



Maximize PBVs with Expiring LIHTC & Market Rate Properties

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Knight Development **EXPERIENCE** by the numbers:

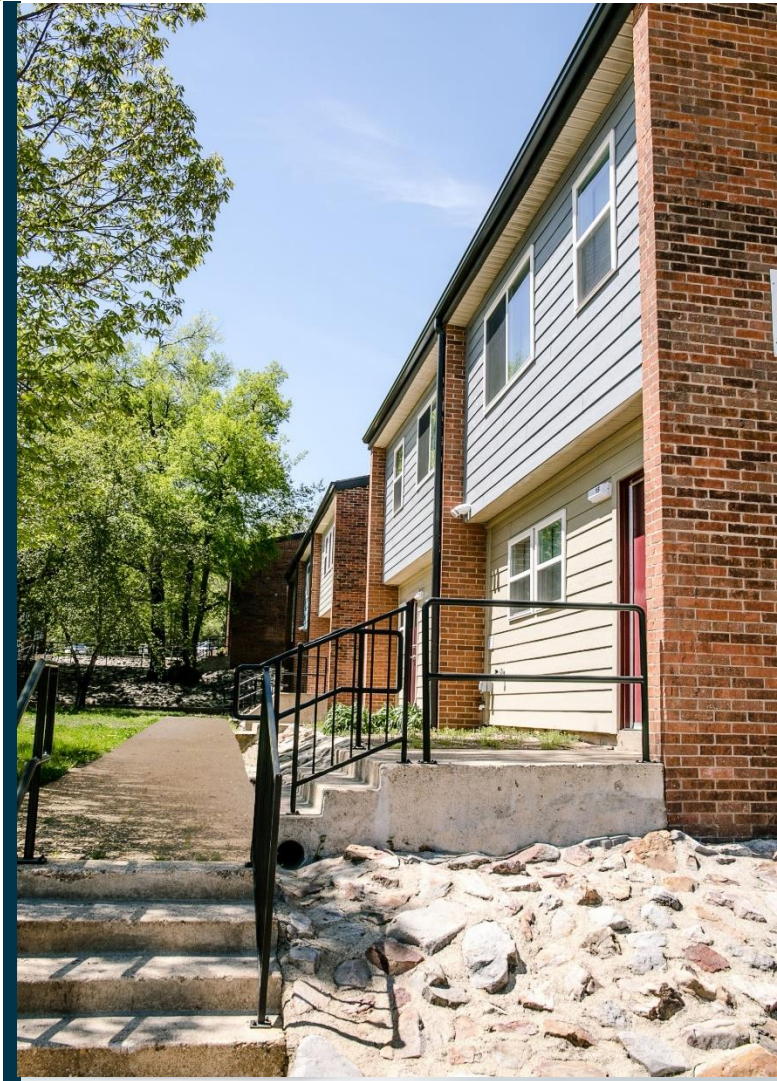
\$637 Million+ in leveraged funding sources

\$32 million reinvested in local communities through our partner organizations

64 PHA RAD Consultations and Partnerships across 14 states

4,022 units developed in 5 years

Countless lives positively impacted





Integrity - We do what we say we will do. In development, consulting, construction management, and any area of a project we touch... we strive for excellence. You have our word.



Innovation - We see potential and turn obstacles into opportunities. We navigate each project to deliver maximum possible value to our clients, partners, and residents. We make the experience mutually beneficial for all involved. It's a better way of doing business.



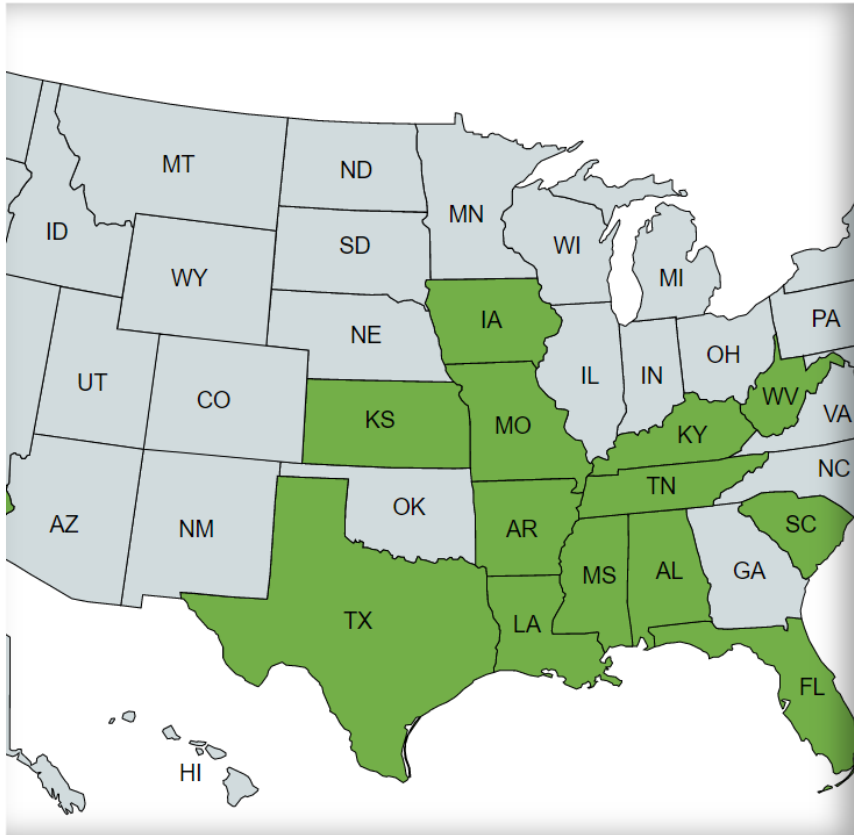
Investment - We invest in people. Developing happy, healthy, sustainable communities that enrich local businesses and residents is our passion and purpose. People are at the center of everything we do.



Inspiration - We are inspired to do good. Doing more, giving more—we are driven to provide something more than shelter. We build the foundation for a flourishing community where people can live, work, play, and thrive.



Clients and Projects in 14 States



Alabama
Arkansas
California
Florida
Iowa
Kansas
Kentucky
Louisiana
Mississippi
Missouri
South Carolina
Tennessee
Texas
West Virginia

Awards



LAKESHORE FAMILY HOMES



ROYAL CAMBRIDGE



MHN TOP 30 AWARD



TWIN LAKES OF LEESVILLE

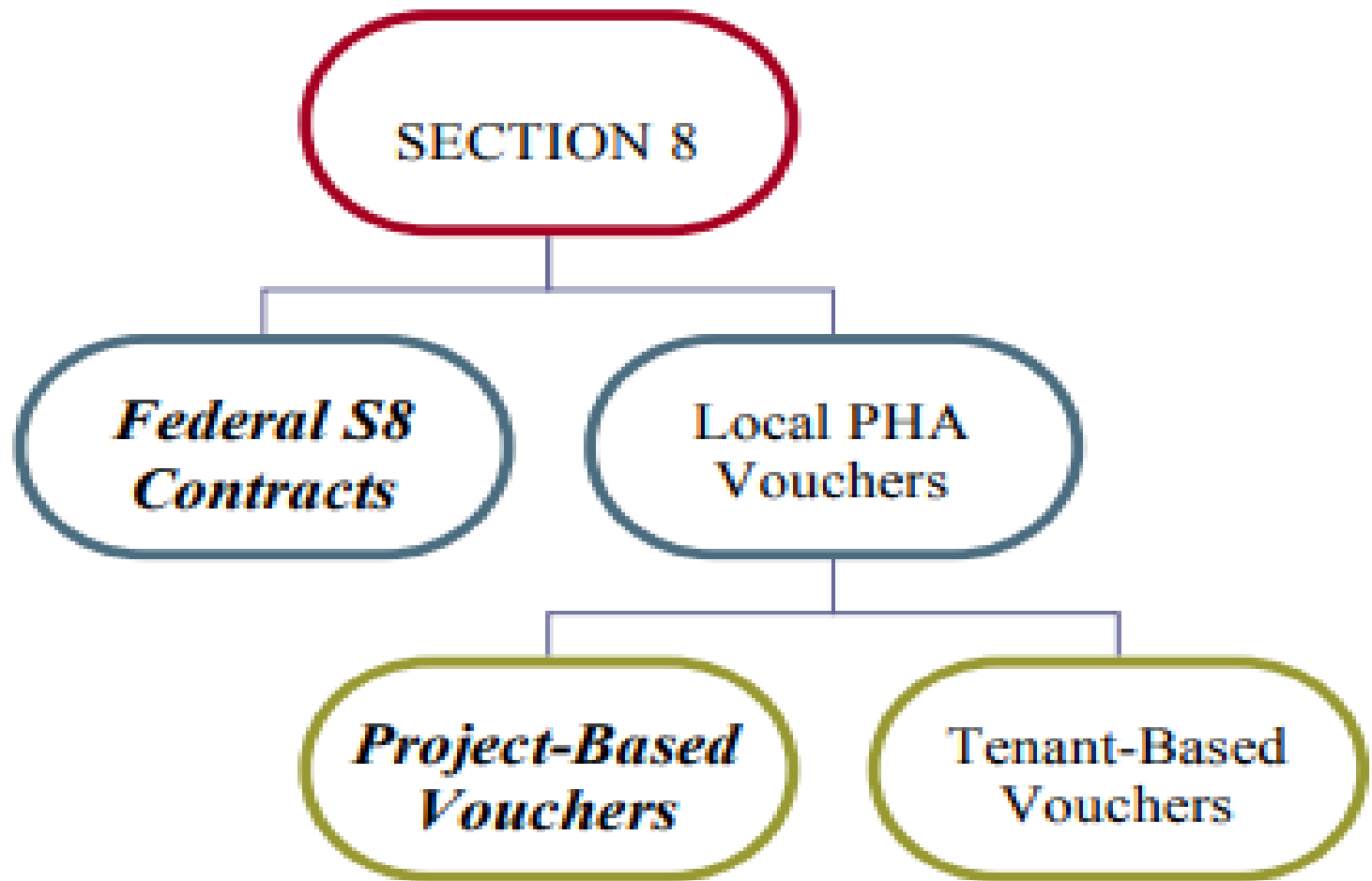
Jul 2, 2024



HOTMA Rules

- Changes for PBV units for HQs and alternate inspections including non-life-threatening
- PHA Owned units
- Units excluded from the PHA PBV cap
- Section 106 updated many items (HAP, priority of assistance contracts, rent adjustments using OCAF, extension of terms)
- Section 106/983.56 allows for owner-maintained waitlist
- Exceptions to competition

Section 8



Why PBV?



Project based vouchers is one model that works to leverage public resources to increase the number of affordable homes for low-income households without an increase to the government.



Benefits of PBV

- Improve Access to services
- Assist when it is hard to use vouchers (low vacancy,
high opportunity)
- Low poverty areas
- Lock in lower rents in high-cost areas
- Create more affordable housing
- Strengthen private/public partnership and funding
- Create mixed-income housing and mixed use

Benefits of PBV

- Catalyst for affordable housing development
- Can be used in a blended income project (30%-80% AMI)
- Can be used for 4% and 9% LIHTC projects
- PHA can be an owner or special limited partner
- PHA can receive project developer fees as an owner or co-developer
- Can be used as a leverage for gaining properties at the end of compliance period
- Less admin costs=more admin fees

Private Investors (lenders and equity providers)

- See the contract as stable income over 20 years
- Influences market studies
- Will underwrite at 95% vacancy rate versus 97%
- Social governance
- Highly sought for higher income areas

Tax credit VS Fair Market Rents

Number of bedrooms	Tax Credit Rent (60%)	Tax Credit Rent (50%)	Tax Credit Rent (35%)	FMR
1	721	601	420	812
2	865	721	504	971
3	999	833	583	1,403
4	1,116	930	651	1,639

Flexible Application

Agencies can attach PVB vouchers to –

- New Construction
- Rehabilitated
- Existing Units

Often adds “points” to applications

Lock in Lower Rents

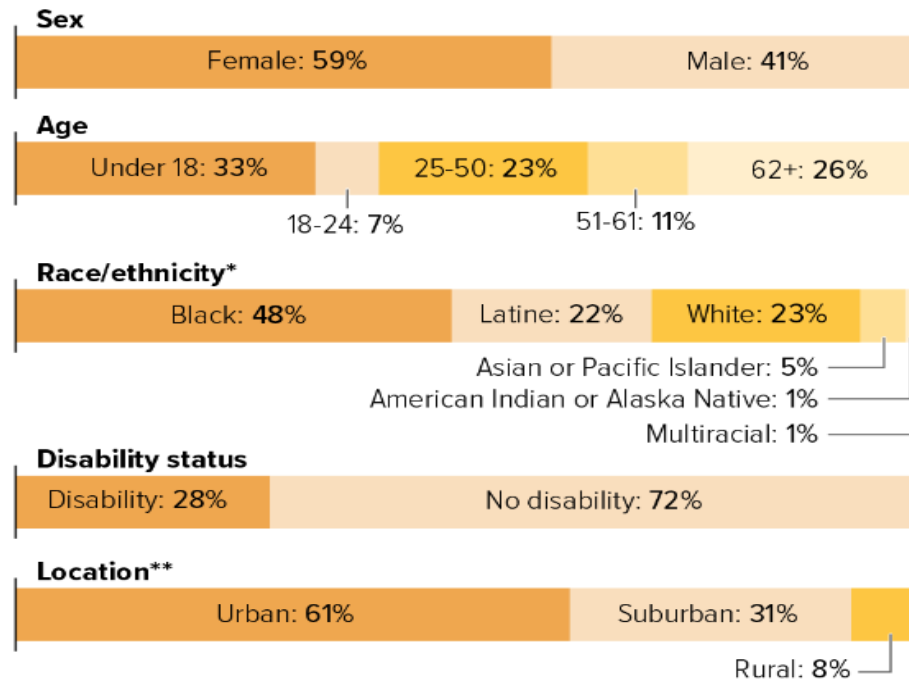


PBVs can also lock in lower rents by limiting rent increases



PBV -450,000 People

Project-Based Vouchers Help Over 450,000 People. Who Are They?



*All race/ethnicity categories other than Latine are non-Latine only. Those identifying as Latine may be of any race.

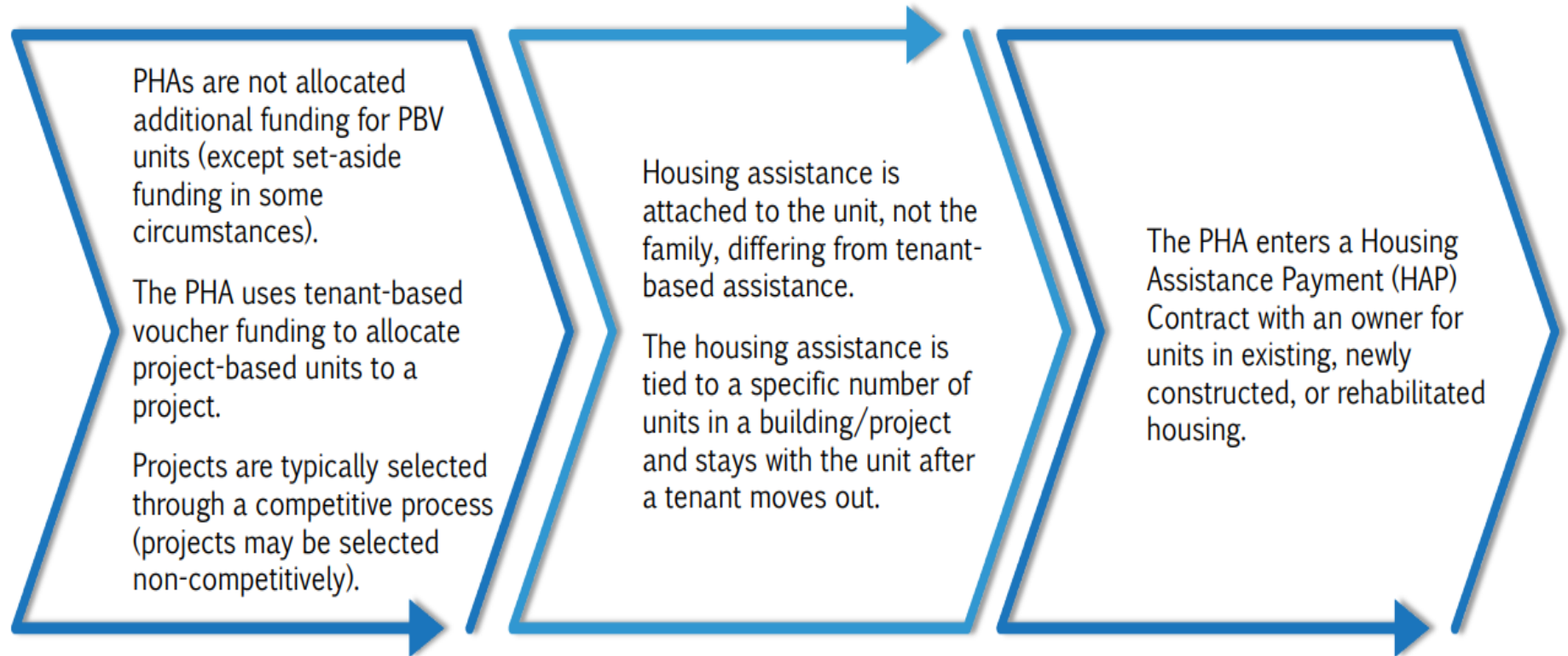
**Urban, suburban, and rural designations for U.S. territories were not available.

Note: Category percentages may not sum to 100 due to rounding or missing data.

Sources: CBPP analysis of HUD 2020 administrative data and the Housing Assistance Council's urban, suburban, and rural Census tract designations (for location)

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Project-Based Voucher Program – what to know



Project-Based Vouchers (PBVs) are a component of a PHA's HCV Program.

Housing Choice Vouchers VS Project Based Voucher

Tenant-Based Assistance vs. Project-Based Assistance

HCV is tenant-based assistance, which means that the subsidy is tied to the family, not the unit. After one (1) year on the program, the PBV participant may request a tenant-based voucher. If there is not one available, the tenant will be placed on a waiting list and will receive priority issuance once vouchers become available.

Regulations

Both PBV and HCV follow regulations at 24 CFR 982. As a result, **the role of the PHA and owner in both programs is very similar**. Since PBV is project-based assistance, the regulations at 24 CFR 983 specifically describe the provisions of 982 that do not apply to PBV, such as portability.

Vouchers

While the HCV Program issues vouchers to eligible families, **the PBV Program does not because the assistance is tied to the unit**. Tenants in project-based units are assisted as long as they live in the unit and continue to qualify for the program.

HCV vs. PBV

More details..

HAP Contracts

- In PBV, each project has one HAP Contract for all units. The HCV Program requires an individual HAP Contract for each family that leases a unit.
- PHAs may initially enter a PBV HAP Contract for all units with an owner for 20 years and may be extended for an additional 20 years.

Rent Reasonableness

- In the tenant-based HCV Program, reasonable rent is the maximum amount of the contract rent.
- In PBV, rent cannot exceed the lower of a reasonable rent or 110% of the fair market rent (FMR)/small area fair market rent (SAFMR), unless an exception is granted, or the tax credit rent (except under certain circumstances) for units with tax credits.

HCV vs. PBV

HCV: Rent increases via owner request

PBV: Rent increases apply to all similar units (bedroom size and/or amenities)

Rent Increases

HCV: All units annually/biennially

PBV: 20% of the contract units in each building (unless a certain percentage fail)

Housing Quality Standards (HQS) Inspections

HCV: Dependent on rent calculation

PBV: 30% of income for rent and utilities (the balance of housing costs are paid by PHA)

Tenant Share

HCV: Utilizes payment standards and utility allowance

PBV: Does not utilize payment standards

Payment Standards & Utility Allowances

Managing Competing Priorities with HCV Funding

HCV Leasing – Competing Priorities



PHAs are faced with leasing challenges.

- Are PHA policies in conflict with leasing efforts?
- Can project-based vouchers be an answer?
- Access to adequate data can assist.
- Knowing the rental market is key.
- Voucher holders may be competing for units.

SPVs serve vulnerable at-risk populations.

- More effort may be needed to lease SPVs.
- SPVs may require quicker turnaround.
- Turnover may be higher.
- Consider what assistance partners can provide.

PHAs may have to decide who will be served first.

Ensure vouchers address the needs of the community.

HOTMA

Housing Opportunities Through Modernization Act

ONE **“HOT”** TOPIC

Final Rule

WHAT IS HOTMA?

- Housing Opportunities Through Modernization Act of 2016, signed into law by President Obama on July 29, 2016
- Makes numerous amendments to Sections 3, 8, and 16 of the United States Housing Act of 1937
- HUD implemented HOTMA through a series of published notices, which eventually became final rules that updated existing regulations governing public housing and Section 8 programs



WHAT IS HOTMA?

- HUD finalized HOTMA rulemaking in 2023 to put Sections 102, 103, and 104 into effect through revisions to HUD's regulations found in 24 CFR Part 5 and 24 CFR Part 891
 - Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs
 - Section 103 creates new limitations on program participation for families residing in public housing that remain over-income for 24 consecutive months
 - Section 104 sets maximum asset limits for Public Housing and Section 8 applicants and participants

HOTMA introduced major changes to the Section 8 Housing Choice Voucher program, specifically to promote and facilitate the use of project-based vouchers ("PBV") in affordable housing developments

WHY UPDATE THE PBV PROGRAM?

HUD is actively encouraging public housing authorities (“PHAs”) to reposition aging public housing properties

Repositioning typically involves using private sources of financing to rehabilitate existing housing or to construct new affordable housing (e.g., low-income housing tax credits and construction loans)

Adding PBV subsidy to an affordable housing transaction can improve financing terms and can be key to making an affordable housing development financially feasible

Typically, PBV subsidy is higher and more dependable than other Federal project-based subsidy, making it attractive to investors, lenders and developers

Most PBV rules and regulations pre-HOTMA were introduced before PHAs were involved in development and include unnecessary and expensive hurdles for PHAs to provide PBVs in support of affordable housing developments

IMPLEMENTING HOTMA'S CHANGES TO THE PBV PROGRAM

On May 7, 2024, HUD published a sweeping Final Rule in the Federal Register to, among other things, implement HOTMA's many changes to existing PBV program rules and regulations

Major HOTMA changes included in the Final Rule:

- Providing exceptions to competitive procurement requirements
- Defining "PHA-owned units" and clarifying requirements for using HUD-approved independent entity in connection with PHA-owned units
- Allowing development work to occur after signing Housing Assistance Payments Contract ("HAP Contract")
- Giving PHAs new flexibility in setting payment standards and use of Small Area Fair Market Rents
- Permitting owner-maintained site-based waiting lists



IMPLEMENTING HOTMA'S CHANGES TO THE PBV PROGRAM

- Major HOTMA changes included in the Final Rule (cont'd):
 - Providing exceptions to both the “project cap” and the “program cap”
 - Permitting manufactured housing to receive project-based voucher assistance in certain circumstances
 - Providing an option for automatic Operating Cost Adjustment Factor rent adjustments in PBV projects to simplify annual rent adjustment process
 - Allowing PHAs to self-certify in PHA-owned properties in lieu of signing Agreement to Enter into a Housing Assistance Payments Contract (“AHAP”)
 - Eliminating requirement for HUD approval of intent to project-base vouchers prior to procurement

OPPORTUNITIES FOR MARKET RATE AND EXPIRING LIHTC PROPERTIES

- The HOTMA Final Rule presents real opportunities to maximize project-based voucher assistance at existing developments and LIHTC properties
- Recent changes to procurement requirements, typical program and project caps on the number of vouchers that can be project-based at a particular development, site-based waiting list administration and the maximum subsidy for the units all make adding voucher subsidy to an existing development easier
- **BUT** the HOTMA Final Rule also adds some new confusion to the mix

THE HOTMA CHANGES: PROCUREMENT

- PHAs that wish to award project-based vouchers to a particular property owner are typically required to competitively procure using a request for proposals in accordance with the PHA's Section 8 Administrative Plan (24 CFR 983.51(b)(1))
- No competitive procurement required for a project that was competitively selected under a Federal, State or local government housing assistance, community development, or supportive services program within 3 years of PBV selection date, so long as the competitive selection process did not involve "any consideration that the project would receive PBV assistance" (24 CFR 983.51(b)(2))

THE HOTMA CHANGES: PROCUREMENT

New Exception #1: PHAs involved in an initiative to improve, develop or replace a public housing property or site

- Replacement housing can be on-site or off-site, but the number of PBV units cannot exceed number of units in original site (except by de minimis amount)
- Must have been removed from public housing inventory within 5 years of PBV selection date
- PHA must have some ownership or control over the site

New Exception #2: Existing public housing site in which PHA has no ownership or control

- Replacement housing can be on-site or off-site, but the number of PBV units cannot exceed number of units in original site (except by de minimis amount)
- Must have been removed from public housing inventory within 5 years of PBV selection date
- PHA that owns the site or owned the site does not administer the HCV program
- Site was specifically identified as replacement housing for impacted public housing residents as part of demolition/disposition application, voluntary conversion application or other HUD removal application

THE HOTMA CHANGES: PROCUREMENT

New Exception #3: “PHA-owned” units

- Must continue to meet definition of PHA-owned for the initial 2 years of the HAP Contract, unless transfer of ownership approved by HUD
- Selection reviewed by a HUD-approved independent entity to ensure compliance with procedures in Administrative Plan

** More guidance expected soon from HUD to implement exception **

New Exception #4: Any property that was removed from inventory within last 5 years where families qualify for enhanced voucher assistance and provide informed consent to relinquish enhanced voucher in exchange for PBV assistance

THE HOTMA CHANGES: SETTING PBV RENTS

- HOTMA permits PHAs to set exception payment standards of between 110% and 120% of Fair Market Rent, upon notification to HUD that the PHA's tenant-based voucher holders are struggling to find units or paying too much of their adjusted income (24 CFR 982.503(d))
 - Must apply same payment standard to all projects in the applicable geographic area
- HOTMA permits PHAs in non-metropolitan counties to use ZIP code level Small Area Fair Market Rents for voucher program, with notice to HUD (24 CFR 888.113)
 - Prior to HOTMA, HUD published non-metropolitan Fair Market Rent at the county level only

THE HOTMA CHANGES: WAITING LISTS

- Under old Section 8 regulations, owners could not maintain PBV waiting lists
- Under HOTMA, PHAs may permit owner-maintained PBV waiting lists for specific owners or specific sites:
 - Owner must develop a written waiting list policy, which is then incorporated into the Administrative Plan
 - PHA is still required to make the final eligibility determination
 - PHA is responsible for oversight of the owner's waiting list to ensure proper administration
 - HUD may take action against the owner, the PHA, or both, for non-compliance (24 CFR 983.251)



THE HOTMA CHANGES: PROJECT CAP AND PROGRAM CAP EXCEPTIONS

Generally, no more than 20% of a PHA's voucher budget can be project-based and no more than 25% or 25 units, whichever is higher, at a particular project may be project-based

Notwithstanding the foregoing, HOTMA provides that PBV assistance may be committed to certain "excluded units" that previously received certain specified forms of HUD assistance or were subject to certain specified rent restrictions within the last 5 years

- HOTMA Final Rule adds Federal low-income housing tax credit units and Section 515 Rural Rental Housing Loan units to this list
- **BUT** -- excluded units must have been removed from all categories prior to the effective date of the HAP contract!

Newly-constructed replacement units may be excluded from the program cap and project cap, provided that they are constructed on-site and the primary purpose of the newly constructed units is or was to replace units that meet the criteria for "excluded units"

THE HOTMA CHANGES: PROJECT CAP AND PROGRAM CAP EXCEPTIONS

Project cap exceptions under HOTMA also include:

- Elderly families
- Disabled families (only for HAP Contracts in effect prior to April 18, 2017)
- Supportive services
 - At least one member of the family must be eligible, but need not be receiving the services
 - If any member of the family participates and completes the services, the unit remains excepted as long as at least one member of the family continues to occupy the unit, even if the occupants are not eligible
 - The unit loses its excepted status only if the entire family becomes ineligible during tenancy for all supportive services
 - Families cannot be evicted or terminated from program for becoming ineligible for all supportive services

THE HOTMA CHANGES: PROJECT CAP AND PROGRAM CAP EXCEPTIONS

- Program cap exceptions under HOTMA also include:
 - Units being provided to homeless families
 - Units being provided to veteran families
 - Supportive housing for persons with disabilities or elderly persons (requires certain updates to the Administrative Plan)
 - Units for Family Unification Program (FUP) youth
 - The units are located in an area where vouchers are difficult to use as defined in 24 CFR 983.3
- An additional 10% of authorized voucher units can be project-based if the units meet any of the foregoing

THE HOTMA CHANGES: CALCULATING BUDGET AUTHORITY

- A PHA must calculate the number of authorized voucher units that it is permitted to project-base in accordance with § 983.6 and determine the amount of budget authority that it has available for project-basing in accordance with § 983.5(b), before it issues a request for proposals in accordance with § 983.51(b)(1), makes a selection based on a previous competition in accordance with § 983.51(b)(2), amends an existing HAP contract to add units in accordance with § 983.207(b), or noncompetitively selects a project in accordance with § 983.51(c)
- HUD takes the position that PHAs must email the budget authority calculation to HUD, but PHAs are no longer required to wait for HUD approval in response

THE HOTMA CHANGES: PHA SELF-CERTIFICATION

- Under HOTMA, any units determined to be PHA-owned will not require a HAP Contract or an AHAP, if applicable, so long as the PHA signs a HUD-prescribed certification that the PHA will fulfill all of the required program responsibilities of both the owner and the PHA under the HAP Contract and/or AHAP (24 CFR 982.451(c); 24 CFR 983.154(h); and 24 CFR 983.204(e))
- Effective date **delayed indefinitely**, will be published along with the new HUD self-certification forms when available

THE HOTMA CHANGES: DEVELOPMENT ACTIVITY OR SUBSTANTIAL IMPROVEMENT?

- New options for development of new units or substantial rehabilitation of existing units:
 - Sign AHAP before any work commences, when complete execute HAP Contract (this is the current requirement)
 - Rehabilitation or new construction with no AHAP, when complete execute HAP Contract (but must still comply with all requirements as if there is an AHAP)
 - Rehabilitation after HAP Contract execution (with execution of a rider that governs development activity during the term of the HAP Contract)
- Effective date for rehabilitation after HAP Contract execution is **delayed indefinitely**, while HUD creates the new HAP Contract rider form

THE HOTMA CHANGES: DEVELOPMENT ACTIVITY OR SUBSTANTIAL IMPROVEMENT?

- Crucial distinction made in HOTMA Final Rule between “Development activity” and “Substantial improvement”:
 - **Development activity** defined as: “New construction or rehabilitation work done after the proposal or project selection date in order for a newly constructed or rehabilitated housing project to be covered by a PBV HAP contract, including work done pursuant to a rider to the HAP contract...”
 - **Substantial improvement** defined as: “One of the following activities undertaken at a time beginning from the proposal submission date (for projects subject to competitive selection) or from the project selection date (for projects excepted from competitive selection), or undertaken during the term of the PBV HAP Contract:
 - (i) Remodeling that alters the nature or type of housing units in a project;
 - (ii) Reconstruction; or
 - (iii) A substantial improvement in the quality or kind of equipment and materials. The replacement of equipment and/or materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does not constitute substantial improvement.

THE HOTMA CHANGES: DEVELOPMENT ACTIVITY OR SUBSTANTIAL IMPROVEMENT?

- Development activity requires typical Federal requirements (e.g., environmental review, subsidy layering review, Davis-Bacon for projects with 8 or more PBV units), regardless of when it is undertaken
- Substantial improvement of a PBV unit undertaken after HAP Contract is signed is subject to PHA approval, only if one of the following conditions applies:
 - The unit has been damaged by fire or natural disaster, or other extraordinary circumstances exist which require a unit previously compliant with HQS to undergo substantial improvement and must be unforeseen events not the fault of the owner
 - The owner requests substantial improvement that will commence after the first 2 years of the HAP Contract term and PHA approval cannot be provided until at least 21 months after the HAP Contract effective date.
- Substantial improvement cannot involve demolition of a building currently under a HAP Contract and replacement of the units
- HOTMA provides a number of safeguards for occupied units undergoing substantial improvement, and imposes certain requirements for broadband infrastructure, non-discrimination and ADA compliance on substantial improvement work

WHAT DO HOTMA CHANGES MEAN FOR PHAs?

- The changes outlined here are only a selection of major changes, not comprehensive
- The HOTMA Final Rule for vouchers includes 100+ pages of additional requirements – with more guidance and notices on the way. This means more work for the lawyers and consultants!
- The changes bring necessary modernization to the PBV program and acknowledge the reality that PBVs are a necessary part of PHA repositioning and development efforts to build non-federal assets
- HOTMA Final Rule requires all PHAs to update their Administrative Plans by **June 6, 2025** to ensure compliance with HOTMA – even though new HUD forms and additional guidance have not yet been issued

WAITING ON HUD

Many of the changes in the HOTMA Final Rule rely on forms or further guidance from HUD to be implemented

In the current political climate, it is unclear when such forms and guidance will be issued (if ever)

POP QUIZ

Let's test your HOTMA knowledge!

WHAT DO YOU MEAN
A POP QUIZ?!



QUESTION #1

HOTMA makes changes and updates to which of the following HUD programs:

- (1) Public Housing
- (2) Section 8 Housing Choice Vouchers
- (3) Section 8 Multifamily (e.g., PBRA, Rent Supp, Mod Rehab)
- (4) All of the above
- (5) None of the above

QUESTION #2

A developer has just purchased a plot of land and would like to develop affordable housing on the site using low-income housing tax credits. They approach a public housing authority about committing to provide project-based vouchers to the property once it is completed. As part of the application for low-income housing tax credits, the developer includes a development budget with 8 project-based voucher units. The project is competitively awarded 9% low-income housing tax credits.

- Does the developer have to be competitively procured to receive the vouchers from the housing authority?
- What if the property was public housing within the last 5 years?

QUESTION #3

Which of these “exception unit” types for project-based vouchers requires an update to the public housing authority’s Administrative Plan to permit project-basing more than 25% or 25 units (whichever is higher) at an affordable housing development?

- (1) Elderly units
- (2) Units for persons with disabilities
- (3) Units for residents eligible to receive supportive services
- (4) All of the above
- (5) None of the above

QUESTION #4

An affordable housing developer is planning to enter into a long-term ground lease with a public housing authority to develop affordable housing on the housing authority's property. The housing authority will continue to own the land pursuant to the ground lease, and will own a 0.049% general partner interest in the owner entity formed by the developer to ground lease the property. The developer will own a 0.051% general partner interest in the owner entity, and a low-income housing tax credit investor will own 99.99% of the owner entity as a limited partner.

- If the property receives project-based vouchers from the housing authority, are the units considered "PHA-owned?"
- Would the housing authority need to use a HUD-approved independent entity to conduct HQS inspections?

QUESTION #5

Which of the following updates to the project-based voucher regulations is currently in effect pursuant to the HOTMA Final Rule?

- (1) AHAP and HAP Contract no longer required for PHA-owned units, as long as the PHA certifies that the property has followed / will follow all requirements of the AHAP and HAP Contract
- (2) New construction and substantial rehabilitation of units can be undertaken after a HAP Contract is signed, as long as the parties enter into a rider to the HAP Contract which imposes certain federal requirements
- (3) Housing authorities can set exception payment standards up to 120% of FMR by notifying HUD that the PHA's tenant-based voucher holders are struggling to find units or paying too much of their adjusted income
- (4) All of the above
- (5) None of the above

Any Questions?





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