



NOTICE PIH 2019-01
NOTICE H 2019-02

Issued: February 15, 2019

This notice remains in effect until amended, superseded, or rescinded

SPECIAL ATTENTION OF:

Regional and Field Office Directors of Public Housing; Multifamily Regional Center/Satellite Office Directors; Public Housing Directors; and Owner/Agents

Supersedes:

Notice PIH 2018-02

CROSS REFERENCES

PIH 2018-09; PIH 2018-02; PIH 2017-08; PIH 2016-22; PIH 2016-02; PIH 2011-46; Consolidated Appropriations Act, 2018 (Public Law 115-141, enacted March 23, 2018)

Subject: Funding Availability for Set-Aside Tenant Protection Vouchers

Purpose. This notice supersedes and replaces Notice PIH 2018-02.

HUD is making up to \$5,000,000 available for Tenant Protection Vouchers (TPVs) for certain at-risk households in low-vacancy areas from Fiscal Year (FY) 2018 Appropriations. The Consolidated Appropriations Act, 2018 (Public Law 115-141, enacted March 23, 2018) (referred to hereafter as the FY 2018 Act), provides that up to \$5,000,000 of the \$85,000,000 appropriated for TPVs may be made available for this purpose.¹ The \$5,000,000 made available under the FY 2018 Act will be used in addition to funds remaining under the previous year's Appropriations and made available under Notice PIH 2018-02.

TPVs provided under this set-aside are considered "replacement" TPVs and are not subject to the prohibition on re-issuance that applies to relocation TPVs. An owner is eligible to request assistance under this notice in the form of either enhanced voucher or project-based voucher

¹ There are three broad categories of TPV funding actions: Multifamily Housing Conversions, Public Housing Actions, and this Set-Aside. This notice focuses only on the set-aside category. More information on the other two categories may be found in [Notice PIH 2018-09](#).

(PBV) assistance. See Attachment C for more information about these types of voucher assistance. This notice explains the eligibility and application requirements for TPV set-aside funding, in addition to describing how applications will be processed.

If Congress continues to provide TPV set-aside authority under the same terms and conditions that it has this year (and in recent previous years), HUD will not issue a new TPV set-aside notice every year; instead, HUD will continue to use this notice for future TPV set-aside appropriations. HUD will review each years' appropriations act to ensure that continued use of this notice is fully consistent with congressional directives on this subject.

Summary of Changes. This notice is different from Notice PIH 2018-02 in the following ways:

- As stated in the “Purpose” section above, a new TPV set-aside notice will no longer be issued every year; instead, this notice will be applicable to future TPV set-aside appropriations. HUD will review each years' appropriations act to ensure that continued use of this notice is fully consistent with congressional directives on this subject.
- Section I is revised to clarify that current applications do not need to be resubmitted.
- Section II.A is revised in the following ways:
 - Establishes that qualifying low-vacancy areas will be updated annually and establishes the effective dates of such lists.
 - Clarifies that if an application was submitted between July 1, 2018 and the date of publication of this notice, the project will be considered low-vacancy as long as the project is in either the FY 2017 or the FY 2018 low-vacancy list.
- Revises Section II.C.1 to address turnover of units between the date the owner submits a request under this notice and the date of the triggering event, where the owner is submitting a request ahead of the triggering event.
- Revises several sections of the notice to establish that the initial point of contact for owners of properties with maturing Section 202 Direct Loans will be the Office of Recapitalization who can be contacted at Pre1974Section202@hud.gov.
- Makes the following changes to Attachment C “Description of Project-Based Voucher Program and Enhanced Vouchers”:
 - Revises the introductory paragraph in Attachment C to more appropriately address the purpose of the attachment.
 - Removes references to those PBV requirements that are applicable to TPV funding used for PBV assistance under this notice. Such removal does not mean that those requirements are no longer applicable. Instead, because most PBV requirements are applicable to funding under this notice, and to avoid any

confusion, the attachment will only reference the few PBV requirements that are not applicable.

- Removes the requirement to execute a separate HAP contract where project-based vouchers will be used for additional non-TPV units at the project. This includes: (a) adding TPV units awarded under a separate set-aside funding award for the same project, and (b) adding units utilizing budget authority allocated to the PHA under the HCV program. Addition of units must be in accordance with §983.206 (as amended by HOTMA). This policy applies to PBV contracts entered into pursuant to this notice, and all previous TPV set-aside notices.
 - Clarifies that any non-TPV units added to a PBV HAP contract put in place pursuant to a TPV set-aside notice are subject to the program cap and the project cap, unless the unit is specifically excepted from the program and project cap under PBV requirements.
- Revises Attachment D “PHA Processing Steps” to remove references to those PBV requirements that are applicable to TPVs under this notice in conformity with the changes to Attachment C described above.

I. Application Submission. Subject to the following conditions, HUD will accept owner requests for TPV assistance under this notice on a rolling basis:

- A. Funding under this TPV set-aside remains available;
- B. HUD has not issued subsequent guidance for set-aside assistance; and
- C. Congress has not enacted language prohibiting the use of carryover funds or directing that TPV set-aside funds be used in a manner that is inconsistent with this notice.²

Applications submitted under PIH 2018-02 (which covered the FY 2017 TPV set-aside funding) and received by HUD prior to the publication of this notice do not need to be resubmitted, because the eligibility and application requirements continue to be the same. See the description of low-vacancy areas (Section II.A below) for more information concerning which low-vacancy list would be applicable.

II. Eligibility Requirements. An owner who wishes to request assistance under this notice must meet all of the eligibility requirements described below.

- A. Low-vacancy areas.** HUD will publish an updated list of low-vacancy areas on an annual basis. Each list will be identified by the applicable funding fiscal year and will be effective for one year, from July 1 to June 30. The county where the project is located must be listed in the low-vacancy list in effect as of the date of application

² Owners may inquire to their HUD Account Executive or Pre1974Section202@hud.gov as to the continued availability of TPV set-aside funding prior to preparing the application material described in this notice.

submission to be eligible for TPV set-aside funding. See the table below for examples to help explain this policy.

Examples:

| Date of application submission: | Applicable low-vacancy list: |
|--|-------------------------------------|
| July 1, 2018 to June 30, 2019 | FY 2018 |
| July 1, 2019 to June 30, 2020 | FY 2019 |
| July 1, 2020 to June 30, 2021 | FY 2020 |

If an application was submitted between July 1, 2018 and the date of publication of this notice, the project will be considered low-vacancy as long as the project is in either the FY 2017 or the FY 2018 low-vacancy list.

The lists of low-vacancy areas will be published and available in the following website: <https://www.huduser.gov/portal/datasets/lowvactpv.html>. Attachment E describes the methodology used by HUD for determining low-vacancy areas.

B. Triggering event.³ The occurrence of at least one of the events described below triggers eligibility for assistance under this notice: The triggering event must have occurred in the 5 years prior to the owner’s submission or must be anticipated to occur within 180 days of the owner’s submission described in Section III:

1. The maturity of a HUD-insured, HUD-held, or Section 202 loan that would have required the permission of the Secretary prior to loan prepayment. This category includes only properties with the following types of matured mortgages:
 - a. Section 202 direct loan;

³ As indicated in TPV set-aside Notice PIH 2018-02/H 2018-01, HUD has determined that implementation of a time limit on triggering events is necessary to ensure that this discretionary set-aside funding is appropriately awarded to projects for the authorized purpose on behalf of eligible families. In light of this, a previous category of triggering events identified by HUD in the past as qualifying under the second prong detailed in the appropriations act (that is, RAP contracts that expired prior to FY2012 and Rent Supplement contracts that expired prior to FY 2000) is no longer offered as an eligible category under this set-aside notice. Under the 2018 appropriations act (and prior appropriations acts that authorized a similar, discretionary set-aside of TPV funding), set-aside funding for expiring rental assistance contracts can only be provided in cases where families are not eligible for TPVs under existing law. The expiration of a Rent Supplement or RAP contract triggers the provision of TPVs under existing law. Moreover, this has been the case since FY 2000 for Rent Supplement contract expirations and since FY 2012 for RAP contract expirations.

- b. Section 236 insured or HUD-held mortgage;
- c. Sections 221(d)(3)–(d)(5) Below Market Interest Rate (BMIR) insured or HUD-held mortgage.

A direct loan or FHA-insured mortgage note will specify if HUD approval is required for prepayment. If the Section 202 direct loan note is silent on whether HUD prepayment approval is required, then the maturity of the direct loan is a triggering event under this category.

Maturity of any other type of mortgage, for example a mortgage made by a state Housing Finance Agency, does not qualify under this category.

- 2. The expiration of affordability restrictions accompanying a mortgage or preservation program administered by the Secretary. This category includes two groups of properties, as follows:
 - a. Properties with matured Section 202 direct loans, Section 236 insured or HUD-held mortgages, or Section 221(d)(3)-(d)(5) BMIR insured or HUD-held mortgages where permission of the Secretary would not have been required prior to mortgage prepayment. To be eligible under this category, the underlying affordability restrictions at the property must have expired with maturity of the mortgage. Note, the distinction in this category is that permission from the Secretary for mortgage prepayment is not required.
 - b. Properties with expired “stand alone” affordability restrictions. This group includes properties that had a HUD-imposed affordability restriction that expired in FY 2018 or in the 5 years prior to the owner’s submission. To be eligible under this category, the project with the expired affordability restriction must not, at the time of the request for assistance, have an active Section 202 direct loan, or an active Section 221(d)(3)-(d)(5) BMIR insured or HUD-held mortgage or Section 236 FHA-insured or HUD-held mortgage. This category includes projects that had a HUD-imposed affordability restriction and may have been financed with a state-insured mortgage. The expired/expiring affordability restriction must be a HUD-imposed affordability restriction that restricted the property to operate as affordable housing to very low, low, and/or moderate income households. This may include, but is not limited to, the Preservation programs under the Title II Emergency Low Income Housing Preservation Act (ELIHPA) and the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA), Section 236(e)(2) Decoupling Use Agreement, Section 250 Prepayment Use

Agreement, or a Section 219 Prepayment Use Agreement. An Interest Reduction Payments Agreement associated with a state non-insured 236 mortgage also meets the criteria under this category. The expiration of a project affordability restriction imposed by another agency or funder does not meet the criteria under this category.

C. At-risk residents. The project must contain residents that are eligible to receive TPV assistance. A resident is eligible to receive TPV assistance if the resident:

1. Resides at the project:

- a. **If the triggering event happened before application submission:** If the triggering event happened before the owner submits the request (note the timing requirements described in Section II.B above), the resident must reside at the project at the time of the owner's submission and must have also resided at the project at the time of the triggering event.
- b. **If the triggering event will happen after application submission:** A resident that moves in after the owner's submission under this notice, but prior to the triggering event, must reside at the project at the time of the triggering event. Owners must ensure that new residents are informed of the owner's application for assistance under this notice and determine the family's eligibility to receive TPV assistance as described in Section III.A of this notice. Any change in families must be shared with the PHA.

If the change in family won't cause a change in the total number of TPVs needed for the project, no other steps need to be taken. If, on the other hand, the change in family will cause a change in the total number of TPVs needed, the following must occur:

- i. If the total number of TPVs is decreasing (i.e., the new family is not eligible for the TPV, and therefore, the TPV is no longer needed): the owner must confirm to HUD the new number of TPVs that will be needed for the project by emailing the HUD Multifamily contacts (see Section III.A of this notice) and the HCV Financial Management Division (PIHConversionActions@hud.gov), with copy to the PIH Field Office. A revised funding application form, completed by the PHA, must be included. And, such confirmation must be submitted no later than at the time of the triggering event.
- ii. If the total number of TPVs will increase (i.e., the unit was vacant at the time of the owner's submission and the new family is eligible, or the prior family was not eligible for the TPV, but the new family is): the owner must submit a new application for the new family (or families) that are eligible for the TPVs. The original application does not need to be

revised and will continue processing as is. This means that in these cases the PHA will get two separate funding assignments; one for families under the original application and one for the new families that are eligible for the TPVs.

2. Is not currently assisted under any federal, state, or local rental assistance program;
3. Is eligible for Housing Choice Voucher (HCV) assistance (as determined by a PHA); and
4. As the result of an eligible triggering event, either is paying or may have to pay greater than 30 percent of adjusted monthly income toward rent. Attachment A of this notice details how this provision is to be implemented.

A resident who meets the criteria listed above is considered to be “at-risk” for purposes of this notice. Attachment A to this notice (Owner Requirements for Determining At-Risk Households) provides further information on identifying at-risk households.

D. Resolution of Civil Rights Matters. Outstanding civil rights matters must be resolved to HUD’s satisfaction prior to grant award, provided that all applicable legal processes have been satisfied.

III. Application Requirements. Before applying, owners must ensure that all eligibility requirements, as described in Section II of this notice, are met. An application that does not meet any of the eligibility requirements will be deemed ineligible and will not complete the application process. This Section must be read in conjunction with Attachment A of this notice, to ensure that all requirements are met.

A. Content of the Application. An owner who wishes to request assistance under this notice must email a letter requesting assistance to the Office of Recapitalization at <mailto:Pre1974Section202@hud.gov> for properties with Section 202 Direct Loans or the HUD Multifamily Regional Center/Satellite Office Director, with a copy to the HUD Account Executive for all other property types. A list of HUD Multifamily Regional Center/Satellite Offices may be found at: https://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/hsgmfbus/a_bouthubspcs. The submission email must also include all of the following information:

1. The property name and address, including the name of the county in which the property is located.
2. The date of the triggering event.

3. A copy of all mortgage note documents, rental assistance contracts and renewals, and affordability restriction documents related to the triggering event.
4. A narrative explanation of the triggering event that makes the project eligible under this notice.
5. A statement indicating the owner's preferred form of assistance (enhanced vouchers or PBV assistance). The statement shall include whether the owner is willing to accept the alternative form of assistance where the PIH Field Office is unable to find a PHA willing to administer the owner's preferred assistance type. For example, if the owner's preferred assistance is PBV, the application will specify whether the owner consents to enhanced vouchers if the PIH Field Office is unable to find a PHA to administer PBV assistance.
6. A statement certifying that the owner is in compliance with the civil rights laws and requirements identified in 24 CFR 5.105.
7. A list of units (identified by unit number and household name) currently occupied by at-risk households. The list must identify these units as "at-risk" and include a calculation that demonstrates that the household would have to pay more than 30 percent of monthly adjusted income in the absence of voucher assistance. See Attachment A for further instructions on completing these calculations.
8. A list of units (identified by unit number and household name) occupied by households determined not to be at-risk. This list is intended for use by the PHA (under Section IV.D below); it will not be used by HUD to process the request. The list must identify these units as "not at-risk" and include a calculation that demonstrates that each household would not have to pay more than 30 percent of monthly adjusted income in the absence of voucher assistance. See Attachment A for further instructions on completing these calculations.
9. For each household described in paragraphs 7 and 8 above, the calculation must include the household size and annual income, the household's adjusted monthly income, the FMR for the unit (or the SAFMR if the project is located in a metropolitan area), and the percentage of monthly adjusted income the family would have to pay for rent in the absence of voucher assistance.
10. Where the owner collects income documentation from each household (as described in Attachment A), a list of units (identified by unit number and household name) occupied by households who resided at the property at the time of the triggering event but failed to provide income information to

the owner. This list is intended for use by the PHA (under Section IV.D below); it will not be used by HUD to process the request. The list must identify these households as “failed to provide.” These households will not receive assistance under this notice. For all such households, the owner must maintain documentation showing that the household was notified in writing that their failure to provide income information means that they will not receive assistance under this notice.

11. For properties where the triggering event happened before the owner submits the request (note the timing requirements described in Section II.B above), documentation showing that the at-risk and the not at-risk households resided at the property at the time of the triggering event. Such documentation may include, but is not limited to, a lease, rent roll, or rental payment receipt.
12. A statement certifying that the at-risk households are not currently assisted under any federal, state, or local rental assistance program.
13. A statement certifying that the calculations used to identify at-risk residents are accurate consistent with the requirements spelled out in Attachment A of this notice.

IV. Processing of Applications. Before an owner’s request for assistance may be approved, the following steps must occur.

A. Eligibility Review. The Office of Recapitalization (for properties with Section 202 Direct Loans), or the Multifamily Regional Center/Satellite Office Director or designee (for all other property types), will receive the owner’s request for assistance and review it to verify that:

1. All of the required documents, as listed in Section III of this notice, are included in the application.
2. The property is located in a low-vacancy area (see Section II.A above).
3. The property has:
 - a. Experienced a triggering event in the 5 years prior to the owner’s submission; or
 - b. Will experience a triggering event within 180 days of the Owner’s submission. See Section II.B of this notice for a list of triggering events.
4. If the triggering event happened before the owner submits the request, that all of the households identified by the owner (at-risk and not at-risk), did reside at the property at the time of the triggering event. Tenants not

residing at the property at the time of the triggering event are ineligible for a TPV.

5. In the case of a mortgage maturity or affordability restriction expiration, the number of households identified by the owner as at-risk households does not exceed the total number of unassisted units at the property.
6. The owner has indicated its preferred form of assistance and whether the owner consents to an alternative form of assistance, consistent with Section III.A.5 of this notice.

The Office of Recapitalization or the Multifamily Regional Center/Satellite Office Director or designee will not be responsible for verifying the accuracy of the reported tenant income or the calculations of at-risk households.

B. Eligibility Determination. After review of the application, and in coordination with HUD Headquarters to verify eligibility, the Office of Recapitalization (for properties with Section 202 Direct Loans), or the Multifamily Regional Center/Satellite Office Director or designee (for all other property types), will:

1. Advise the owner to modify its request to meet the requirements of this notice;
2. Deny any request that fails to meet the above requirements and notify the owner in writing of the denial; or
3. Determine that the request meets the above requirements.

Once the Office of Recapitalization or the Multifamily Regional Center/Satellite Office determines that an application is eligible, that Office's Director or designee will request that the PIH Field Office Director identify a PHA willing to administer the assistance. The Office of Recapitalization or the Multifamily Regional Center/Satellite Office Director or designee must forward the owner's request, along with all completed worksheets, checklists, and requirement documentation, for further processing.

C. Selecting the Administering PHA. Once the PIH Field Office Director receives the appropriate information from the Office of Recapitalization or the Multifamily Regional Center/Satellite Office Director or designee, the PIH Field Office Director or designee will determine the appropriate PHA to administer the enhanced vouchers or PBV assistance, in accordance with the following:

1. PHA selection is made in accordance with established criteria for selection of PHA administration of TPVs, including, but not limited to, jurisdiction to administer the voucher program in the area where the project is located and PHA administrative capacity.

2. Where the owner has selected PBV assistance, a PHA with no established PBV program may be selected by the PIH Field Office; however, the PHA must certify to the PIH Field Office Director that the PHA is able to comply with all regulatory and statutory requirements involved in establishing a PBV program within the timeframe necessary to provide assistance to eligible at-risk households.
3. The PIH Field Office Director will extend a written invitation to the selected PHA. The selected PHA must inform the local HUD PIH Field Office Director or designee within 30 calendar days of the date of its selection (i.e., the date of the PIH Field Office's written invitation) whether the PHA consents or does not consent to administer the enhanced vouchers or enter into the PBV contract. See Attachment C for more information on the components of the HCV and PBV programs that do not apply to TPVs under this notice.
4. The PIH Field Office will make a reasonable effort to find a PHA willing to administer the owner's preferred type of assistance (PBV or enhanced vouchers). If the PIH Field Office is unable to find a PHA to administer the preferred assistance and:
 - a. The owner did not consent in their application to the alternative assistance: the PIH Field Office will notify the Office of Recapitalization (for properties with maturing Section 202 Direct Loans), or the Multifamily Regional Center/Satellite Office Director (for all other property types), who will in turn notify the owner that the request for assistance is denied; or
 - b. The owner consented in their application to the alternative assistance: the PIH Field Office will make a reasonable effort to find a PHA that will administer the alternative assistance. If the PIH Field Office is unable to find a PHA to administer either type of assistance, the PIH Field Office will notify the Office of Recapitalization or the Multifamily Regional Center/Satellite Office Director, who will in turn notify the owner that the request for assistance is denied.
5. A PHA that consents to administer PBV assistance, must also consent to administer enhanced vouchers. This is in case the PHA determines that it will be unable to enter into a PBV HAP contract because the project does not comply with PBV requirements.
6. Once a PHA has consented to administer the enhanced vouchers or PBV HAP contract:

- a. The PIH Field Office Director will inform the Office of Recapitalization or the Multifamily Regional Center/Satellite Office Director or designee, and
- b. The PIH Field Office will also send a copy of the owner's request and all supporting documentation to the PHA so that the PHA can prepare the tenant-based funding application as described in the following section.

D. PHA Processing Responsibilities. The PHA receives the owner's application and all supporting documentation, and performs the tasks described below. PHAs must refer to Attachment D for a full description of these steps.

1. Determines HCV eligibility of all at-risk households.
2. Ensures that its administrative plan allows for the provision of HCV assistance to these at-risk households.
3. Notifies, in writing, all households determined by the owner not to be at-risk that they may request to have their income calculated by the PHA to determine whether they are eligible for assistance, including whether the household meets the rent burden requirement for at-risk households. PHAs may adopt a time limit for response to the requests of not less than 30 calendar days. The PHA is not required to send such notification to households that did not provide income information to the owner.
4. Completes form HUD-52515, Section 8 Tenant-Based Assistance Funding Application, and sends the completed form to the PIH Field Office for further processing.
5. Once the PHA receives the ACC document and transmittal letter from the Financial Management Center (FMC), the PHA issues the voucher to the eligible family (if enhanced voucher assistance) or verifies that the project complies with all PBV requirements (if PBV assistance). If the PHA determines that it will be unable to enter into a PBV HAP contract with the owner because the project does not comply with all such requirements, then the funding provided to the PHA under this notice must be used to provide enhanced voucher assistance for all eligible families.
6. Verifies that the unit continues to be occupied by the at-risk household. The PHA cannot enter into a PBV HAP contract for a unit that is no longer occupied by the at-risk household.

E. Processing the Funding Request. The PIH Field Office Director or designee submits the PHA's HUD-52515, the owner's request for assistance, and any other information, as needed, to HUD's Office of Housing Vouchers Financial Management Division (FMD) at PIHConversionActions@hud.gov, with "TPV

Set-Aside [PHA number]” in the subject line). Once the funding request has been approved, HUD will amend the PHA’s ACC to provide tenant-protection set-aside funding.

F. Budget Authority Calculation and Assignment of Funds. The FMD calculates the budget authority and assigns funds to the PHA, using the information from Section B of form HUD-52515 to determine the amount of funding the PHA will be assigned. The FMD also calculates the special fee for the extraordinary costs associated with administering the enhanced voucher or PBV assistance under this notice. The fee will be \$200 per unit for the higher number of units as determined below:

1. The number of at-risk households at the property that were identified in the owner’s request for assistance; or
2. The number of families that are eligible to receive assistance (as determined by the PHA and identified in Section B of form HUD-52515).

The amount of the special fee is subject to the availability of funds for this purpose. If necessary, HUD may amend the amount and method of calculation of the special fee by subsequent notice.

G. Preparation of the ACC Documents. The FMC prepares the ACC documents and ACC transmittal letter, and forwards these to the PHA with a copy of the letter to the PIH Field Office Director.

V. Paperwork Reduction Act. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control numbers are 2577-0169, 2502-0204, and 2502-0086. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

VI. Further Information. Questions concerning the policies described in this notice may be directed to the Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at 202-708-0477 (this is not a toll-free number). Persons with hearing or speech impairments may access these numbers via TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

/s/

Dominique Blom
General Deputy Assistant
Secretary for Public and Indian
Housing

/s/

Brian D. Montgomery
Assistant Secretary for Housing –
Federal Housing Commissioner

List of Attachments

Attachment A: Owner Requirements for Determining At-Risk Households

Attachment B: Sample Format for Owner Identification of Households (Optional)

Attachment C: Description of Project-Based Voucher Program and Enhanced Vouchers

Attachment D: PHA Processing Steps

Attachment E: Low-Vacancy Areas

[Attachment A: Owner Requirements for Determining At-Risk Households](#)

This attachment explains family notification requirements and the steps an owner must follow in determining whether the household is paying or will have to pay more than 30 percent of adjusted monthly income toward rent as the result of a triggering event.

Owners must include a list of the specific households in each category (at-risk or not at-risk), including the calculations explained below. See Section III of this notice for further details on application submission requirements. Attachment B of this notice provides a sample format that an owner may use to submit this information. The use of the sample format is optional.

[I. Notify households](#)

Owners must notify the residents, as well as any legitimate resident organizations, in writing, that the owner will be applying for assistance under this notice.

These activities must occur prior to the owner applying for assistance under this notice.

The owner's notification must state that:

- The owner will be identifying at-risk households according to the residents' income;
- In cases where the triggering event happened in the 5 years prior to the owner's submission, the residents are only eligible if they resided at the project at the time of the triggering event;
- Residents are not required to share any income information requested by the owner, but that failure to provide such information means the household will be ineligible for assistance under this notice;
- If any resident contests the income determination made by the owner (if the owner's request for assistance is selected for funding), such resident will have the opportunity to have their income calculated for eligibility purposes by the administering PHA; and
- The owner's application for assistance is not a guarantee that the property and residents will receive assistance under this notice.
- The PHA makes the final determination as to a resident's eligibility for assistance under this notice.

Owners must ensure that all communications are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (see 24 CFR § 8.6) and, as applicable, the Americans with Disabilities Act. Owners must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters). Owners must also take reasonable steps to ensure meaningful access for persons who have limited English proficiency. Owners may refer to HUD's published *Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (LEP Guidance) (72 FR 2732, published January 22, 2007) regarding LEP obligations.

II. Request household income information

An owner must request household income information from any household whose income the owner has not verified within 12 months of the date the owner anticipates submitting a request for assistance under this notice. If the household's income has been verified within 12 months of the date the owner anticipates submitting a request for assistance under this notice, the owner may rely on this previously collected information.

A household may choose not to disclose income information. Any household that does so must be identified in the owner's request for assistance (as specified in Section III.A.10 of this notice) and the household will not receive assistance through this notice. For households choosing not to disclose income, the owner must maintain documentation showing that the household was notified in writing that its failure to provide income information means that it will be ineligible to receive rental assistance through this notice.

III. Calculate household rent burden in the absence of voucher assistance

To calculate the household's rent burden, the owner must first determine the household's adjusted monthly income, following the steps below:

Step 1: Deduct \$480 from the household's annual income for each household dependent;

Step 2: Deduct \$400 from the household's annual income if the household's head, spouse, or sole member is a person with disabilities or is at least 62 years of age;

Step 3: Divide the annual income (after the deductions in steps 1 and 2 above) by 12 to determine the household's adjusted monthly income.

Step 4: To determine whether the household is at-risk of having to pay more than 30 percent of its adjusted monthly income toward rent in the absence of voucher assistance, divide the 2018 FMR (the SAFMR if the project is located in a metropolitan area and the metropolitan-area FMR if the project is located in a non-metropolitan area) by the household's adjusted monthly income.

Attachment B: Sample Format for Owner Identification of Households (Optional)

Below is a sample list that may be used by owners to meet the submission requirements of Section III of this notice. Specifically, this list includes all unassisted units occupied by at-risk and not at-risk households, accompanied by a calculation that demonstrates whether or not the household would have to pay more than 30 percent of their adjusted monthly income for rent in the absence of this voucher assistance. Owners would also identify in this list whether the household failed to provide income information. Examples of how to fill out this form are also included below.

Name of Owner:

Project Name:

Project Address:

County Name:

| | Unit Number | Household Name | Household Size (e.g., 4- person household) | Household's Annual Income | Household's Adjusted Monthly Income | SAFMR or FMR (as applicable) for unit of household size | SAFMR or FMR/ Adjusted Monthly Income | At-risk, Not at risk, Failed to provide |
|---|--------------------|-----------------------|---|----------------------------------|--|--|--|--|
| 1 | 104 | Jones | 3 | \$35,000 | \$2,876 | \$1,400 | .48 | At-risk |
| 2 | 202 | Smith | 2 | | | | | Failed to provide |
| 3 | 105 | Johnson | 4 | \$56,500 | \$4,668 | \$1,400 | .30 | Not at risk |

Attachment C: Description of Project-Based Voucher Program and Enhanced Vouchers

With few exceptions, the requirements of the housing choice voucher (HCV) program apply to enhanced vouchers provided under this set-aside. Similarly, most project-based voucher (PBV) program requirements apply to PBVs provided under this set-aside. This attachment focuses on requirements that are different from standard HCV and PBV program requirements.

I. Project-Based Voucher Program

The PBV program is authorized under 42 U.S.C. 1437f(o)(13) of the U.S. Housing Act of 1937 (“the 1937 Act”). The implementing regulations are found at 24 CFR Part 983. The Housing Opportunity Through Modernization Act of 2016 (HOTMA) amended the 1937 Act, making several changes to the PBV program. HUD implemented the PBV HOTMA provisions via *Federal Register* Notice (82 FR 5458) published on January 18, 2017 (as amended by 82 FR 32461 (Jul. 14, 2017)). A notice (PIH 2017-21) was published on October 30, 2017, to further describe the implemented HOTMA changes. Until such time as the Department revises Part 983 to reflect the changes made by HOTMA, the FR notice and any additional guidance published by HUD must be read in conjunction with Part 983 to reflect the most recent PBV program requirements.⁴

Under the PBV program, a PHA enters into a Housing Assistance Payment (HAP) contract with an owner for specified units, for a specified term. When families move from the assisted units, the PHA refers families from its waiting list to the owner to fill vacancies. PHAs may add units to a PBV HAP contract executed pursuant to this notice as follows: (a) the PHA may add TPV units awarded under a separate set-aside funding award for the same project, and (b) the PHA may add units to a PBV HAP contract executed pursuant to this notice, utilizing budget authority allocated to the PHA under the HCV program. Addition of units must be in accordance with §983.206 (as amended by HOTMA). This policy applies to PBV contracts entered into pursuant to this notice, and all previous TPV set-aside notices.

If an owner requests PBV assistance under this notice, such assistance may be awarded only after the administering PHA confirms that the request complies with all requirements of the PBV program, including all applicable fair housing and civil rights requirements, except those specifically listed below as inapplicable.

The following PBV requirements are not applicable to TPVs provided under this notice:

- Owner proposal selection procedures (24 CFR 983.51). These procedures do not apply to assistance provided via this notice because the Appropriations Act defines the categories of projects that are potentially eligible for PBV assistance. Note that site selection standards under 24 CFR 983.57 must be met.

⁴ Note that information and guidance on the environmental review process and requirements is provided in Notice PIH 2016-22.

- Percentage limitation (24 CFR 983.6) and income-mixing requirement (983.56). TPV set-aside units covered by a PBV HAP contract under this notice are excluded from the percentage limitation (also known as the program cap) and income-mixing requirement (also known as the project cap). Any non-TPV units added to a PBV HAP contract put in place pursuant to a TPV set-aside notice are subject to the program cap and the project cap, unless specifically excepted under PBV requirements. Since HUD's Field Office extends an invitation to the PHA to administer the PBVs (see section IV.C of this notice) the notice requirements of 983.6(d) are not applicable.

II. Enhanced Vouchers

Enhanced vouchers are tenant-based assistance authorized under Section 8(t) of the 1937 Act. Households issued enhanced vouchers may elect to use the assistance in the same property (as long as the property continues as rental housing and the tenancy can be approved in accordance with the enhanced voucher policies), or may choose to move from the property. There is no guarantee to the owner that any enhanced voucher assistance will be used at the property.

Enhanced vouchers are subject to HCV program rules, except as described below:

- Right to remain. A family that receives an enhanced voucher has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance (e.g., the rent is reasonable, unit meets HQS, etc.).
- Owner termination of tenancy. The owner may not terminate the tenancy of a family that exercises its right to remain except for a serious or repeated lease violation or other good cause. If an owner refuses to honor the family's right to remain, the family may exercise any judicial remedy that is available under State and/or local law.
- Special payment standard. Regardless of whether the owner's new gross rent (after the triggering event) exceeds or is less than the PHA payment standard, the housing assistance payment for a family that stays in its unit (or moves to another unit within the project as a result of: (a) an internal emergency transfer (See Notice PIH 2017-08), (b) the need for an accessible unit or a reasonable accommodation, or (c) having to move from an oversized unit to an appropriate-sized unit) is the gross rent for the unit minus the greatest of:
 - 30 percent of the adjusted family monthly income;
 - 10 percent of the family monthly income (gross monthly income);
 - The welfare rent in as-paid states;
 - The enhanced voucher minimum rent (see below); or
 - Such other minimum rent established by the PHA as authorized by Federal law (see 24 CFR §5.630.)

This special payment standard may never exceed the gross rent for the assisted family's unit.

As a result of this special payment standard, a PHA may sometimes find that it approves a tenancy for a unit that would otherwise be ineligible or unaffordable to a family with regular tenant-based assistance. As long as the rent is reasonable, there is nothing improper or incorrect in approving the owner's new rent. The PHA must document its rent reasonableness determination in the family's file by including the rents and addresses of the comparable units used to make the determination. (Notice PIH 2011-46 provides guidance on rent reasonableness determinations.)

The PHA must identify an eligible family as an enhanced voucher family even if the gross rent of the family's unit is less than or equal to the normally applicable PHA payment standard. Since the special payment standard covers any subsequent rent increases, it is possible that it may come into play later in the family's tenancy.

If the owner raises the rent for a family assisted with an enhanced voucher in accordance with the lease, state and local law, and HCV program regulations, the PHA will increase the enhanced payment standard to equal the new gross rent (rent to owner and the applicable PHA utility allowance for any tenant-supplied utilities) for the unit, provided the PHA determines the rent is reasonable. The additional cost of the subsidy will be covered through the regular renewal process for the PHA's voucher program.

If an increase or decrease in the PHA utility allowance affects the gross rent for a family assisted with an enhanced voucher, the PHA must adjust the enhanced payment standard accordingly.

- **Minimum rent.** Families assisted with enhanced voucher assistance have a special statutory minimum rent requirement. Specifically, if such a family remains in place, then it must pay for rent no less than the rent it was paying on the date of the triggering event.
 - The method for calculating the minimum rent changes if the family's income subsequently decreases by 15 percent or more from the family's gross income on the date of the triggering event. In this case, the enhanced voucher minimum rent changes from an actual dollar amount to a specific percentage of income. The family's new minimum rent will be the greater of the percentage of the monthly adjusted income the family paid for gross rent on the date of the triggering event or 30 percent of the family's new adjusted monthly income. Once this change in the enhanced voucher minimum rent becomes effective for a family, the enhanced voucher minimum rent for the family remains that specific percentage of income (e.g., 32 percent) and will not revert to a specific dollar amount, even if the family's income subsequently increases or decreases.
 - When a family reports a significant decrease in family income, the PHA conducts an interim redetermination and verifies the change in income as soon as possible to prevent hardship on the family, preferably by the first of the month following

the date the family reports the change and provides the necessary documentation. The PHA may implement the reduction on a provisional basis before completing the verification to prevent undue hardship to the family.

- Timing of assistance payments. A PHA may not make payments to an owner until after execution of the HAP contract on behalf of an individual family.
- Over-housed families. Notice PIH 2016–02 sets forth the enhanced voucher policies that apply to families residing in units where the actual number of bedrooms exceeds the family unit size for which the family qualifies under the PHA’s subsidy standards (i.e., “over-housed families”).

When a family moves from the project, the normally applicable PHA payment standard is used to determine the family’s voucher subsidy, and regular HCV program rules apply. This includes cases where the proposed new rent for the family’s current unit is not reasonable or the unit fails HQS, requiring the family to move in order to receive tenant-based assistance.

Attachment D: PHA Processing Steps

The following steps outline the steps of the TPV set-aside process that are the responsibility of the PHA once the PHA has informed the local HUD PIH Field Office Director that it agrees to administer enhanced vouchers or enter into a PBV contract.

Step 1: PHA receives a copy of the owner’s request and all other supporting documentation from the PIH Field Office Director.

Step 2: Does the PHA’s administrative plan allow for the provision of HCV assistance to these *low-income* families?

Yes.

No, the PHA must amend its administrative plan to administer the enhanced vouchers or PBV assistance. This administrative plan requirement is consistent with 24 CFR 982.201(b)(1)(iii). HUD will consider waivers of this regulation to allow provision of assistance to these families without an amendment to the administrative plan only when such waiver is warranted due to the timing of the conversion.

Step 3: Determine HCV eligibility of all at-risk households identified by the owner.

- The PHA will only make assistance available to households that have been determined eligible under HCV program admissions rules.
- When determining income eligibility, the PHA uses the applicable low-income limits (not the very low-income limits). The PHA follows standard HCV program rules in calculating household income for purposes of determining income eligibility.
- The PHA does not re-determine whether the household meets the rent burden threshold for at-risk families (the rent burden threshold for at-risk families is described in Attachment B of this notice). The PHA may rely on the owner’s determination.
- To reduce processing time, the PHA may use the owner’s most recent family income examination (form HUD-50059) if the effective date of the income verification is no more than 12 months old and the PHA

INCOME-TARGETING AND WAITING LIST REQUIREMENTS

- ✓ Families admitted to the HCV program with **enhanced vouchers** are special admissions under 24 CFR 982.203, and therefore, do not have to be selected from the PHA’s waiting list.
- ✓ If admitted with **PBV assistance**, the family must be selected from the PHA’s waiting list in accordance with 24 CFR 983.251(b).
- ✓ Families admitted with **PBV assistance or with enhanced vouchers** are not subject to income-targeting requirements under 24 CFR 982.201(b)(2).

determines that the examination is acceptable after reviewing a sample of 20 percent. The PHA is never required to use the owner certifications and may choose to conduct its own income determination and verification. PHAs should be aware that many owners will not have form HUD-50059 for the households being assisted through this notice.

Step 4: Notify households.


a. Families determined by owner *not to be at-risk*:

PHA notifies these households, in writing, that they may request that the PHA calculate their income for eligibility purposes if they disagree with the owner's determination. The PHA may adopt a time-limit for response to the requests of not less than 30 calendar days.

b. All Families:

PHA notifies all eligible households, in writing, of the type of assistance they may be receiving, including a brief description of the type of assistance.

PHA schedules a briefing with eligible residents to inform tenants of program requirements, tenant rights and obligations.



THE PHA DOES NOT PROVIDE NOTIFICATION TO HOUSEHOLDS THAT DID NOT PROVIDE INCOME INFORMATION TO THE OWNER (AS IDENTIFIED IN THE OWNER'S REQUEST FOR ASSISTANCE)

Step 5: Complete the Section 8 Tenant-Based Assistance Funding Application (form HUD-52515).

Include all of the following information at the top of the form:

- PHA name and mailing address
- PHA code number (for example, CT002)
- Email
- Telephone number
- Facsimile telephone number

Complete the remainder of the form as follows:

- Do not complete Section A.
- Under Section B of the form, only complete the box for total dwelling units under vouchers. Insert the number of eligible families as determined by the PHA's eligibility determinations.
- Do not complete Section C.

- Under Section D of this form, the PHA must identify whether the assistance will be for enhanced vouchers or PBV assistance.

Step 6: Submit the completed form HUD-52515 to PIH Field Office Director.

Processing PBV Assistance:

Step 7: Verify whether the project meets PBV requirements.

- After the PHA receives the ACC documents and transmittal letter from FMC, it must verify whether the owner's request for PBV assistance meets the statutory and regulatory requirements of the PBV program. See Attachment C of this notice for a list of inapplicable PBV requirements.
- If the PHA determines that it will be unable to enter into a PBV HAP contract with the owner because the project does not comply with all such requirements, then the funding provided to the PHA under this notice must be used to provide enhanced voucher assistance for all eligible families.

Step 8: Verify that the unit continues to be occupied by the at-risk household.

- The PHA cannot enter into a PBV HAP contract for a unit that is no longer occupied by the at-risk household.

Step 9: Execute the PBV HAP contract.

- Only unassisted units may be included in the PBV HAP contract. The project may be partially assisted with pre-existing project based rental assistance (PBRA) contracts, and units subsidized with such assistance may not be included in the PBV HAP contract.

Processing Enhanced Voucher Assistance:

Step 10: Issue vouchers to the eligible families.

- After receiving the ACC documents and transmittal letter from HUD's Section 8 Financial Management Center (FMC), the PHA must issue a voucher to the family.
- See Attachment C of this notice for more information on enhanced vouchers.

Attachment E: Low-Vacancy Areas

Low-vacancy areas are defined according to occupancy data at the project level from the most recent Picture of Subsidized Households Report. This data is matched to the most recent Physical Inspection Scores data for both public housing and multifamily assisted properties. Properties with inspection scores below 60 are removed from the sample, as are properties that are missing inspection scores or occupancy rates.

This data is aggregated to the county level, and the occupancy rate for each county is calculated. If a county within a Core-Based Statistical Area (CBSA) has less than ten units, the CBSA-level occupancy rate is used. For counties outside of CBSAs with less than ten units, state non-CBSA totals are used to calculate occupancy rates, while the national non-CBSA occupancy rate is used for counties in states with only CBSA counties or a state non-CBSA unit count below ten. Counties with occupancy rates greater than or equal to 90 percent are flagged as low-vacancy.

The list of low-vacancy areas may be accessed at the following HUD webpage: <https://www.huduser.gov/portal/datasets/lowvactpv.html>. HUD will publish updated low-vacancy areas annually. The effective date of the updated low-vacancy areas will be July 1 of each year. (See Section II.A of this notice.)