences to persons with a specific disability, RHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If RHA has projects with more than 25 percent of the units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), RHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

#### RHA Policy

RHA will provide a selection preference when required by regulations (e.g., eligible in-place families, qualifying families for “excepted units,” persons with mobility impairments for accessible units).

Specific projects may have additional selection preferences as a requirement for all or a specified number of units within the project. RHA will assist in providing lists of potential applicants which may qualify for any identified preferences from the PBV wait list on the condition that such preferences and selection of participants by property owners do not violate Fair Housing Laws (e.g., units identified for homeless individuals or victims of domestic violence). Project specific preferences and the number of qualifying units for each preference will be identified in the RHA Owner PBV Housing Assistance Payments (HAP) Contract.

The PBV owner of a project may refer applicants to be placed onto the PBV waitlist. The owner may refer applicants from the development’s waiting list for certification of eligibility if all units have not been leased to families on the PBV waiting list and there are no remaining qualified applicants remaining that meet the criteria of the available unit(s) (e.g., appropriate number of bedrooms, any identified preferences). Once the proposed family’s eligibility and preference status is determined by RHA, RHA will then immediately place the family on the PBV waitlist and process their application.

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### 17-VI.E. OFFER OF PBV ASSISTANCE

#### **Initial Lease-Up**

Beginning 180 days from initial occupancy, RHA will provide the project a listing of applicants, in the order they are to be considered for tenancy, that meet the basic requirements of the project from the PBV waiting list for screening by the owner.

30 days prior to initial occupancy, the owner shall refer selected applicants to RHA to determine family eligibility and complete the intake process.

No earlier than 30 days prior to initial occupancy, the owner may refer applicants from the development's waiting list for certification of eligibility if applicants for all available units have not been identified from the PBV waiting list. Once the proposed family's eligibility and preference status is determined by the RHA, the RHA will then immediately place the family on the PBV Waiting List and process their application.

#### **Vacancies**

The owner must notify RHA within 5 days of a vacancy. Upon selection of the next qualified family from the PBV wait list, the owner will refer the family and submit all required paperwork (documentation to complete the intake process and information regarding all applicants contacted from the RHA waitlist to fill the vacancy) to RHA within 5 days. RHA will make every reasonable effort to determine family eligibility, complete the intake process, and inform the owner within 10 business days.

#### **Documentation from Owner**

Project owners are required to track and document the screening process for all applicants referred by RHA. The owner must provide RHA documentation of the initial mailing informing for applicants contacted from the waiting list, date of the notice, response of the applicant, verification of site specific preferences, acceptance of applicant, and specific reasons for disapproval of applicants.

#### **Refusal of Offer [24 CFR 983.251(e)(3)]**

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

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

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### RHA Policy

If the family declines the first offer of a PBV unit, the RHA will make one more offer, which will be for a different PBV property.

RHA will not remove the family's name from the project-based waiting list if the family's refusal of the two offers is based on good cause approved by RHA. Some examples of good cause include a unit that does not have the necessary accessibility features required by a person with disabilities, the unit is not convenient to public transportation needed for the family to work, or a serious illness, hospitalization or death of a family member.

If an applicant declines two offers of PBV units, RHA will remove the applicant from the PBV waitlist but will not remove the family's name from the tenant based waiting list, if applicable.

If an applicant leases a unit in a PBV property, RHA will remove the family's name from the PBV waiting list and, if applicable, provide the family an opportunity to remain on or be removed from the tenant-based waiting list.

### **Disapproval by Landlord**

If a PBV owner rejects a family for admission to the owner's units, such rejection will not affect the family's position on the Project-Based voucher waiting list. RHA will review the owner's rejections to ensure that it meets the property's tenant selection criteria and does not conflict with the City of Rochester, State of New York, and federal law. Should RHA determine that the owner is rejecting families without good cause or in violation of the law, RHA will exercise remedies under the HAP contract and other laws.

### **[24 CFR 983.251(e)(2)]**

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

### **Acceptance of Offer [24 CFR 983.252]**

#### ***Family Briefing***

When a family accepts an offer for PBV assistance, RHA 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, RHA must provide a briefing packet that explains how RHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

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### *Persons with Disabilities*

If an applicant family's head or spouse is disabled, RHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, RHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

### *Persons with Limited English Proficiency*

RHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

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### **17-VI.F. OWNER SELECTION OF TENANTS**

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. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

#### **Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by RHA from RHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on RHA's subsidy standards.

#### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify RHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, RHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. RHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

##### RHA Policy

The owner must notify RHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

RHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

#### **Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, RHA 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.

##### RHA Policy

If any contract units have been vacant for 120 days, RHA will give notice to the owner that the unit must be filled immediately, the HAP contract may be amended by swapping another eligible unit within the project pending approval by RHA, or by reducing the number of units under contract by the number of units that have been vacant for this period. RHA will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The owner will have 10 business days to respond on how they would prefer to proceed. If the owner does not respond the HAP contract will be amended by reducing the number of units under contract, effective the 1<sup>st</sup> day of the month following the date provided to the owner to respond.

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### 17-VI.G. TENANT SCREENING [24 CFR 983.255]

#### **RHA Responsibility**

RHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, RHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

#### RHA Policy

RHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

RHA must provide the owner with an applicant family's current and prior address (as shown in RHA records) and the name and address (if known by RHA) of the family's current landlord and any prior landlords.

In addition, RHA may offer the owner other information RHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. RHA must provide applicant families a description of RHA policy on providing information to owners, and RHA must give the same types of information to all owners.

RHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

#### RHA Policy

RHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. RHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

#### **Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.