

Chapter 16

PROJECT-BASED VOUCHERS

INTRODUCTION

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

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA 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.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: 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.

Part V: 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 the PHA's discretion.

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

Part VII: 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.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

16-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows the AHA, which already administers a tenant-based voucher program under an annual contributions contract (ACC) with HUD, to operate a PBV program using up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. The AHA will only operate a PBV program consistent with its Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an "Agreement to enter into HAP Contract" (AHAP) or a HAP contract, the AHA is not required to reduce the number of these units under HAP contract if the amount of budget authority is subsequently reduced. It is noted that while the number of units does not need to be reduced, HAP contracts cannot be renewed if more than 20 percent of the base allocation is utilized for PBV. The AHA, however, is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

16-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the AHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

16-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program will 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. The AHA will not use voucher program funds to cover relocation costs, except that the AHA 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 also will 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 part 24, subpart B. It is the responsibility of the AHA to ensure the owner and any

representatives of the owner, such as a property manager, comply with these requirements.

16-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The AHA, owners and property managers 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, the AHA will comply with the AHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

16-II.A. OVERVIEW

In this document, the AHA will describe the procedures for owner or owner's designee submission of PBV proposals, AHA selection of PBV proposals, describe how the AHA will determine that PBV proposals comply with HUD program regulations and requirements, that proposals comply with the cap on the number of PBV units per building, and meet site selection standards.

16-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The AHA will select PBV proposals in accordance with the selection procedures in this AHA Administrative Plan. The AHA will select PBV proposals by either of the following two methods.

- AHA request for PBV Proposals. The AHA may solicit proposals by using a Request For Proposals (RFP) to select proposals on a competitive basis in response to the AHA request. The AHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- AHA selection of a proposal previously selected based on a 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.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]

AHA procedures for selecting PBV proposals are designed and operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the AHA.

AHA Request for Proposals for Rehabilitated and Newly Constructed Units

The AHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in one of the following newspapers:

- *Alameda Journal*
- *Alameda Times-Star*

In addition, the AHA will post the RFP and proposal submission and selection procedures on its website (www.alamedahsg.org).

The AHA will publish its notice at least once in the newspapers and trade journals mentioned above. The notice will specify the number of units the AHA estimates that it will be able to assist under the funding the AHA is making available. Proposals will be due in the AHA office by close of business no less than three weeks from the date of publication.

In order for the proposal to be considered, the owner or owner’s designee (hereinafter referred to as “owner”) must submit the proposal to the AHA by the published deadline date and time, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The AHA will rate and rank proposals for **rehabilitated** and **newly constructed** housing using the following criteria:

TERM OF CONTRACT REQUESTED (MIN. 5 PTS. REQUIRED)	MAX. PTS. AVAIL.
Fifteen years	20
Eight to 11 years	10
Five to seven years	5
SITE LOCATION (MIN. 10 PTS. REQUIRED)	MAX. PTS. AVAIL.
If not a project for the elderly or disabled, site is within three miles of places of significant employment, offering a range of jobs for lower income workers, and a significant health facility.	20
Same as above but distance is more than three miles but less than five miles	10
If a project for the elderly or disabled, site is within 1/4 mile of shopping, significant health facility and neighborhood services, or is within 1/4 mile of bus to these services.	20
Same as above but distance is more than two miles but less than two miles	10
DESIGN (MIN. 10 PTS. REQUIRED)	MAX. PTS. AVAIL.
If architectural elevations, setbacks, and massing are considered acceptable for proposed use and in relation to adjacent land uses by City Planning Department staff; project amenities are appropriate for the planned use.	20
If the proposed project meets most of the above criteria and only slight modifications will be necessary to meet City Planning approval.	10
* Project Amenities: If a family housing development, the site plan provides for laundry facilities, recreational facilities on site or such facilities exist within 1/4 mile of the project site. If a senior housing development, in addition to the above, units should have access to exterior in form of balconies or first floor patios and interior common areas with square footage not less than required under CA Tax Allocation Committee Requirements.	

DEVELOPMENT EXPERIENCE (MIN. 5 PTS. REQUIRED)	MAX. PTS. AVAIL.
If applicant has developed 100 or more low-income housing units as primary or co-sponsor in the past five years.	10
If applicant has developed between 50 and 100 low-income housing units as primary or co-sponsor in the past five years.	5
OWNER EXPERIENCE (MIN. 1 PT. REQUIRED)	MAX. PTS. AVAIL.
If applicant has 20 or more years experience in owning affordable rental housing.	5
If applicant has 10 to 19 years experience in owning affordable rental housing.	2
If applicant has 20 or more years experience in owning other types of rental housing.	2
If applicant has 10 to 19 years experience in owning other types of rental housing.	1
MANAGEMENT EXPERIENCE (MIN. 1 PT. REQUIRED)	MAX. PTS. AVAIL.
If applicant has 20 or more years experience in managing and maintaining affordable rental housing.	5
If applicant has 10 to 19 years experience in managing and maintaining affordable rental housing.	2
If applicant has 20 or more years experience in managing and maintaining other types of rental housing.	2
If applicant has 10 to 19 years experience in managing and maintaining other types of rental housing.	1
PROJECT FEASIBILITY/READINESS TO COMMENCE CONSTRUCTION (MIN. 10 PTS. REQUIRED)	MAX. PTS. AVAIL.
If zoning and other required entitlements are approved and 80% of amount of projected construction period or permanent period debt financing required for feasibility is conditionally committed and/or reserved by official governmental action.	20
If zoning and other required entitlements are approved and 50% but less than 80% of amount of projected construction period or permanent period debt financing required for feasibility is conditionally committed and/or reserved by official governmental action.	10
PUBLIC PURPOSE (MIN. 5 PTS. REQUIRED)	MAX. PTS. AVAIL.
75% or more of units will be restricted to low- or very-low income occupancy	20
50% to 74% of units will be restricted to low- or very-low income occupancy	10
25% to 49% of units will be restricted to low- or very-low income occupancy	5
Other City-identified priority needs.*	10
* Priority needs would be those indicated in the City of Alameda Consolidated Plan for a particular community or any other official document that indicates a community's needs as it relates to housing. Applicants will be asked for justification/documentation of how their projects meet priority needs.	
NOTE: No more than 20 points will be given in this category.	

An application that does not meet the minimum points in each category will not be considered. If there is a limited number of vouchers available, as stated in the RFP, the vouchers will be awarded to the applicant with the highest number of points.

AHA Requests for Proposals for Existing Housing Units

The AHA will advertise its request for proposals (RFP) for existing housing in at least one of the following newspapers:

- *Alameda Journal*
- *Alameda Times-Star*

In addition, the AHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The AHA will periodically publish its notice in the newspapers and trade journals mentioned above. The notice will specify the number of units the AHA estimates that it will be able to assist under the funding the AHA is making available. Owner proposals will be accepted on an ongoing basis with an evaluation taking place when the AHA has received a minimum of five proposals or four weeks have past, whichever comes first. The proposals will be evaluated using the following criteria:

TERM OF CONTRACT REQUESTED (MIN. 5 PTS. REQUIRED)	MAX. PTS. AVAIL.
Fifteen years	20
Eight to 11 years	10
Five to seven years	5
COMMUNITY AMENITIES (MIN. 10 PTS. REQUIRED)	MAX. PTS. AVAIL.
If not a project for the elderly or disabled, site is within two miles of places of significant employment, offering a range of jobs for lower income workers, and a significant health facility.	20
Same as above but distance is more than two miles but less than five miles	10
If a project for the elderly or disabled, site is within 1/4 mile of shopping, significant health facility and neighborhood services, or is within 1/4 mile of bus to these services.	20
Same as above but distance is more than two miles but less than two miles	10
UNIT/APT. COMPLEX AMENITIES (MIN. 5 PTS. REQUIRED)	MAX. PTS. AVAIL.
Unit amenities include the following: features adapted for persons with disabilities, off-street parking, laundry facilities, porches/decks, play area for children, recreational facility for children and adults, common area function room	
Three or more amenities	20
Two amenities	10
One amenity	5
PREVIOUS EXPERIENCE (MIN. 5 PTS. REQUIRED)	MAX. PTS. AVAIL.
20 years or more experience managing and maintaining affordable rental housing	20
10 to 19 years experience managing and maintaining affordable rental housing	10
20 years or more experience managing and maintaining rental housing	10
10 to 19 years experience managing and maintaining rental housing	5

PUBLIC PURPOSE (MIN. 5 PTS. REQUIRED)	MAX. PTS. AVAIL.
75% or more of units, including non-PBV units, to be restricted to low- or very-low income occupancy	20
50% to 74% of units, including non-PBV units, to be restricted to low- or very-low income occupancy	10
25% to 49% of units, including non-PBV units, to be restricted to low- or very-low income occupancy	5
Senior housing	10
Supportive services as defined in AHA's Administrative Plan 16-II.F.	10
Other City-identified priority needs.*	10
* Priority needs would be those indicated in the City of Alameda Consolidated Plan for a particular community or any other official document that indicates a community's needs as it relates to housing. Applicants will be asked for justification/documentation of how their projects meet priority needs.	

An application that does not meet the minimum points in each category will not be considered. If there is a limited number of vouchers available, as stated in the RFP, the vouchers will be awarded to the applicant with the highest number of points.

AHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The AHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis. AHA will ensure that the Previous Competitive Selection which is the basis for selection for PBV assistance is made without regard to the possibility of PBV assistance.

The AHA may periodically advertise that it is accepting proposals, specifying the number of vouchers available for this purpose in one of the following newspapers:

- *Alameda Journal*
- *Alameda Times-Star*

Proposals will be reviewed on a first-come first-served basis. The AHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the AHA goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community; and
- The rating factors outlined in the previous section.

AHA-owned Units [24 CFR 983.51(e) and 983.59]

If the AHA submits a proposal for project-based housing that is owned or controlled by the AHA will:

- Seek HUD approval to have the City of Alameda review the proposal and determine if the AHA's proposal should be selected. If HUD does not approve of the City as an independent entity, the AHA will seek approval of another entity that meets HUD approval (e.g., another housing authority).
- Use an independent entity which meets HUD approval to perform HQS inspections.
- Use an independent entity which meets HUD approval to determine rents and rent reasonableness.
- Will obtain HUD approval for the services of these entities prior to selecting the proposal for AHA-owned housing.

The AHA will only compensate the independent entity, which is responsible for obtaining the services of an appraiser, from AHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The AHA will not use other program receipts to compensate the independent entity and appraiser for their services. The AHA, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

AHA Notice of Owner Selection [24 CFR 983.51(d)]

Within 14 calendar days of the AHA making a selection, the AHA will notify the selected owner in writing of the owner's selection for the PBV program. The AHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the AHA will publish its notice for selection of PBV proposals in the same newspapers and trade journals the AHA used to solicit the proposals. The announcement will include the name of the owner and address of units selected for the PBV program. The AHA will also post the notice of owner selection on its website.

The AHA will make available to any interested party its rating and ranking sheets and documents that identify the AHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The AHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The AHA will make these documents available for review at the AHA during normal business hours. The cost for reproduction of allowable documents will be 10¢ per page.

16-II.C. HOUSING TYPE [24 CFR 983.52]

The AHA will attach PBV assistance for units in existing housing or for 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 AHA selection, the units exist and substantially comply with HQS. "Substantially" is defined as any unit that has an accumulation of items that would cost less than \$1,000 and take less than one month's

time to comply fully with HQS requirements. The AHA also will consider public housing units to be existing housing and eligible to apply for PBV assistance where the AHA has applied for the disposition of public housing units and anticipates obtaining replacement vouchers. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing. The AHA choice of housing type will be reflected when it solicits proposals.

16-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The AHA will 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 or pads; cooperative housing; and transitional housing. In addition, the AHA will not attach or pay PBV assistance for a unit occupied by an owner and the AHA will not select or enter into an AHAP or enter into a HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]

Currently, there are no high-rise elevator projects in Alameda. If any should be built, the AHA will not use such projects for families with children.

Subsidized Housing [24 CFR 983.54]

The AHA will not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that the AHA could attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;

- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the AHA in accordance with HUD requirements.

Other Ineligible Housing Types

Due to the need for more one, two, and three bedroom units, the AHA will not attach or pay PBV assistance for group homes or single room occupancy (SRO) units.

16-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The AHA will provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements. The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

A subsidy layering review is not required for existing housing.

The AHA will submit the necessary documentation to HUD for a subsidy layering review for new construction. The AHA will not enter into an AHAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract will contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

16-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

In general, the AHA will not select a proposal to provide PBV assistance for units in a building or enter into an AHAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the building.

Exceptions to 25 Percent per Building Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per building cap if:

- The units are in a single-family building, defined by HUD as any building with one to four units;
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

Supportive Services

The types of supportive services offered to families for a project to qualify for the exception are those intended to promote self-sufficiency, including:

- Outreach
- Case management, counseling
- Health care, psychiatric and mental health care, substance abuse treatment
- Life skills, parenting skills
- Child care, transportation, housing search assistance, budgeting
- Employment assistance, job training/placement
- Education, vocational opportunities

Supportive services do not have to be provided at the project site. When supportive services are provided, whether or site or not, the following conditions apply:

- The statement of family responsibility in the lease must contain the family's obligation to participate in the designated service program. Failure of the family to comply is good cause to terminate the family from the program.
- Participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers is not required as a condition of living in an excepted unit.
- The AHA will ensure that only families receiving supportive services and complying with the service requirements are assisted.

To qualify, a family must have at least one member receiving at least one qualifying supportive service. The AHA will not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined above, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The AHA will monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. Monitoring will be accomplished by requiring the owner to provide quarterly reports on the family's participation and confirming this information by interviewing the tenant at the annual re-examination.

The AHA will provide PBV assistance for the following types of excepted units – units limited to use by “qualifying families”:

- Units in a multifamily building specifically made available for elderly or disabled families; and
- Units for families receiving supportive services.

Elderly, disabled, and families receiving supportive services are all “qualifying families.”

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

The AHA is not setting a cap on the number of PBV units assisted per building beyond the 25 percent cap for non-excepted units.

16-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The AHA will not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP contract or HAP contract for units on the site, unless the AHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities will be consistent with the Agency Plan under 24 CFR 903 and this Administrative Plan.

In addition, prior to selecting a proposal, the AHA will determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

It is the AHA’s goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the AHA will limit approval of sites for PBV housing in census tracts that have family poverty concentrations of 20 percent or less.

The AHA will grant exceptions to the 20 percent standard where the AHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites census tracts where:

- The proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- The concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- The proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- New market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- There has been an overall decline in the poverty rate within the past five years; or
- There are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The AHA will not enter into an AHAP for units that will be rehabilitated, nor execute a HAP contract for existing units until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD-required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the AHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

16-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The AHA's activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* (i.e., City of Alameda) is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The AHA will not enter into an AHAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the City of Alameda, responsible for the environmental review under 24 CFR part 58, must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The AHA will not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the AHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The AHA will supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The AHA requires the owner to carry out mitigating measures required by the City of Alameda (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

16-III.A. OVERVIEW

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

16-III.B. 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. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

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.

16-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

Housing will 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 part 8. The AHA will 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, will 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)

16-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The AHA will examine the proposed site before the proposal selection date. If the units to be assisted already exist, the AHA will inspect all the units before the proposal selection date, and will determine whether the units substantially (as previously defined on page 7) comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. The AHA, however, will not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The AHA will inspect each contract unit before execution of the HAP contract. The AHA will not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the AHA will inspect the unit. The AHA will not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, the AHA will inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. The sample will be selected at random. A database of the units will be maintained which can be exported to Excel. This software program has a Random Number Generation Tool that will allow 20 percent of the total units to be selected at random. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the AHA will reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The AHA will 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. The AHA will take into account complaints and any other information coming to its attention in scheduling inspections.

The AHA will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting AHA supervisory quality control HQS inspections, the AHA will include a representative sample of both tenant-based and project-based units.

Inspecting AHA-owned Units [24 CFR 983.103(f)]

In the case of AHA-owned units, the inspections will be performed by an independent agency designated by the AHA and approved by HUD. The independent entity will furnish a copy of each inspection report to the AHA and to the HUD San Francisco field office. The AHA will take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the AHA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

16-IV.A. OVERVIEW [24 CFR 983.151]

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.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

16-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the AHA will enter into an agreement to enter into an AHAP contract with the owner of the property. The Agreement will be in the form required by HUD [24 CFR 983.152(a)].

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

Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the AHAP will describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;

- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements will be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description will include the rehabilitation work write up and, where determined necessary by the AHA, specifications and plans. For new construction units, the description will include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the AHAP [24 CFR 983.153]

The AHAP will be executed “promptly” after AHA notice of proposal selection to the selected owner. The AHA, however, will not enter into the AHAP with the owner until the subsidy layering review is completed. Likewise, the AHA will not enter into the AHAP until the environmental review is completed and the AHA has received environmental approval. Promptly, in this case, requires the selected owner to have completed the necessary reviews for the project and be ready to enter into an AHAP within one year from the date of notification that the project is awarded PBV assistance. The AHA has the option to grant up to two six-month extensions to this one year limit provided the owner can demonstrate that progress is being made and that the project will go to AHAP within the extended time frame.

16-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an AHAP covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner’s contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The AHA will monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The AHAP and HAP contracts must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the AHAP and HAP contracts or HUD regulations.

16-IV.D. COMPLETION OF HOUSING

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

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the AHA in the form and manner required by the AHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the AHAP;
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing; and
- Certificate of Occupancy (for new construction) or Final Building Permit cards (for rehabilitation projects) from the City of Alameda.

AHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the AHA will inspect the housing to determine if has been completed in accordance with the AHAP, including compliance with HQS and any additional requirements imposed under the AHAP. The AHA also will determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the AHAP, the AHA will not enter into the HAP contract.

If the AHA determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, the AHA will submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

16-V.A. OVERVIEW

The AHA will 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 will be in the form required by HUD [24 CFR 983.202].

16-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract will specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The AHA will not enter into a HAP contract until each contract unit has been inspected and the AHA has determined that the unit complies with Housing Quality Standards (HQS). For existing housing, the HAP contract will be executed "promptly" after the AHA selects the owner proposal and inspects the housing units. "Promptly," in this case, means that the owner must be ready and willing to sign the HAP contract within two months from the date the AHA has completed HQS inspections, found the units in compliance, and has notified the owner of its selection decision. In the case of public housing units in the disposition process, the AHA will not enter into a HAP contract until

HUD has approved the disposition application, issued replacement vouchers, and approved the application for PBV assistance.

For newly constructed or rehabilitated housing, the HAP contract will be executed after the AHA has inspected the completed units, determined that the units have been completed in accordance with the AHAP, and the owner furnishes all required evidence of completion.

For rehabilitated or newly constructed housing, the HAP contract will be executed within two months of the AHA determining that the units have been completed in accordance with the AHAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

The AHA will enter into a HAP contract with an owner for an initial term of no less than one year and no more than 15 years.

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis within HUD parameters.

Within one year before expiration of the HAP contract, the AHA may extend the term of the contract for an additional term of up to five years if the AHA determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

When determining whether or not to extend an expiring PBV contract, the AHA will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by AHA [24 CFR 983.205(c)]

The HAP contract will provide that the term of the AHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the AHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the

AHA may terminate the HAP contract by notice to the owner. The termination will be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the AHA. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]

The AHA will not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the AHA determines that a contract does not comply with HQS, the AHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

16-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

The AHA will amend the HAP contract to substitute a different unit, if the unit has the same number of bedrooms in the same building, is HQS compliant, and meets all PBV requirements for a previously covered contract unit. Before any such substitution can take place, the AHA will inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]

At the AHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the AHA's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

The AHA will consider adding contract units to the HAP contract when the AHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.

16-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

16-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the AHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

16-V.F. ADDITIONAL HAP REQUIREMENTS

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 the AHA 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.

The AHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the

RFP, AHAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

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

Vacancy Payments [24 CFR 983.352(b)]

Vacancy Payments will be paid to the owner in accordance with the terms of the HAP contract.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

16-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.

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

The AHA will select families for the PBV program from those who are participants in the AHA'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 will 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 the AHA, 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 the AHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family also must meet HUD requirements related to current or past criminal activity. In addition families who will reside in "Excepted" units must meet the appropriate criteria as a "qualified" family.

The AHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

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 the AHA 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 will be placed on the AHA's waiting list. Once the family's continued eligibility is determined (the AHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family will be given an absolute selection preference and the AHA 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.

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

The AHA will use its existing Section 8 list for the tenant-based Housing Choice Voucher Program and the PBV Program.

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

Applicants who will occupy units with PBV assistance will be selected from the AHA's waiting list. The AHA will place families referred by the PBV owner on its PBV waiting list when the waiting list is open.

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

At least 75 percent of the families admitted to the AHA's tenant-based and project-based voucher programs during the AHA fiscal year from the waiting list will 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, the AHA will ~~must~~ first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The AHA will use the same selection preferences that are used for the tenant-based voucher program. The AHA provides an absolute selection preference for eligible in-place families as described in Section 16-VI.B.

All preferences that apply to the Housing Choice Voucher Program also apply to the PBV program or for particular PBV projects or units. When vacancies in PBV units of a specific size (i.e., number of bedrooms) or excepted units, the AHA will select only qualified families of the correct and family composition size according to the AHA's subsidy standards for those units in the correct order from the waiting list.

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

16-VI.E. OFFER OF PBV ASSISTANCE

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

The AHA is prohibited from taking, and will not take, 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 the AHA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

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

Persons with Disabilities

If an applicant family's head or spouse is disabled, the AHA will 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, the AHA will have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The AHA will 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).

16-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 the AHA from the AHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the AHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

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

The owner must notify the AHA in writing (mail, fax, or e-mail) within seven calendar days of learning about any vacancy or expected vacancy.

The AHA will make every reasonable effort to refer families to the owner within 14 calendar 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, the AHA will 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.

The AHA will provide the notice to the owner within 14 calendar days of the 120th day of the vacancy. Unless the owner can give adequate reason for the AHA not to reduce the number of contract units within 14 calendar days of the date of the AHA's notice, the amendment to the HAP contract will be effective the 1st day of the month following the date of the AHA's notice.

16-VI.G. TENANT SCREENING [24 CFR 983.255]

AHA Responsibility

The AHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. The AHA will not conduct screening to determine a PBV applicant family's suitability for tenancy unless the applicant is to move into an AHA-owned or managed unit. The AHA may deny applicants based on such screening.

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

The AHA will inform owners of their responsibility to screen prospective tenants. Upon request, owners may request and the AHA will provide specific information about the family being considered for tenancy. The AHA will provide the following information:

- The family's current address as provided by the Applicant; and
- The name and address, if known, of the owner/landlord of the family's current and prior places of residence.

The AHA will respond only to specific questions asked by owners and only when the AHA has documentation to confirm the accuracy of the information being provided. The AHA will provide applicant families a description of its policy on providing information to owners and give the same types of information to all owners. Refer to “Screening for Suitability as a Tenant” in Chapter 3 or “9-I.A. Tenant Screening” in Chapter 9 for the information that may be released.

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.

The owner must notify AHA in writing within 14 calendar days when rejecting an applicant and give the grounds for such rejection.

PART VII: OCCUPANCY

16-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the AHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

16-VII.B. LEASE [24 CFR 983.256]

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.

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 a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as an AHA model lease.

The AHA will not review the owner’s lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the AHA (the names of family members and any AHA-approved live-in aide);
- 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.

Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the AHA will provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

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 the AHA a copy of all changes.

The owner must notify the AHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the AHA and in accordance with the terms of the lease relating to its amendment. The AHA will redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and

24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]

If a family is living in a project-based unit that is excepted from the 25 percent per building cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the 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 AHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The security deposit must not exceed the following:

Unfurnished Unit: Two months contract rent (this includes any amount labeled as last month’s rent)

Furnished Unit: Three months contract rent (this includes any amount labeled as last month’s rent)

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The AHA has no liability or responsibility for payment of any amount owed by the family to the owner.

16-VII.C. MOVES

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

If the AHA determines that a family is occupying a unit that is too small or too big, based on the AHA’s subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the AHA will notify the family and the owner within 14 calendar days of the AHA’s determination of the family’s need to move. The AHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;

- PBV assistance in another project; and
- Tenant-based voucher assistance.

If the AHA offers the family a tenant-based voucher, the AHA will terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the AHA).

When the AHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 calendar days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the AHA will terminate the housing assistance payments at the expiration of this 30-day period.

The AHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the AHA. If the family wishes to move with continued tenant-based assistance, the family must contact the AHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the AHA will offer the family the opportunity for continued tenant-based assistance, in the form of a Housing Choice Voucher. If a voucher is not immediately available upon termination of the family's lease in the PBV unit, the AHA will give the family priority to receive the next available voucher.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the Housing Choice Voucher assistance.

16-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

The AHA will not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by the AHA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the AHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the 25 percent per building cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit, and the AHA will cease paying housing assistance payments on behalf of the non-qualifying family.

If the family is moving to a non-excepted PBV unit, the family will have 60 days in which to complete the move. If the family will move with a Housing Choice Voucher, as is likely to be the case with a non-elderly or non-disabled surviving spouse, then the term of the voucher will apply. The AHA may grant extensions if the family can demonstrate good cause as outlined in Chapter 5, Section II-E of this Administrative Plan.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract. It is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The AHA will terminate housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements.

PART VIII: DETERMINING RENT TO OWNER

16-VIII.A. OVERVIEW

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.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

16-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the AHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. In general, the rent to owner must not exceed the lowest of the tax credit rent minus any utility allowance; the reasonable rent; or the rent requested by the owner.

The AHA will follow the rules and regulations promulgated by HUD and in effect at the time the HAP contract is executed.

Definitions

A **qualified census tract** is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same unit size (i.e., number of bedrooms) in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

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

When determining the initial rent to owner, the AHA will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the AHA will use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. The AHA will not use an earlier FMR for initial rent determination or for redeterminations.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Redetermination of Rent [24 CFR 983.302]

The AHA will redetermine the rent to owner upon the owner's request or when there is a 5 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the AHA, it must be requested 60 days prior to the annual anniversary of the HAP contract and include the requested amount of rent being proposed (see Section 16-V.D.). The AHA will 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).

The AHA will not approve 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 will not receive any retroactive increase of rent for any period of noncompliance.

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 will be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is redetermined by written notice by the AHA to the owner specifying the amount of the redetermined rent. The AHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

The AHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

AHA-owned Units [24 CFR 983.301(g)]

For AHA-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. The AHA will use the rent to owner established by the independent entity.

16-VIII.C. 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 will not exceed the reasonable rent for the unit as determined by the AHA.

When Rent Reasonable Determinations are Required

The AHA will redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 5 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The AHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to add or substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. When making this determination, the AHA will consider factors that affect market rent. Such factors

include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that are receiving project-based assistance. The analysis will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by the AHA. The comparability analysis may be performed by AHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses will not have any direct or indirect interest in the property.

AHA-owned Units

For AHA-owned units, the amount of the reasonable rent will be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity will provide a copy of the determination of reasonable rent for AHA-owned units to the AHA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the AHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

16-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 16-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 16-II.D).

Other Subsidy [24 CFR 983.304]

At its discretion, the AHA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents will not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner will not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;

- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner will not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner also may be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

16-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the AHA will make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments will be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment will be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the AHA agree on a later date.

Except for vacancy payments, the AHA will not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the AHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

16-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. The AHA will not make vacancy payments.

16-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

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

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the AHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the AHA. The owner must immediately return any excess payment to the tenant.

Tenant and AHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the AHA.

Likewise, the AHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The AHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The AHA will not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the AHA will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

16-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

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 will not be included in the rent to owner, nor will the value of meals and supportive services be included in the calculation of the reasonable rent. Non-payment of such charges, however, is grounds for termination of the lease by the owner in an assisted living development.

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.