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PROJECT-BASED VOUCHER PROGRAM GUIDANCE FOR OWNER/ DEVELOPERS



2160 41st Avenue | Capitola, California 95010 | Tel: 831.454.9455 | Fax: 831.469.3712 | www.hacosantacruz.org

Also serving Hollister and San Juan Bautista | Tel: 831.637.0487

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

CONTENTS

Contents	1
Disclaimer	3
Project Based Voucher Program Overview and Limits	3
Funding For Project Based Vouchers.....	4
Program Cap – Limit of PBV Availability	5
Request for Proposals (RFP)	5
Project Based Vouchers Available under this RFP	5
Project Selection.....	5
Scoring Criteria	7
Project Eligibility	7
Owner/Developer Eligibility.....	8
HACSC Right to Rescind Conditional Awards.....	8
Income-Mixing Requirement (“Project Cap”).....	10
Tenant Income Targeting Requirements	10
Rent to Owner	10
Determining Initial Estimated Contract Rents	11
Environmental Review.....	11
Subsidy Layering Review.....	12
Executing the Agreement to Enter Into a Housing Assistance Payments Contract (AHAP)	15
Prevailing Wage & Labor Standards Requirements.....	15
Progress Reports.....	16
Occupancy Planning & Initial Lease-Up	16
Leasing PBV Units & Termination from the PBV Program.....	17
Vacancies in PBV Units	18
Transferring Families Between PBV Units & Unit Substitutions.....	18
Adjustments to the Rent to Owner	20
Unit Inspections.....	20
Acronyms and Definitions.....	21
HACSC Resources.....	21
CTCAC Forms	21
HUD Resources and Forms	21
END OF GUIDE	22

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

Project Based Voucher Program Guidance

Housing Authority of the County of Santa Cruz

DISCLAIMER

This ***Project-Based Voucher Program Guidance for Owners/Developers*** is a concise guide provided as a courtesy to applicants and prospective applicants of the Project-Based Voucher Program at the Housing Authority of Santa Cruz (HACSC). The guide should not be construed as an alternative to a thorough reading and understanding of State and federal regulations pertaining to the Department of Housing and Urban Development (HUD) Housing Choice Voucher (24 CFR 982) and Project-Based Voucher (24 CFR 983) programs.

It is the responsibility of owner/developer applicants and prospective applicants to confirm the accuracy of the information in this guidance prior to acting or relying on it, and it is incumbent upon owner/developer applicants to reference and use the most currently published State and federal guidelines and regulations. The HACSC is in no way responsible for actions taken by owner/developer applicants or prospective applicants relying solely on information contained in this guidance. In the event information in this guide conflicts with federal/HUD/State laws, guidelines, or regulations, the federal/HUD/State laws, guidelines, or regulations will supersede.

PROJECT BASED VOUCHER PROGRAM OVERVIEW AND LIMITS

The Project-Based Voucher (PBV) Program allows a housing authority that already administers the HUD tenant-based Housing Choice Voucher (HCV) Program to attach the funding to specific housing units. In the HCV Program, the family can use the voucher to receive rental assistance in a unit of their choice. In the PBV Program, the family must live in the unit with the attached PBV to receive assistance. The PBV program is intended to stimulate affordable housing development, generally by layering PBVs over rent-restricted housing units. This layering allows the owner/developer to collect market rate rents while ensuring that the unit is still affordable for low-income families.

HACSC may provide PBV assistance for units in existing housing or for newly constructed or rehabilitated housing. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of project selection, the units substantially comply with HUD-established inspection guidelines. For newly constructed or rehabilitated units, the housing must be developed under, and in accordance with, a PBV Agreement to Enter into Housing Assistance Payments Contract (AHAP) that was executed prior to the start of construction or site preparation. Units for which site preparation, new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the AHAP, do not subsequently qualify as existing housing [24 CFR 983.5, 983.52, 983.152].

Under the PBV Program, selected projects may not undertake certain activities or commit funds (HUD and non-HUD) to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair, construction, disposition, transfer, removal, or leasing of real property until an environmental review under NEPA has been completed and HACSC has received environmental clearance (24 CFR 983.58, PIH Notice 2016-22) an a HUD-approved Authority to Use Grant Funds (AUGF). For new construction or rehabilitation, the project must also meet Subsidy Layering Review (SLR)

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

requirements, and HACSC and the developer(s) must receive HUD approval of the SLR prior to executing an AHAP and prior to the start of construction (24 CFR 983.56, 24 CFR 983.152(c)). The AHAP stipulates the conditions under which the developer agrees to construct or rehabilitate the units to be subsidized and HACSC agrees to subsidize the units upon satisfactory completion of construction or rehabilitation. If any choice-limiting actions occur prior to environmental clearance, or if site preparation or construction begins prior to SLR clearance and execution of the AHAP, HACSC may be prohibited from providing PBV assistance to the project.

HACSC will execute a Housing Assistance Payments (HAP) Contract with the project owner after all program requirements have been met. For newly constructed or rehabilitated housing, construction or rehabilitation must be complete and a certificate of occupancy must be issued. For both existing housing and newly constructed an all units must also pass HUD-established inspection requirements. The HAP Contract is executed for the specified units for a term of up to 20 years, establishes the initial rents for the units, and describes the responsibilities of HACSC and the developer. The PBV subsidy is subject to all applicable HUD regulations. The HAP contract may cover either all or a portion of the units in a development.

Many regulations of the tenant-based voucher program also apply to the PBV program. Consequently, many of the policies related to tenant-based assistance also apply to PBV assistance. The tenant-based provisions that do not apply to the PBV program are listed at 24 CFR 983.2.

Owners/Developers with units selected under a HACSC request for proposal (RFP) will be required to follow HACSC's approved Administrative Plan policies for all units under the HAP contract.

HACSC may apply an administrative fee to any approved project. The administrative fee should cover costs including marketing and outreach, the establishment and maintenance of a site-based waiting list (if required), as well as other administrative costs over the normal eligibility processes for the Housing Choice Voucher program.

FUNDING FOR PROJECT BASED VOUCHERS

HUD does not allocate separate funding for PBV assistance. Funding for project-based assistance comes from funds already obligated by HUD to HACSC's Housing Choice Voucher Program Annual Contributions Contract (ACC). HACSC may use a limited percentage of its voucher allocation for the PBV program, as discussed in the **Program Cap** section below.

An award of PBVs is contingent upon availability of funding from HUD. If the Housing Choice Voucher program is in a funding shortfall position, HACSC may be unable to commit new PBVs, even if vouchers are available.

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

PROGRAM CAP – LIMIT OF PBV AVAILABILITY

The PBV program has a **Program Cap**, which limits the number of vouchers that a housing authority may project-base. HACSC has been approved by HUD to project-base **up to 50 percent** of its authorized vouchers or budget authority. If HACSC reaches its **Program Cap**, new PBVs cannot be awarded. HACSC has no obligation to fully utilize its **Program Cap**.

An award of PBVs is contingent upon availability of funding from HUD. If the Housing Choice Voucher program is in a funding shortfall position, HACSC may be unable to commit new PBVs, even if vouchers are available under the **Program Cap**.

HACSC's **Program Cap** is distinct from the **Income-Mixing Requirement ("Project Cap")** discussed on page seven (7) of this guide.

REQUEST FOR PROPOSALS (RFP)

Owners/developers seeking PBVs must apply for them through a competitive process. HACSC publishes an RFP for interested applicants **only** on the HACSC website and the RFP is open until closed. HACSC maintains a list of parties interested in updated information about the PBV RFP or scoring criteria. When the RFP or scoring criteria is updated, HACSC will contact persons on this list. To be added to the PBV RFP Interest List, please contact Rayne Pérez at raynep@hacosantacruz.org or 831-454-5958.

The HACSC reserves the sole and exclusive right to award conditional commitments, for all or part of the requested number of available vouchers and distribute them between voucher types (e.g., standard vouchers, Family Unification Program), as is most advantageous to HACSC. HACSC reserves the right to both determine and make changes to the voucher type for the project.

Under the current scoring criteria, projects must meet a threshold requirement of 150 points to be considered for an award of PBVs. However, HACSC maintains the right to NOT award PBVs to proposals that meet the threshold, or to award fewer PBVs than requested, based on voucher availability, funding availability, or any circumstance where the full award of vouchers is not in the best interest of HACSC.

PROJECT BASED VOUCHERS AVAILABLE UNDER THIS RFP

HACSC proposes to make available PBVs sufficient to maximize applications to the California Tax Credit Allocation Committee (CTCAC), and the State of California Housing and Community Development Department (HCD).

PROJECT SELECTION

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

Project Selection is conducted competitively in accordance with the HACSC Administrative Plan, Section XVII. Project Based Voucher Program. The PBV program is subject to the Federal Regulations in 24 CFR Part 983.

**Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz**

SCORING CRITERIA

HACSC publishes the **PBV RFP Evaluation and Scoring Criteria** currently in effect on the HACSC website. The scoring criteria include 200 base points, with a possible 20 bonus points. The minimum score for PBV consideration is 150 points.

Summary of Evaluation Factors and Maximum Points Available

Evaluation Factor		Maximum Points
1	Project Type	50
2	Extent to Which Project Creates Housing Opportunities for Top Applicants on HACSC's HCV Waiting List	30
3	Deconcentration of Poverty / Creation of Economic Opportunities	25
4	Location Amenities	25
5	Management and Owner Experience	20
6	Design Features	10
7	Construction Readiness	20
8	Financial Feasibility	20
Total Base Points		200
9	Bonus Points	20
Total Possible Points		220

PROJECT ELIGIBILITY

All projects must be located in Santa Cruz County or in the Cities of Hollister and San Juan Bautista.

Shared housing is not eligible for the PBV Program. Please see 24 CFR 983.53 for a complete list of ineligible housing types.

Under the PBV Program, conditionally selected projects may not undertake certain activities or commit funds (HUD and non-HUD) to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair, construction, disposition, transfer, removal, or leasing of real property until an environmental review under NEPA has been completed and HACSC has received environmental clearance and HUD Authority to Use Grant Funds (AUGF). For new construction or rehabilitation projects, the project must also meet Subsidy Layering Review requirements and subsequent to SLR approval HACSC and the developer(s) must execute an Agreement to Enter into Housing Assistance Payments Contract (AHAP) prior to site preparation or the start of construction. Applications for projects that have already begun such undertakings or commitments of funds will be

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

rejected without being scored. If any choice-limiting actions occur prior to environmental clearance, or if site preparation or construction begins prior to SLR approval and execution of the AHAP, HACSC may be prohibited from providing PBV assistance to the project.

Projects must meet all PBV Program requirements in 24 CFR 982 and 24 CFR 983 and must not conflict with the HACSC Administrative Plan.

Projects must meet program accessibility requirements of 24 CFR 983.102, the accessibility requirements of Section 504 of the Rehabilitation Act (Section 504) and Title II of the Americans with Disabilities Act (ADA), as well as the design and construction requirements of the Fair Housing Act, as applicable. 24 CFR part 8 (Section 504); 24 CFR part 100 (Fair Housing Act); 28 CFR part 35 (Title II of the ADA).

Applicants should be prepared to demonstrate site control or demonstrate that site control is likely to be obtained and will not delay the project. Site control may be demonstrated through fee simple ownership, a disposition and development agreement, lease, or contract of sale. More information on how site control will be scored is in the **PBV RFP Evaluation and Scoring Criteria**.

OWNER/DEVELOPER ELIGIBILITY

Owner/Developer, by submitting the application, shall certify as to their legal structure, and that they are not suspended, debarred, or excluded by HUD. After submittal of the application, any changes to the owner/developer's legal structure must receive HACSC's written approval. Otherwise, HACSC reserves the right to withdraw its conditional commitment of PBVs.

HACSC RIGHT TO RESCIND CONDITIONAL AWARDS

HACSC reserves the right to withdraw, rescind, and/or cancel a conditional award of PBVs for any reason, which may include, but is not limited to, the following:

- The owner/developer's response to the PBV RFP is an application for PBVs in conjunction with another funding opportunity and the entity was unsuccessful in securing the award of the other funds.
- The owner/developer is unable to make adequate and timely progress on their project.
- The owner/developer made misrepresentations of the project which may include legal structure, funding sources, site control, or other key provision in HACSC's determination of PBV award.
- The owner/developer undertook prohibited activities or committed funds (HUD and/or non-HUD) to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair, construction, disposition, transfer, removal, or leasing of real property prior to receiving environmental clearance.

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

- The owner/developer started construction prior to receiving Subsidy Layering Review certification and/or prior to execution of the AHAP.
- HUD has prohibited new PBV contracts related to funding shortfall.
- The owner/developer and/or project is not compliant with any conditions stated in a HACSC conditional PBV award letter.
- The owner/develop and/or project is not compliant with PBV or HUD requirements.

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

INCOME-MIXING REQUIREMENT (“PROJECT CAP”)

The **Income-Mixing Requirement (“Project Cap”)** is the limitation on the number of PBV units that a housing authority can award to any single housing project.

HACSC has established a **Standard Project Cap of the greater of 25 PBVs or 40 percent of the units at the project**. While HACSC has received approval from HUD to award PBVs for **up to** 100% of the units in any single housing project, applicants seeking to receive an award of PBVs greater than the **HACSC Standard Project Cap** must demonstrate significant financial feasibility and project readiness. More information about these requirements can be found in the **PBV Application** and **PBV RFP Evaluation and Scoring Criteria** as approved by the HACSC Board of Commissioners.

HACSC reserves the right to both determine and make changes to the voucher type for the project. Owner/developers are prohibited from entering into prospective tenant selection agreements with third parties for PBV units without prior HACSC written agreement.

TENANT INCOME TARGETING REQUIREMENTS

Applicants must specify in the application the target income level of each unit for which a PBV voucher is requested. In the HACSC Resources section of this guidance, refer to **HACSC Income Limits, Payment Standards and Utility Allowances**.

RENT TO OWNER

In compliance with HUD regulations at 24 CFR 983.301(b), the Housing Authority has established a maximum rent to owner for PBV units of the lesser of:

1. The applicable payment standard for the unit bedroom size.
2. The reasonable rent (24 CFR 982.507).
3. The rent requested by the owner.

All Low-Income Housing Tax Credit (LIHTC) units are subject to the above rent requirements unless:

- a) A contract unit receives a LIHTC; and
- b) the unit is **NOT** located in a Qualified Census Tract; and
- c) there are comparable tax credit units of the same bedroom size in the building that **do not** have rental assistance other than the tax credit; and
- d) the tax credit rent exceeds the fair market rental (or exception payment standard) minus any utility allowance for tenant paid utilities as determined for units without tax credits above;

Then, the rent to owner must not exceed the lowest of:

- a. the tax credit rent minus the utility allowance;

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

- b. the reasonable rent as determined by the HACSC, or
- c. the rent requested by the owner.

The “tax credit rent” is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income tax credit but do not have any additional rent assistance (e.g., such as tenant-based assistance).

Rents may additionally be limited by the requirements of other subsidies.

DETERMINING INITIAL ESTIMATED CONTRACT RENTS

To establish initial estimated contract rents, HACSC will rely on the information provided in the submitted **PBV Application**. Any subsequent changes must be submitted to the HACSC on a **Rent Reasonableness Request Form**. This request must include the address of the project, the number of PBV units for each bedroom size, the type of housing unit (apartment, townhouse, etc.), the requested rent to owner, and the schedule of tenant-paid and owner-paid utilities. The owner/developer must also indicate if the contract unit receives a Low-Income Housing Tax Credit (LIHTC), and if the unit is in a Qualified Census Tract for the LIHTC Program. HACSC will then conduct a rent reasonableness valuation, calculate the initial estimated rent to owner, and issue a letter to the owner/developer indicating the utility allowances and estimated initial rent(s) to owner. *Determining initial estimated rent(s) to owner must be completed prior to the Subsidy Layering Review.*

ENVIRONMENTAL REVIEW

An Environmental Review (ER) under the National Environmental Policy Act (NEPA) is required for all projects proposing to have PBV units, including existing housing. Developers/owners, or their agents/contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, construct, transfer, remove, or lease real property or commit or expend program or local funds for PBV activities until an ER is completed (24 CFR 983.58).

It is the responsibility of the owner/developer to prepare all necessary documents, and any costs associated with the completion of the ER are the responsibility of the owner/developer.

HUD Form 7015.15 - *Request for Release of Funds and Certification with Environmental Certification* (RROF) must be filed with HUD and HUD’s response, HUD Form 7015.16 - *Authority to Use Grant Funds* (AUGF) must be received by HACSC before the Agreement to Enter Into a Housing Assistance Payments Contract (AHAP) may be executed. *It is not necessary for ER to be completed prior to Subsidy Layering Review. but it must at least have been requested from the Responsible Entity.*

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

HACSC may not execute the Housing Assistance Payments (HAP) Contract until such time as all required mitigation factors identified during the NEPA review process have been addressed, as verified by a letter of certification as to completion from the NEPA Responsible Entity.

If the project is exempt from the California Environmental Quality Act (CEQA), a NEPA review is still required. If the project is exempt or categorically excluded from NEPA, the developer is still required to obtain certification from the responsible entity that it is exempt or categorically excluded.

SUBSIDY LAYERING REVIEW

To ensure that limited public funds are not overly subscribed to at any single project and to ensure project viability, a Subsidy Layering Review (SLR) is required for projects involving new construction and rehabilitation (24 CFR 983.55) when PBVs are combined with other governmental assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The SLR process uses objective metrics to measure viability and appropriate funding. HUD may review common pro forma projections such as operating standards, development standards, debt coverage ratio, vacancy rates, rent increases, and cash flow.

The following table lists the required documents for an SLR submission.

Required Elements of an SLR Submission
<p>Subsidy layering reviews (SLRs) are 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 governmental 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 tax credits. A SLR is required for proposed new construction and rehabilitation projects prior to the execution of the agreement to enter into a HAP (AHAP) when the project will be receiving other governmental assistance in addition to the PBV award. No subsidy layering review is required for existing housing or when PBV is the only governmental assistance provided to a project. When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using form HUD-2880. The following lists all required documentation.</p>
<p>1. Subsidy Layering Review request memorandum: Clearly identify the PHA, the PHA number, the Field Office number, the project's name, the project's total number of units, and the number of PBV units requested. For a sample memorandum see Attachment 1 of PIH Notice 2013-11 or newer version superseding it</p>

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

<p>2. Project Description: Short narrative identifying ownership, type of activity (rehabilitation or new construction), location (including county), total units, requested PBV units, PBV type (RAD, VASH, regular), utility allowances, bedroom distributions, supportive services (if applicable) and residential population (homeless, veteran, elderly, low-income families) The narrative should also identify any exceptions applicable to the project (e.g., number of PBV exceeding the Project Cap)</p>
<p>3. Accounting Statement of Sources and Uses of Funds: Identifying each source and indicate type (loan, grant, syndication proceeds, contributed equity). Sources generally include only permanent financing and grants. If interim financing or a construction loan is proposed, provide details in project description. Separately identify detailed uses, avoiding broad categories such as “soft costs.” Under acquisition costs, identify purchase price separately from related costs such as appraisal, survey, title, recording and legal fees. Include separate line items representing construction contract amount, builder's profit, builder's overhead and total project costs. [Complete HUD Form 50156]</p>
<p>4. Description of funding sources: Loans including principal, interest rate, amortization, term, and any accrual, deferral, balloon or forgiveness provisions. Describe any lender, grantor, or syndicator requirements for reserves or escrows requirements. Describe if a lender receives a portion of the net cash-flow, either as additional debt service or in addition to debt service. Identify the amount of LIHTC and include IRS form 8609</p>
<p>5. Commitment Letters: Lenders and other funding sources evidence their commitment to provide funding and disclose significant terms. Signed loan agreements and grant agreements meet this requirement. However, proposal letters and letters of intent do not meet this requirement</p>
<p>6. Developer's Commitment Letter: Delineating any arrangements, contributions, donations, significant terms or transfer of funds from the developer and/or participating partners such as deferred developer's fees, cash contributions, and equity investments</p>
<p>7. HOME Commitment Letter: (When applicable) Signed document clearly identifying requirements of the HOME designated units and intended rents</p>
<p>8. Supportive Service Commitment: (When applicable) A signed Memorandum of Understanding that describes the type of services to be provided, frequency, terms of service and resident eligibility</p>
<p>9. Appraisal Report: Based on the “as is” value of the property, before construction or rehabilitation, and without consideration of any financial implications of tax credits or project-based voucher assistance. An appraisal establishing value after the property is built or rehabilitated is not acceptable unless it also includes an “as is” valuation. The date of the appraisal to be within six months of date of submission</p>
<p>10. Completed HUD Form 550156 (stabilized operating pro forma): Including projected rental, commercial, and miscellaneous gross income, vacancy loss, operating expenses, debt service, reserve contributions, with cash-flow projections, and debt service ratios; income and expenses trended at a consistent percent. [https://www.hud.gov/sites/dfiles/OCHCO/documents/50156.pdf]</p>

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

11. Low-Income Housing Tax Credit Allocation Letter (when applicable): Issued by the authorized tax credit allocation agency, identifying the amount of LIHTCs reserved for the project
12. Historic Tax Credit Letter (when applicable): Issued by an authorized historic credit agency, disclosing the estimated historic tax credit amount awarded to a project located in a designated historical area
13. Equity Contribution Schedule (when applicable): If equity contributed to the project is paid in installments over time, provide a schedule showing the amount and timing of planned contributions
14. Bridge Loans (when applicable): Providing details if the financing plan includes a bridge loan where equity contributions proceeds planned over an extended time can be paid upfront
15. Disclosure, perjury and identity of interest statement (Form HUD-2880) completed by the owner: https://www.hud.gov/sites/dfiles/OCHCO/documents/2880.pdf
16. PBV award letter : Identifying the housing authority's approval of project-based voucher assistance for the project by number of units and bedroom distribution
17. PHA rent certification letter : Documenting proposed contract rents, utility allowances, and gross rental amounts for assisted units. Include rent reasonableness documentation or comparability analysis as evidence of rent determination and certification

The SLR review may be delayed if any submission documentation is missing or if any documentation does not fulfill the requirements exactly as stated in the checklist. Even if a specific item is not applicable to the project, documentation **must** be submitted that indicates it is not applicable. The required elements of the HUD SLR may change at any time, without warning from HUD.

In the SLR, the developer must include disclose all government assistance for acquisition, development, or operation of the housing that they have received, will receive, or **reasonably expect to receive** at any time before or during the term of the Housing Assistance Payments (HAP) Contract. If the amount of government assistance changes (including both the addition and reduction of assistance) after the SLR package was submitted, the developer **must** notify HACSC immediately. Depending on the change, a new SLR submission may be required.

Projects not utilizing LIHTCs will have the SLR conducted by the local HUD Field Office and the HUD Financial Management Division at the HUD Headquarters. Please prepare for 75 days from date of submission until completion of SLR review by HUD.

Projects utilizing LIHTCs may have the SLR conducted by CTCAC. Documentation must be submitted after the project receives a reservation of tax credits. If SLR documents will be submitted through an online storage (Drop Box, Google Docs), CTCAC staff must be able to access the files without having to accept the provider's terms and conditions and without having to create an account or password. The submittal must include all supplemental SLR documentation listed in the **CTCAC Subsidy Layering Review Checklist**.

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

Please note that CTCAC has no obligation to perform the SLR. If CTCAC is unable to perform the SLR, HUD will perform the SLR.

The SLR certification for the project must be received by HACSC before the Agreement to Enter Into a Housing Assistance Payments Contract (AHAP) may be executed. If HUD believes that the project is not sufficiently funded or if the project is leveraging too many public funds, HUD may require project revisions or reduce the number of PBVs awarded to the project.

The environmental review process does not need to be complete prior to SLR submission, but the request for environmental review must have been submitted to the responsible entity.

EXECUTING THE AGREEMENT TO ENTER INTO A HOUSING ASSISTANCE PAYMENTS CONTRACT (AHAP)

HACSC may not execute the AHAP until both the Environmental Review and a Subsidy Layering Review have been completed and certification thereof have been received by HACSC. The AHAP for new construction or rehabilitation consists of the following:

1. **HUD-52531-A:** PBV Agreement to Enter Into Housing Assistance Payments Contract for New Construction or Rehabilitation – Part 1
2. **HUD-52531-B:** PBV Agreement to Enter Into Housing Assistance Payments Contract for New Construction or Rehabilitation – Part 2
3. **Exhibit A** – The owner’s PBV proposal
4. **Exhibit B** – Description of work to be performed under the Agreement. See AHAP Part I, Section 1.3 “Contents of Agreement” Exhibit B.
5. **Exhibit C** – Description of housing. See AHAP Part I, Section 1.3 “Contents of Agreement” Exhibit C.
6. **Exhibit D** – *Blank HUD-52530-A* PBV Housing Assistance Payments Contract for New Construction or Rehabilitation, Parts 1 and 2.

The AHAP shall be executed within 24 months of HACSC notice of conditional award to the selected owner unless otherwise agreed to. HACSC has the option to grant an extension to this 24-month limit provided the owner can demonstrate that progress is being made and that the project will be under AHAP within the extended time frame. **In no instance shall the AHAP be executed prior to receiving environmental clearance and the *Subsidy Layering Review Certification*. In no instance shall the owner/developer begin construction on the housing prior to executing the AHAP, which may include land preparation.** Upon completion of the Subsidy Layering Review, the AHAP should be executed within 30 days.

Links to the AHAP forms can be found in the “HUD Resources and Forms” section in this guidance.

PREVAILING WAGE & LABOR STANDARDS REQUIREMENTS

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

Projects with a conditional award of nine (9) or more PBVs are subject to the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, 29 CFR part 5, and other federal laws and regulations pertaining to labor standards (24 CFR 983.4, 24 CFR 983.154). These regulations apply to both existing housing and new construction or rehabilitation.

At least quarterly, HACSC may request reports from the developer/owner that demonstrate compliance with prevailing wages.

PROGRESS REPORTS

At least quarterly, HACSC will request a progress report from all developers/owners that have a conditional award of PBVs. These progress reports may ask for anticipated dates of AHAP execution, groundbreaking, occupancy, unit mix, and other information that will be helpful to monitor project advancement.

These progress reports are **highly critical** for HACSC to manage each project schedule and to ensure that there is sufficient program funding when it is time to execute the HAP Contract. When HACSC requests an updated progress report, developers must complete and return the report as soon as possible.

If there are significant updates between reports (ex. delay of project, change in funding) it is important to update HACSC immediately rather than wait for the next requested progress report

OCCUPANCY PLANNING & INITIAL LEASE-UP

Approximately six months prior to anticipated occupancy, HACSC will initiate a lease-up process. HACSC must review and approve the project's resident selection plan, project marketing plan, project marketing flyer, referral memorandum of understanding, supportive services memorandum of understanding, and any other relevant documents to ensure that they do not conflict with PBV regulations, HACSC's Section 8 Administrative Plan, and HUD Fair Housing requirements. HACSC will provide you with a checklist of items that must be included in these plans.

If the project will lease PBV units through a third party referral process, or if the project will provide supportive services through a third party, HACSC requires that the developer/owner execute a memorandum of understanding (MOU) between the developer/owner and the referring agency or service provider. This MOU is subject to HACSC's review and must be approved by HACSC *before it is executed*. HACSC will not accept third party referrals until the MOU has been **(1)** reviewed and approved by HACSC and **(2)** fully executed by the developer/owner and third party.

For third party referral based PBV units, the developer/owner and the referring organization are responsible for tenant outreach and finding qualified tenants under the property's tenant selection criteria. For other PBV units, HACSC will be responsible for tenant outreach and will generally inform families of availabilities through mailings at no cost to the developer/owner. However, HACSC may bill the

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

developer/owner for costs associated with a mailing if the developer/owner needs to fill a PBV unit with a special population (e.g., farmworker households) that is not explicitly documented or served through the HACSC Housing Choice Voucher program.

All leasing materials must be available in both English and Spanish and paper versions of all materials must be made available. Online-only applications are not permitted by HACSC.

Prior to execution of the HAP contract, the owner may need to provide various certifications. For new construction or rehabilitation, the owner must certify that the housing was developed in compliance with applicable labor standards, the AHAP, and HUD's housing standards (24 CFR 983.155). HACSC will provide this certification form. Additionally, HACSC typically requires that owners provide a copy of the certificate of occupancy upon completion of the project.

For both existing housing and new construction or rehabilitation, if the responsible entity required any mitigating measures during the environmental review process, HACSC will require the owner to certify that all mitigations were addressed (24 CFR 983.58). HACSC will provide the NEPA certification form.

Prior to execution of the HAP contract, all PBV units must pass a HUD housing inspection. Please notify HACSC approximately two weeks in advance of the expected date of TCO so that inspections can be scheduled accordingly. HACSC manages a large volume of inspections; please try to only request the official inspections when expected TCO is unlikely to change. If a unit does not meet HUD's housing standards, it cannot be included in the HAP contract.

LEASING PBV UNITS & TERMINATION FROM THE PBV PROGRAM

Upon approving a new family for the PBV unit under the owner's tenant selection plan, the owner should refer the family to HACSC to begin the PBV eligibility determination. The owner should email referrals@hacosantacruz.org with the name of the applicant and the PBV unit number.

The owner may **only** lease PBV units to families that are eligible for the PBV Program, as approved by HACSC. HACSC recommends that the owner refrain from executing a lease with the applicant until they have been determined to be eligible by HACSC.

In some instances, a family currently occupying a PBV unit may be terminated from the PBV Program. When this occurs, the family becomes ineligible to reside in the PBV unit and the lease terminates automatically (24 CFR 983.256). Upon termination, the owner **must** act in accordance with one of the three options below:

- 1) Remove the PBV unit from the HAP contract and execute a new lease with the tenant

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

- 2) Request to substitute the PBV unit with a vacant unit of the same bedroom size in the same building
- 3) Evict/move the tenant and make the PBV unit available to a new PBV-eligible family

If the owner leases a PBV unit to the ineligible family, the owner may be out of compliance with the HAP contract and may risk recapture of that PBV by HACSC. The owner may also face other correction remedies.

VACANCIES IN PBV UNITS

HACSC regularly monitors vacancies in PBV units to ensure effective utilization of its limited number of vouchers. If a PBV unit remains vacant for 120 days or more, HACSC is permitted to “recapture” the voucher by removing the PBV unit from the HAP contract (24 CFR 983.254). HACSC is not required to provide prior notice of its intent to recapture the voucher and may choose to exercise this option at any time after 120 days of vacancy. If you have any difficulties leasing a unit, please notify HACSC as soon as possible.

When a PBV unit becomes vacant, or when a PBV unit is imminently expected to become vacant, the owner must promptly notify HACSC so that HACSC can begin outreach accordingly. If the owner is responsible for outreach, then HACSC expects the owner to promptly initiate this outreach.

If a family is terminated from the PBV Program, HACSC considers the unit “vacant” upon the effective date of termination and the unit must be made available to another eligible household (see *Leasing PBV Units & Termination from the PBV Program* above).

TRANSFERRING FAMILIES BETWEEN PBV UNITS & UNIT SUBSTITUTIONS

Regardless of the reason for a unit transfer, one of the two processes described in this section applies.

The owner must contact HACSC as soon as possible when they are aware a transfer may be necessary for a family. Please note that a family may only be vacant from a PBV unit for a maximum of thirty (30) days without notification to, and without prior approval from, HACSC.

1) Tenant Transfer to Another PBV Unit at the Same Property

If a tenant wishes to move from one PBV to another, they may be able to transfer. To complete the transfer, the owner and tenant must promptly notify HACSC. The owner and tenant must also execute a new lease and must sign a new PBV Tenancy Addendum for the new unit.

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

In some situations, a tenant may need to temporarily relocate to another PBV unit. If a tenant is moving for thirty (30) days or less, there is no need to notify HACSC. However, if a tenant moves from one PBV unit to another and is absent from the original PBV unit for more than thirty (30) days (or longer than any absence approved by HACSC), a transfer must be processed if the owner wishes to continue collecting subsidy. The owner and tenant should promptly notify HACSC. The owner and tenant must also execute a new lease and must sign a new PBV Tenancy Addendum for the new unit.

If a family moves from one PBV unit to another PBV unit without notification to and approval from HACSC, then the owner may be out of compliance with the HAP contract and may be ineligible to collect subsidy on both PBV units. The owner also may face other correction remedies.

2) Unit Substitutions: Tenant Transfer to a non-PBV Unit at the Same Property

If a tenant wishes to move from a PBV unit to a non-PBV unit, they may be able to transfer. To process this transfer, HACSC must agree to a unit substitution by amending the HAP contract. The owner and tenant also must then execute a new lease and sign a new PBV Tenancy Addendum for the new unit.

In some situations, a tenant may need to temporarily relocate to a non-PBV unit. If a tenant is moving for thirty (30) days or less, there is no need to notify HACSC. However, if the tenant is absent from the original PBV unit for more than thirty (30) days (or longer than any absence approved by HACSC), then a unit substitution must occur if the owner wishes to continue collecting subsidy for that family. To process this substitution, HACSC must agree to amend the HAP contract. The owner and tenant must then execute a new lease and sign a new PBV Tenancy Addendum for the new unit.

Please note that a non-PBV unit may only be substituted if it has the same number of bedrooms and is in the same building (i.e., a two-bedroom unit may not be substituted for a three-bedroom unit, and a two-bedroom unit in Building A may not be substituted for a two-bedroom unit in Building B). The unit must also pass a HUD housing inspection and the rent must be determined to be reasonable (983.207).

If the family moves from a PBV unit to a non-PBV unit without notification to HACSC and without processing a unit substitution, then the owner may be out of compliance with the HAP contract and may be ineligible to collect subsidy on the PBV unit. The owner also may face other correction remedies.

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

ADJUSTMENTS TO THE RENT TO OWNER

The owner may request an adjustment to the rent to owner. To request an adjustment, the owner must comply with all the requirements below related to timing, form, and manner (983.302(b)).

1) Timing

The owner's request must be submitted at least sixty (60) days prior to the annual anniversary of the HAP contract.

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

Example: A PBV HAP contract was executed on April 10, 2023. The "annual anniversary" is April 1 each year. The "contract year" is April 1 through March 31 of the following calendar year. The owner must submit the request for an adjustment to the rent to owner at least sixty (60) days prior to April 1.

2) Form & Manner

The owner's request must be submitted in writing. The request must include the address of the project, the number of PBV units for each bedroom size, the type of housing unit (apartment, townhouse, etc.), the requested rent to owner for each unit bedroom size, and the schedule of tenant-paid and owner-paid utilities.

The maximum adjusted rent to owner has the same limits as the initial rent to owner.

UNIT INSPECTIONS

To be included in the HAP contract at execution, each PBV unit must pass a HUD housing inspection. HACSC will coordinate these initial inspections with you in the occupancy planning stage.

During the term of the HAP contract, every PBV unit must pass a housing inspection each time the unit is to be occupied by a new family ("turnover inspections"). Additionally, at least biennially, twenty percent (20%) of the units in each building must be inspected. If at least twenty percent (20%) of that sample does not pass, then all units in that building need to be inspected.

If a unit does not meet HUD's housing inspection standards, HACSC is unable to issue the subsidy for that unit. HACSC recommends that the owner correct the deficiencies as soon as possible.

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

ACRONYMS AND DEFINITIONS

AHAP – Agreement to Enter into a Housing Assistance Payments Contract

CEQA – California Environmental Quality Act

ER – Environmental Review

HAP Contract – Housing Assistance Payments Contract

HACSC – The Housing Authority of the County of Santa Cruz

LIHTC – Low-Income Housing Tax Credit

NEPA – National Environmental Policy Act

PBV – Project Based Voucher

PHA – Public Housing Authority

Responsible Entity – the City or County jurisdiction responsible for the NEPA Environmental Review

SLR – Subsidy Layering Review

Special Needs Populations –frail and non-frail elderly; persons with physical, mental or behavioral disabilities; persons with HIV/AIDS; persons experiencing homelessness; farmworkers; and veterans. The Housing Authority, at their sole discretion, may make exceptions to the definition to consider other populations.

TCO – temporary certificate of occupancy

VAWA – Violence Against Women Act

HACSC RESOURCES

- [HACSC Project Based Voucher RFP Application](#)
- [HACSC Supplementary Supportive Services Application](#)
- [HACSC Underwriting Tool](#)
- [HACSC Project Based Voucher Application Scoring Criteria](#)
- [HACSC Administrative Plan – Section 8 Housing Choice Voucher Program](#)
- [HACSC Income Limits, Payment Standards and Utility Allowances](#)
- [Rent Reasonableness Request Form](#)

CTCAC FORMS

- [California Tax Credit Allocation Committee Subsidy Layering Checklist \(Section 2835\)](#)

HUD RESOURCES AND FORMS

PROJECT BASED VOUCHER PROGRAM GUIDANCE

Project Based Voucher Program Guidance
Housing Authority of the County of Santa Cruz

- [HUD Project Based Voucher Program Webpage](#)
- [HUD 24 CFR Part 983 Project Based Voucher \(PBV\) Regulations](#)
- [HUD PIH 2017-21 Implementation Guidance: Housing Opportunity Through Modernization Act of 2016 \(HOTMA\) — Housing Choice Voucher \(HCV\) and Project-Based Voucher \(PBV\) Provisions](#)
- [HUD-50156 Development Proposal Calculator](#)
- [HUD-2880 Applicant Recipient Disclosure Update Report](#)

AHAP and HAP Contracts for New Construction and Rehabilitation

- **HUD-52531-A:** [PBV Agreement to Enter Into Housing Assistance Payments Contract for New Construction or Rehabilitation Part 1](#)
- **HUD-52531-B:** [PBV Agreement to Enter Into Housing Assistance Payments Contract for New Construction or Rehabilitation Part 2](#)
- **HUD-52530-A:**
 - [PBV Housing Assistance Payments Contract for New Construction or Rehabilitation Part 1](#)
 - [PBV Housing Assistance Payments Contract for New Construction or Rehabilitation Part 2](#)

HAP Contracts for Existing Housing

- **HUD-52530-B:**
 - [PBV Housing Assistance Payments Contract for Existing Housing Part 1](#)
 - [PBV Housing Assistance Payments Contract for Existing Housing Part 2](#)

END OF GUIDE