Understanding Section 8: The Basics of PBV, PBRA, HCV and RAD

Samantha Sowards
Sheryl Putnam
Agenda

- Today we will discuss:
  - What is Section 8?
  - Housing choice voucher (HCV) program
  - Project based voucher (PBV) program
  - Project based rental assistance (PBRA)
  - Rental assistance demonstration (RAD) program
What is Section 8?

- Rental subsidy (HAP) paid on behalf of an eligible, low-income family to pay all or a portion of their rent
What is Section 8?

- Generally, a family will pay approximately 30% of their monthly adjusted income toward rent and utilities.
Two Types of Section 8: Tenant-Based Assistance

- Housing choice voucher (HCV) program
- Assistance tied to the family
- Family selects their unit and public housing authority (PHA) approves or disapproves the unit
- Voucher is portable
  - Can move anywhere in the country where there’s an HCV program
Two Types of Section 8: Project-Based Assistance

- Assistance tied to the unit
- Unit may be owned by a PHA or private owner

Examples
- Project based voucher (PBV)
- Project-based rental assistance (PBRA)
Who oversees these programs?

- HUD’s Office of Public and Indian Housing (PIH)
  - Housing choice vouchers (HCV)
  - Project based vouchers (PBV)

- HUD’s Office of Multifamily Housing Programs (Multifamily)
  - Project based rental assistance (PBRA)
Housing Choice Voucher (HCV)
What is HCV?

- **The PHA:**
  - Places the family on a waiting list
  - Issues family a voucher to select a unit
  - Approves the unit and the owner
  - Pays the owner HAP on behalf of the family
  - Performs annual and interim reexams
  - Inspects units annually/biennially and for complaints
  - Processes moves inside and outside their jurisdiction under portability
Approving Tenancy

1. Family’s name reaches top of HCV waiting list
2. PHA determines eligibility
3. PHA issues family a voucher
4. PHA determines rent reasonableness, affordability, inspects unit (HQS)
5. Request for Tenancy Approval (RFTA) is submitted to PHA
6. Family selects unit and owner screens for suitability
7. Owner and family execute lease
8. Owner and PHA execute HAP contract
Rent in HCV

- Family pays income-based rent determined by PHA
- PHA pays owner HAP for the difference between tenant rent and contract rent for the unit
- Information reported to HUD (PIC) on a form HUD 50058
Rent in HCV

- Initial request for contract rent is made on the Request for Tenancy Approval (RFTA)
  - PHA determines if rent is reasonable and affordable (if applicable)
- After the initial term, owner may request a rent increase anytime the lease will allow with 60-day notice to the PHA
  - Subject to rent reasonableness
  - Not limited to requesting increases annually
Rent Reasonableness

- PHA must determine rent is reasonable initially and for rent increases
  - Assures a fair market rent is paid and HCV program doesn’t inflate rents in the community
- Rent to owner is not more than rent charged for comparable units in the private, unassisted market and unassisted units on the premises
  - PHA considers 9 factors: Location, quality, size, type, age, amenities, housing services, maintenance, utilities
Payment Standards

- Maximum amount of subsidy that can be paid by the PHA for a unit of a particular size
  - “Cap on the HAP”
- HUD publishes fair market rents (FMRs) and small area FMRs (SAFMRs) annually
  - Based on this number, PHAs adopt a payment standard for each bedroom size

<table>
<thead>
<tr>
<th>Bedrooms</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment Standard</td>
<td>$765</td>
<td>$963</td>
<td>$1,235</td>
<td>$1,651</td>
<td>$1,963</td>
<td>$2,257</td>
<td>$2,551</td>
</tr>
</tbody>
</table>
Subsidy Standards

- PHA establishes subsidy standards in the administrative plan to determine the family’s voucher size based on family composition
  - Since they are set in policy, each PHA has different subsidy standards
  - Family may select a larger or smaller unit than their voucher size
How much subsidy is paid on the family’s behalf?

- Payment standard is lower of the voucher size or unit size

- Family issued 2 bdrm voucher
  - Family chooses 3 bdrm unit
  - PHA uses 2 bdrm PS

- Family issued 2 bdrm voucher
  - Family chooses 1 bdrm unit
  - PHA uses 1 bdrm PS
How much subsidy is paid on the family’s behalf?

- Subsidy paid by the PHA is the lower of the unit’s gross rent (contract rent + UA) or the payment standard

2 bdrm PS
$1,235

Unit’s gross rent $1,300

PHA uses $1,235 PS
Affordability Test

- When the gross rent exceeds the payment standard for the family at initial occupancy
- Family’s rent plus UA cannot exceed 40% of adjusted monthly income
  - If it does, PHA will negotiate a lower rent
- After initial occupancy, affordability test doesn’t apply (think rent increases)
LIHTC + HCV

Rent

UA

Gross Rent

Non-optional charges

Non-optional charges
LIHTC + HCV

- HAP is not included in calculation of gross rent
  - HAP + tenant rent may exceed the LIHTC gross rent limit
- As long as owner receives subsidy on behalf of a tenant, total collected rent may exceed limit
  - Check with your state to see if tenant portion may exceed the limit
- If no subsidy is provided, tenant may not pay more than the maximum LIHTC rent limit
Example

- LIHTC rent limit is $500
  - $500 gross rent
  - $0 utility allowance
  - $0 nonoptional charges

$500 paid by the family to the owner

$500 is the maximum rent that can be charged for this unit, unless…
Example

- The family has a voucher
- Gross rent limit is still $500
  Owner charges $600 in rent

PHA pays $400 in HAP  Family pays $200

$400 in HAP is not included in the calculation of gross rent
What’s the limit?

- If the proposed rent **exceeds** the rent for similarly assisted units (LIHTC or HOME) not occupied by voucher holders in the project, rent can’t exceed lesser of:
  - Reasonable rent; or
  - PHA payment standard
Example

- Rent is $500 for comparable, unassisted LIHTC units in the project
  - PHA-determined reasonable rent is $625
  - PHA payment standard is $600
- Owner may charge $600 for HCV in the same size unit
Pop Quiz!

What happens if the family has an increase in income, and the PHA pays $0 HAP on their behalf?

The owner must lower the rent to be in compliance with LIHTC gross rent limits.
References

- PHA will say you can’t charge assisted and unassisted families different amounts and that’s not true
  - 6/25/14 Federal Register Notice on rents
  - 24 CFR 982.507(c)(1) & (2)
UAs

- Based on normal patterns of consumption for the community as a whole and current utility rates, not actual usage
  - All PHAs calculate this differently
- Must change when there’s a 10% or more increase since last revision
  - Many change every year since it’s time consuming to calculate whether there’s been a change
<table>
<thead>
<tr>
<th></th>
<th>0BR</th>
<th>1BR</th>
<th>2BR</th>
<th>3BR</th>
<th>4BR</th>
<th>5BR</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>High Rise</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heating</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Natural Gas</td>
<td>8</td>
<td>9</td>
<td>11</td>
<td>12</td>
<td>14</td>
<td>17</td>
</tr>
<tr>
<td>b. Electric</td>
<td>12</td>
<td>14</td>
<td>20</td>
<td>24</td>
<td>31</td>
<td>40</td>
</tr>
<tr>
<td>Cooking</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Natural Gas</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>b. Electric</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Other Electricity</td>
<td>29</td>
<td>37</td>
<td>47</td>
<td>60</td>
<td>75</td>
<td>85</td>
</tr>
<tr>
<td>Water Heating</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Natural Gas</td>
<td>2</td>
<td>4</td>
<td>7</td>
<td>11</td>
<td>15</td>
<td>18</td>
</tr>
<tr>
<td>b. Electric</td>
<td>9</td>
<td>14</td>
<td>27</td>
<td>41</td>
<td>55</td>
<td>69</td>
</tr>
<tr>
<td>Range</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Refrigerator</td>
<td>10</td>
<td>10</td>
<td>12</td>
<td>12</td>
<td>14</td>
<td>14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Row House/Garden Apt</strong></th>
<th>0BR</th>
<th>1BR</th>
<th>2BR</th>
<th>3BR</th>
<th>4BR</th>
<th>5BR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heating</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Natural Gas</td>
<td>10</td>
<td>11</td>
<td>12</td>
<td>15</td>
<td>18</td>
<td>21</td>
</tr>
<tr>
<td>b. Electric</td>
<td>17</td>
<td>20</td>
<td>24</td>
<td>34</td>
<td>44</td>
<td>56</td>
</tr>
<tr>
<td>c. Bottle Gas</td>
<td>16</td>
<td>19</td>
<td>22</td>
<td>32</td>
<td>42</td>
<td>52</td>
</tr>
<tr>
<td>d. Oil</td>
<td>21</td>
<td>19</td>
<td>22</td>
<td>32</td>
<td>42</td>
<td>52</td>
</tr>
<tr>
<td>Cooking</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Natural Gas</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>b. Electric</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>c. Bottle Gas</td>
<td>9</td>
<td>10</td>
<td>12</td>
<td>13</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>Other Electricity</td>
<td>29</td>
<td>37</td>
<td>47</td>
<td>60</td>
<td>75</td>
<td>85</td>
</tr>
<tr>
<td>Water Heating</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Natural Gas</td>
<td>2</td>
<td>4</td>
<td>7</td>
<td>11</td>
<td>15</td>
<td>18</td>
</tr>
<tr>
<td>b. Electric</td>
<td>9</td>
<td>14</td>
<td>27</td>
<td>41</td>
<td>55</td>
<td>69</td>
</tr>
<tr>
<td>c. Bottle Gas</td>
<td>8</td>
<td>12</td>
<td>25</td>
<td>37</td>
<td>52</td>
<td>62</td>
</tr>
<tr>
<td>d. Oil</td>
<td>11</td>
<td>16</td>
<td>33</td>
<td>49</td>
<td>66</td>
<td>82</td>
</tr>
<tr>
<td>Range</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Refrigerator</td>
<td>10</td>
<td>10</td>
<td>12</td>
<td>12</td>
<td>14</td>
<td>14</td>
</tr>
</tbody>
</table>
Standard Project Based Voucher (PBV)
Standard Project-Based Voucher (PBV) Overview

- HUD’s office of Public and Indian Housing (PIH)
- Discretionary component of HCV program
  - No additional funding
- PHA attaches rental assistance that was going to be tenant-based to specific units
  - Family must live in the project-based unit to receive assistance
Standard PBV Overview

RAD PBV units don’t count

*Additional 10% for homeless, veterans, supportive housing, low poverty census tracts
HUD PIH

Standard PBV

Voucher Annual Contributions Contract (ACC)

PBV HAP Contract

Leases

Family Obligations

PHA
Tenancy Approval

Owner and PHA execute a PBV HAP contract

Family’s name reaches top of PHA’s waiting list

PHA determines eligibility

PHA inspects unit (HQS)

Owner determines suitability

Owner and family execute lease agreement
Property Selection in Standard PBV

1. PHA awards contract through proposal selection process
   - PHA-owned units or owner/developer-owned

2. PHA selects units noncompetitively
   - Property subject to state or local government affordable housing or supportive services competitive process in last 3 years (LIHTC or HOME)
     - No consideration of PBV in prior competition
Property Selection in Standard PBV

- Under HOTMA, may attach PBVs to projects in which PHA has ownership interest or control without following competitive process if:
  - PHA is engaged in an initiative to improve, develop, or replace a public housing property or site; and
  - Rehabilitation or construction with a minimum of $25,000 per unit in hard costs; or
  - Replacement of the project or site with existing housing that substantially complies with housing quality standards
Rents in Standard PBV

- PHA establishes initial rent prior to execution of HAP contract
- Family pays income-based rent determined by PHA
- PHA pays owner HAP for the difference between tenant rent and contract rent for the unit
- Information reported to HUD (PIC) on a form HUD 50058
- Redetermined at annual anniversary of HAP contract
LIHTC + Standard PBV Rents

- LIHTC + PBV rents differ depending on:
  - Whether or not property is located in a qualified census tract
  - If rents for LIHTC-only units exceed 110% of FMR (or exception)
- 24 CFR 983.301 (c)(1) & (2) for details
Other PBV Considerations

- After a year of occupancy, the family is entitled to request a tenant-based voucher.
- Unlike in HCV there's no:
  - Payments standard or affordability test for rent
  - Request for tenant approval (RFTA)
  - Voucher
- Waiting list, recertifications, and inspections are the PHA's responsibility
- Special considerations for PHA-owned units
Standard PBV UAs

- Must use HCV UA
  - No site-specific UAs allowed
- LIHTC + PBV uses the HCV UA
RAD PBV UAs

- At closing, use public housing UA
  - However PHA may submit projections of energy saving improvements for HUD approval
- In real life, look at what’s on Exhibit C of the PBV HAP contract and use that
  - If PH UA is used, family’s rent will not change, but if new UA is used, tenant rent may change
RAD PBV UAs

- After conversion
  - 100% RAD PBV conversions may establish site-specific UAs or HCV UAs
    - Site-specific is calculated using H 2015-04
  - Conversion with some non-RAD PBV units, PHA may request a waiver from HUD to use a site-specific UA for both RAD and non-RAD PBV units or just use HCV
    - See PIH 2018-11 for details
Income Determinations in PIH Programs

- All programs follow definition of income found at 24 CFR Part 5
- Income calculated the same way in HCV and PBV
- Rules for calculating income are similar but not identical between Section 8 programs and LIHTC
  - PIH and Multifamily have different interpretations of some regulations
Income Determinations

- Each program requires that all income be converted to an annual figure, the process is different between Section 8 and LIHTC
  - Income-based rents vs restricted rents
  - Ability to conduct interims
Income Determinations

PIH income calculations are different from LIHTC in the following areas:

Income
- Zero, seasonal, and sporadic income
- Self employment
- Certain types of military pay
- Temporarily absent family members
- Scholarships and grants
- Earned income disallowance (EID)
- Imputed welfare income
- Regular gifts and contributions
- Foster children and foster adults
- Kinship Guardian Assistance
- Child support
- Certain pensions

Assets
- Calculating the value of checking and savings accounts
- Assets owned jointly
- Withdrawals from investments
- Assets disposed of for less than fair market value
- Pre-paid debit cards
- Deferred VA disability payments
- Passbook rates
Project Based Rental Assistance (PBRA)
PBRA Overview

- HUD’s Office of Multifamily Housing
- Program governed by the HUD Handbook 4350.3, Rev-1, CHG-4
- Rental assistance provided to owners and PHAs through HAP contracts with HUD
  - HAP contract specifics how many units receive Section 8 assistance
PBRA Overview

- PBRA authorized by Congress in 1974
  - Repealed in 1983 so no new projects
  - Existing projects continue to be funded
    - Owner has the option to renew the contract
  - Exception under RAD
PBCAs/CAs

- Owner/agents (O/As) typically do not work directly with HUD
  - Performance-Based Contract Administrator (PBCA) or
  - Traditional Contract Administrator (CA)
- Provide direct oversight in many cases
HUD Multifamily

Contracts to administer program

Monitors for compliance

CA/PBCA

PBRA
Lease Up Process

1. HUD signs HAP contract with owner for project
2. Family’s name reaches top of project’s waiting list
3. O/A determines both eligibility for program and suitability as renter
4. O/A and family inspect unit
5. O/A and family execute lease agreement
Rents in Standard PBRA

- **Contract rent:** Amount of rent listed on the HAP contract or rent schedule (form HUD-92458)
  - Must be approved by HUD or CA
  - Typically, contract rent increases annually
  - Must be comparable to unsubsidized projects in the area
Rents in Standard PBRA

- HUD provides rental assistance to owner for each subsidized unit
  - Difference between gross rent and tenant’s income-based TTP
    - Income information reported on form HUD-50059
    - O/A bills HUD for the difference monthly by submitting a voucher to TRACS

\[
\text{Tenant rent} + \text{HAP} = \text{Contract rent}
\]
Rent Adjustment

- Rents may be adjusted annually by the operating cost adjustment factor (OCAF) published by HUD for each state
- Not all properties qualify for OCAF
- An OCAF adjustment should not result in a rent reduction at any time
Rent Adjustments

- Owner may prepare a budget-based rent increase in lieu of an OCAF
  - Not all properties are eligible
  - Calculated based on actual line items and expenses incurred at the property
Special Considerations for LIHTC Projects

- Unlike other programs, PBRA has a mandatory HUD model lease
  - May not alter without HUD approval, including adding attachments
    - See if your state will allow a lease rider
    - Some states have state-wide approval
    - Otherwise, owner may include in House Rules
UAs in Standard PBRA

- Notice H-2015-04
  - In the past there was no national standard
- Baseline utility analysis based on actual usage at the property once every 3 years
  - Process can be cumbersome
- Factor-based analysis other years
  - State-specific increase factor UAF (similar to an OCAF)
UAs in RAD PBRA

- At closing, use public housing UA
  - However PHA may submit projections of energy saving improvements for HUD approval
- Year after conversion, follow H 2015-04
Income Determinations in PBRA

- Even though LIHTC uses the HUD Handbook 4350.3 just like PBRA, PBRA is different because:
  - Rent is income-based
  - Interims are conducted
  - Adjusted income is calculated
  - Verification requirements are different
<table>
<thead>
<tr>
<th></th>
<th>HCV</th>
<th>PBV</th>
<th>PBRA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Department</strong></td>
<td>PIH</td>
<td>PIH</td>
<td>Multifamily</td>
</tr>
<tr>
<td><strong>Subsidy Type</strong></td>
<td>Tenant-based</td>
<td>Project-based</td>
<td>Project-based</td>
</tr>
<tr>
<td><strong>Operated by</strong></td>
<td>PHA</td>
<td>PHA</td>
<td>Owner (PHA)</td>
</tr>
<tr>
<td><strong>HAP Contract</strong></td>
<td>PHA/Owner for one unit</td>
<td>PHA/Owner for multiple units</td>
<td>HUD/Owner for multiple units</td>
</tr>
<tr>
<td><strong>HAP Payments</strong></td>
<td>PHA → Owner</td>
<td>PHA → Owner</td>
<td>HUD → Owner</td>
</tr>
<tr>
<td><strong>Regulations</strong></td>
<td>24 CFR 982</td>
<td>24 CFR 982 &amp; 983</td>
<td>HUD 4350.3</td>
</tr>
<tr>
<td><strong>Key Document</strong></td>
<td>Admin plan</td>
<td>Admin plan</td>
<td>TSP</td>
</tr>
<tr>
<td><strong>Voucher</strong></td>
<td>For moves</td>
<td>None</td>
<td>For billing</td>
</tr>
<tr>
<td><strong>Reporting</strong></td>
<td>50058</td>
<td>50058</td>
<td>50059</td>
</tr>
</tbody>
</table>
Rental Assistance Demonstration (RAD) Program
RAD

- PHA may select:
  - Project-based vouchers (PBV)
  - Project-based rental assistance (PBRA)
- Rules for RAD differ somewhat from regular PBV and PBRA
RAD

- Participation is voluntary
- PHA submits an application to HUD
- Many PHAs often apply for LIHTCs around the same time to rehab the property
- Rents are set differently under RAD PBV and RAD PBRA
RAD References

- REV-2: Closed prior to 1/19/17
- REV-3: Closed on or after 1/19/17
- Relocation: 2016-17 effective 11/10/16 and replaced 2014 notice

Old Notices
- PIH 2012-32, REV 2
- PIH 2014-17; H 2014-09

New Notices
- PIH 2012-32, REV 3; H 2017-03 REV 3
- PIH 2016-17; H 2016-17
LIHTC issues and RAD

- In-place tenants have a right to return
  - What about over-income families and students?
- How you are going to manage a RAD conversion and a LIHTC lease up at the same time?
  - Think about software, policies, forms
  - Who is going to do the work?
    - Interviewing tenants, collecting docs, creating files and certifications
- Know your acquisition and RAD closing dates
  - They are probably not the same
Questions?

Samantha Sowards
Ssowards@nanmckay.com
619.277.0259

Sheryl Putnam
Sputnam@nanmckay.com
619.322.8724