

**The ABCs of PBV:
How to select projects and enter into HAP**

AGENDA

- Types of Section 8
- Establishing a PBV Program
- Development & Selection Issues
 - Selecting PBV Projects
 - QAP Considerations
 - Underwriting & Subsidy Layering
 - AHAP & HAP
 - Crosscutting Requirements
- Compliance Issues
 - PBV Rent Standards
 - Implementing Rent Limits
 - Implementing Utility Allowances
 - Tenant File
 - Income Verification Issues



3 TYPES OF SECTION 8

	Housing Choice Voucher (HCV)	Project Based Voucher (PBV)	Project Based Rental Assistance (PBRA)
HUD Division	Public & Indian Housing	Public & Indian Housing	Multifamily
Tenant or project based?	Tenant	Project	Project
HUD income cert form #	50058	50058	50059
Rent standard	FMR / Rent Reasonableness	Lesser of FMR / Rent Reasonableness / Rent requested by owner (some special rules for LIHTC)	OCAF
Voucher source and oversight	Public Housing Agency (PHA)	Public Housing Agency (PHA)- up to 30% of HCV	HUD / Contract Administrator (CA)
Housing Assistance Payment (HAP) contract	PHA + Owner	PHA + Owner	HUD + Owner
Utility Allowance	PHA chart (Form 52667)	PHA chart (Form 52667)	Project-specific – full baseline analysis every 3 years, adjust by UAF

ESTABLISHING A PBV PROGRAM

24 CFR 983.5 & 983.6

PBV is funded by the PHA using a portion of its available HCV. There is no special or additional funding for PBV.

PHAs have the discretion as to whether or not to operate a PBV program

- Does not require HUD approval
- However PHA must notify HUD of its intent to project-base
- PBV must be included in the PHA's HCV Admin Plan

PHA is responsible for determining the amount of budget authority it has available to project-base

**DEVELOPMENT & SELECTION ISSUES:
FUN WITH NUMBERS, DOCUMENTS, & TIMING**

SELECTING PBV PROJECTS

SELECTION PROCESS 24 CFR 983.51

Awarded through a Public Housing Agency (PHA)

PHA must use 1 of 2 possible methods of selection, as identified in admin plan:

1. Issue a competitive RFP specific for PBV issuance

- Must be released with public notice
- Must not limit RFP to a single site or impose other restrictions that “explicitly or practically preclude owner submission of proposals for PBV housing on different sites”
- PHA may select units it owns, but HUD must review to approve selection was appropriate

2. Use a previous competition process from another funder that did not involve consideration that the project would receive PBV and was selected within 3 years of PBV selection

Ex: IHADA admin plan = utilizes Supportive Housing Institute as previous competition

Most IN PHAs = RFP

SELECTING PBV PROJECTS

PROJECT LIMITATIONS

24 CFR 983.56 25% Cap Rule- PHA may only project-base up to 25% of the units in a project unless the units are specifically for elderly, persons with disabilities, or tenants receiving supportive services

- Units in a single family building do not count in cap

24 CFR 983.53 & 983.54 Ineligible Units

- Shared housing
- Units on grounds of penal, reformatory, medical, mental, or similar public or private institution
- Nursing homes or facilities with continuous psychiatric, medical, nursing services, board and care, or intermediate care. Home health care services are fine.
- Units owned or controlled by an educational institution or affiliate for occupancy by students
- Manufactured homes
- Transitional housing
- Owner-occupied units
- Public housing, Section 8 PBRA, and other subsidized housing units

SELECTING PBV PROJECTS

PROJECT LIMITATIONS

24 CFR 983.157 Broadband Infrastructure

- New construction or rehabilitation projects selected after 1/19/17 must include installation of broadband infrastructure if project > 4 units
- Some exceptions if cost prohibitive or broadband unavailable in location

QAP CONSIDERATIONS FOR LIHTC

If the project requesting PBV is also applying for Low Income Housing Tax Credits (“LIHTC”) through IHCDA, they likely want to qualify for project- based rental assistance points

Scoring category 6.4(B): Non-IHCDA Rental Assistance

Up to 2 points if proposed Development has a commitment of non-IHCDA project-based rental assistance

- Must be a federal or state program
- Term must be at least 15 years
- Must cover at least 20% of units to maximize points; 1 point if at least 10% of units
- Must provide letter from funding agency
 - May be conditional upon receipt of LIHTC, completion of ERR, and completion of SLR
 - Must certify the assistance meets the requirements above
 - Must identify the payment standard used to set rents

PBV qualifies if PHA provides appropriate conditional commitment letter

THE PHA HAS SELECTED A PROJECT...NOW WHAT

Two important steps must occur before taking any additional action

Step 1 = Complete Part 58 Environmental Review and obtain HUD Release of Funds (Form 7015.16)

Must occur before SLR review, execution of AHAP, and start of construction

HUD Request for Release of Funds (Form 7015.15) forms must include PBV as funding sources

HUD PIH will issue Release of Funds for the PBV funding, other funding may require Release of Funds from HUD CPD (e.g., HOME, NHTF, etc.)

Step 2 = Initiate Subsidy Layering Review (“SLR”)

- Developer compiles necessary information
- PHA ensures complete package and submits to appropriate SLR reviewer for approval

WHAT IS AN SLR?

A review that is “undertaken to ensure the amount of assistance provided by HUD is not more than necessary to make the PBV project feasible in consideration of all other government assistance.”

“SLRs prevent excessive public assistance that could result when a development proposes combining (layering) the HAP subsidy from the PBV program with other public assistance from Federal, State, or local agencies, including assistance through tax concessions or credits”

See Federal Register Notice 3/13/23 “Administrative Guidelines: Subsidy Layering Review for Project-Based Vouchers”

WHEN IS AN SLR REQUIRED?

Test 1: Other Governmental Assistance

An SLR is required only if the proposed PBV project “includes other governmental assistance”

Definition of other governmental assistance

“Any loan, grant, guarantee, insurance, payment, rebate, subsidy, tax credit, tax benefit, or any other form of direct or indirect assistance from the Federal government, as State, or a unit of general local government, or any agency or instrumentality thereof”

WHEN IS AN SLR REQUIRED?

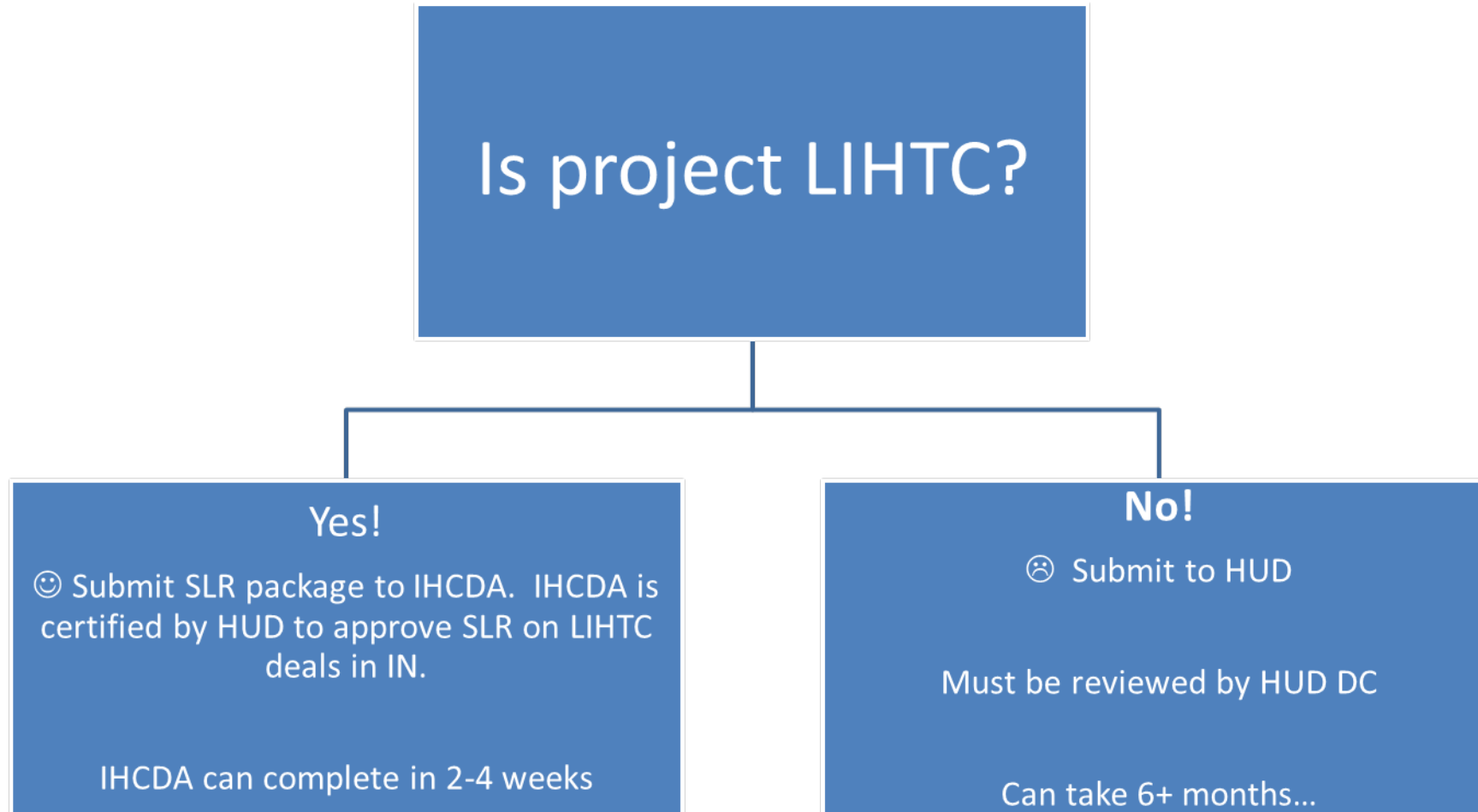
Test 2: Project Type

SLR is required for proposed PBV new construction and rehabilitation projects

SLR is not applicable to “existing housing”

- Existing housing = “units that already exist on the proposal selection date that substantially comply with Housing Quality Standards (HQS) on that date.”
- Must be fully compliant with HQS before execution of HAP

WHO WILL APPROVE MY SLR?



WHO WILL APPROVE MY SLR BUT WAIT...THERE'S HOPE

The updated 3/31/23 SLR guidelines state

“Prior to issuance of this notice, the Department had delegated SLR authority to participating Housing Credit Agencies only when assistance included LIHTCs. This Notice expands the option to delegate SLR authority to HCAs for proposed PBV projects when PBV is combined with other governmental assistance even if no LIHTCs are included.”

Status in IN

- IHCDA's current HCA designation/HUD approval to conduct SLRs limits us to LIHTC deal
- IHCDA is requesting HUD expand our designation to be able to approve any SLR, especially for HOME and HOME-ARP funded projects
- Stay tuned!

DOCUMENTATION CHECKLIST FOR SLR

1. Project Narrative
2. Statement of Sources and Uses
3. Description of Funding Sources
 - For loans must include principle, interest, amortization, term, etc.
4. Commitment letters for all funding sources
5. Supportive Services MOU
 - IHEDA requires to demonstrate project is receiving services and can exceed 25% project cap
6. Appraisal
7. Pro Forma
8. Bridge loan details if applicable
9. HUD form 2880- Applicant/Recipient Disclosure/Update Report
10. PBV Award letter, must include number of units, bedroom sizes, term of award
11. Rent certification letter from PHA, must include initial rent levels, utility allowances, and rent reasonableness certification
12. HUD form 7015.16- Environmental Clearance

UNDERWRITING AND SUBSIDY LAYERING

Underwriting requirements for development budget:

- Developer fee 15%
- General Contractor fee 14% of total hard costs
 - Builder's general requirements 6% of construction contract amount
 - Builder's overhead 2% of construction contract amount
 - Builder's profit 6% of construction contract amount

Underwriting requirements for pro forma:

- Cash flow (minus any acceptable reserve amounts) cannot exceed 10% of total expenses
- Vacancy rate in pro forma must be between 4-7% (instead of typical 6-8%)
- Debt Coverage Ratio must be between 1.10-1.45 for all years
- Operating Expense Growth and Rental Income Growth at 2% per year (same as all LIHTC)
- If IHEDA QAP vs HUD SLR guidelines contradict, must use strictest requirement
- Must submit appraisal establishing "as is" value of property

AHAP & HAP

AHAP = Agreement to Enter into Housing Assistance Payment Contract

- HUD Form 52531A
- Includes site location, number of total units, number of PBV units, amenities and accessible features, estimated initial rents, utility responsibilities, etc.
- Identifies construction timeline
- Formal commitment of PBV- comes after ERR, Release of Funds, and SLR
- Must be in place before construction begins

HAP = Housing Assistance Payment Contract

- HUD Form 52530A
- Includes length of contract, number of PBV units and if they are fixed or floating, amenities and accessible features, initial rents, utility responsibilities, etc.
- Maximum initial term 20 years
 - IHEDA will match 15-year LIHTC federal compliance period or length of HOME affordability period
- After certificate of occupancy and Housing Quality Standards (HQS) inspection

DAVIS BACON

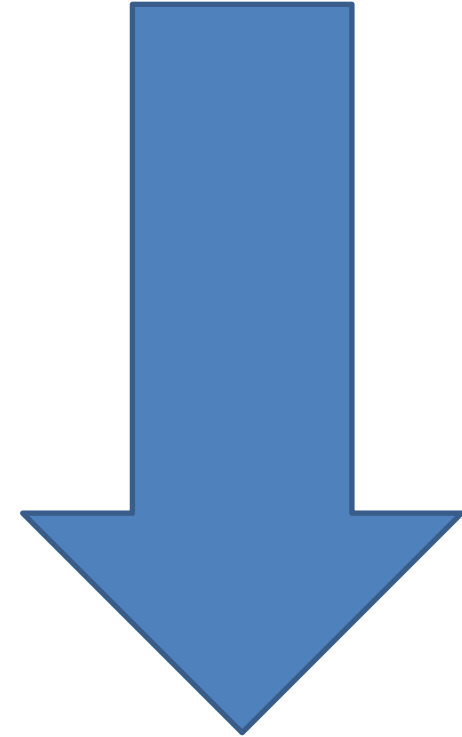
9+ PBV units = Davis Bacon applies

- Developer must be prevailing wages
- Budget accordingly! Can increase labor costs 20-30%
- Developer and PHA should both identify a Labor Standards Officer to track and monitor compliance

PUTTING IT ALL TOGETHER- ORDER OF OPERATIONS

- PHA amends admin plan to allow PBV
- PHA issues RFP
- Developers/owners apply for PBV through PHA
- PHA selects awards
- Complete Part 58 Environmental Review and obtain HUD Release of Funds
- Complete SLR packet- IHCDA or HUD conducts review
- Execute AHAP (PHA + Owner)
- Close and start construction – **if pre-AHAP, lose PBV!**
- Complete construction
- Certificate of occupancy issued
- PHA conducts HQS inspection (soon to be NSPIRE...)
- Execute HAP Contract (PHA + Owner)
- Comply throughout contract term
- Possible renewals

Mandatory order. Not a suggested checklist!



**COMPLIANCE ISSUES:
RENTS, UTILITIES, AND INCOME**

PBV RENT STANDARDS & INCREASES

IHCDA utilizes 100% of county Fair Market Rent (FMR)

Other PHAs may utilize small area FMRs or allow rent standard between 90% and 110% of FMR if identified in Administrative Plan.

- Reminder, if PHAs utilize small area FMRs they must do so across their entire PBV portfolio.
- Must conduct rent reasonableness test

Rent increases must be requested annually by the owner

- Not automatic
- If approved by PHA, will be made effective on the anniversary date of the HAP contract
- Recommended that owner submits 30-60 days in advance of anniversary date

PBV RENT STANDARDS

SPECIAL RULE FOR LIHTC 24 CFR 983.301 C & D

If project is (1) not in a Qualified Census Tract, (2) contains non-PBV LIHTC units of comparable size without other subsidy, and (3) tax credit rent exceeds FMR, then rent to owner is the lesser of:

- Tax credit rent limit minus utility allowance
- Reasonable rent
- Rent requested by the owner

For all other tax credit projects, rent to owner is the lesser of:

- PHA's FMR standard minus utility allowance
- Reasonable rent
- Rent requested by owner

RENT LIMITS- LIHTC + SECTION 8

LIHTC gross rent must be at or below the LIHTC rent limit

- LIHTC gross rent = tenant paid rent + utility allowance + non-optional fees
- Does **not** include rental assistance portion (e.g., HAP)

Gross rent may exceed the LIHTC rent limit if:

- The household is receiving at least \$1 of HAP
- The rent charged complies with Section 8 requirements

RENT LIMITS- HOME + HCV

HOME gross rent must be at or below the HOME rent limit

- HOME gross rent = tenant paid rent + tenant-based rental assistance + utility allowance + non-optional fees
- Does** include tenant-based rental assistance portion (e.g., HCV HAP)

Gross rent may not exceed the HOME rent limit

RENT LIMITS- HOME + PBV OR PBRA

Instead of following the HOME rent limit, the owner may charge the rent allowed by PBV or PBRA if:

- The unit is designated as a Low-HOME unit (50% AMI rent and income restriction or less); and
- The unit is occupied by a household at or below 50% AMI; and
- The unit is PBV or PBRA HAP; and
- Household does not pay more than 30% of adjusted income as tenant-paid rent

EXAMPLE

PBV rent standard for unit is \$1000

Low HOME rent limit for unit is \$750

Owner paid utility

Tenant Adjusted Income is \$18,000

Tenant paid rent= $\$18,000 / 12 \times 30\% = \450

PHA rent payment to the owner = $\$1000 - \$450 = \$550$

THIS IS ALLOWED FOR HOME COMPLIANCE EVEN THOUGH HOME RENT LIMIT IS EXCEEDED!

UTILITY ALLOWANCE – LIHTC + SECTION 8

Type of Section 8	Which UA must be used?
HCV	PHA chart (Form 52667) for HCV units
PBV	PHA chart (Form 52667) for PBV units
PBRA*	Project specific approved by HUD/CA for entire building

*Considered a non-regulated building for purposes of LIHTC eligibility

UTILITY ALLOWANCE – HOME + SECTION 8

Received HOME commitment on or before 8/23/13

Type of Section 8	Which UA must be used?
HCV	May use PHA chart (Form 52667) but not required
PBV	May use PHA chart (Form 52667) but not required
PBRA	Project specific approved by HUD/CA for entire building

Received HOME commitment after 8/23/13

Type of Section 8	Which UA must be used?
HCV	Must create project specific. CANNOT USE PHA chart (Form 52667)
PBV	Must create project specific. CANNOT USE PHA chart (Form 52667)
PBRA	Project specific approved by HUD/CA for entire building

UTILITY ALLOWANCE – LIHTC + HOME + SECTION 8

LIHTC & received HOME commitment on or before 8/23/13	
Type of Section 8	Which UA must be used?
HCV	PHA chart (Form 52667) for HCV units- LIHTC requires, HOME allows
PBV	PHA chart (Form 52667) for PBV units- LIHTC requires, HOME allows

LIHTC & received HOME commitment after 8/23/13	
Type of Section 8	Which UA must be used?
HCV	CONFLICT! = Will have two separate UAs <ul style="list-style-type: none">•For LIHTC gross rent must use PHA chart (Form 52667) for HCV units•For HOME gross rent must use project-specific
PBV	CONFLICT! = Will have two separate UAs <ul style="list-style-type: none">•For LIHTC gross rent must use PHA chart (Form 52667) for PBV units•For HOME gross rent must use project-specific

WHAT MUST BE IN THE TENANT FILE?

To verify household receives assistance, the LIHTC or HOME tenant file must contain

Type of Section 8	Document required in LIHTC or HOME tenant file
HCV	Either: <ul style="list-style-type: none">•Original HAP contract and current HAP amendment;or•Current HUD Form 50058
PBV	Current HUD Form 50058
PBRA	Current HUD Form 50059

• Not a LIHTC or HOME compliance issue, but violates HUD/ELV user agreement

LIHTC – USING PHA INCOME VERIFICATION

If a LIHTC unit is also a PBV unit or is housing an HCV tenant, the owner is not required to obtain traditional income verification if instead they receive one of the following from the PHA:

- HUD Form 50058; or
- IHCD's PHA Verification Form (IHCD Form #16)

IHCD TIC must still be created and must compare income to LIHTC income limit

- Make sure to use the gross income for LIHTC qualification, not adjusted income

Either form must be received prior to move-in or recertification date and may not be more than 120 days old as of the effective date

This is **not** an option for HOME compliance

STUDENT FINANCIAL ASSISTANCE AS INCOME (PRE-HOTMA)

For both LIHTC and HOME, student financial assistance is included in total household income only for household receiving Section 8 assistance

For Section 8 households, income includes:

- Any financial assistance in excess of cost of tuition
- E.g., cost of books, room and board, other class fees, etc.
- May be grants, scholarships, private assistance, entitlements, etc.
- Does not include loans

EXCEPTION: Do **not** count as income if:

- Student is over age 23 with dependent children; or
- Student is living with their parents who are receiving Section 8 assistance

Questions?

mrayburn@ihcda.in.gov

317-233-9564