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PROJECT-BASED VOUCHER PROGRAM GUIDANCE FOR OWNER/ DEVELOPERS

HOUSING AUTHORITY OF THE COUNTY OF SANTA CRUZ

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Project Based Voucher Program Guidance

Housing Authority of the County of Santa Cruz

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DISCLAIMER

This ***Project-Based Voucher Program Guidance for Owners*** 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 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 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.

Under the PBV Program, selected new construction or rehabilitation projects may not undertake certain activities or commit funds (HUD and non-HUD) to physical or choice-limiting actions, including but not limited to, 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.. The project must also meet Subsidy Layering Review (SLR) 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. 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 the owner must submit evidence of completion of the work, which may include a certificate of occupancy and other certifications. All units must also pass the HUD-established inspection requirements. The HAP Contract is executed for the specified units for a term of up to 20 years, establishes the initial and subsequent rents for the units, identifies the PBV units, identifies utility allocations, identifies other information about the project, 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 with units selected under a HACSC request for proposal (RFP) will be required to follow HACSC's approved Administrative Plan, all PBV regulations, and abide by any conditions of the award of PBVs prior to, and after, HAP Contract execution.

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.

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 7 of this guide.

REQUEST FOR PROPOSALS (RFP) & PROJECT SELECTION

Owners 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. The RFP may close at any time with or without prior notice.

Projects are selected for PBVs through the competitive process. The currently published RFP and Scoring Criteria will define how projects are scored and how PBVs may be awarded. HACSC maintains the right to NOT award PBVs to a proposal, even if the proposal would otherwise qualify. Additionally, HACSC maintains the right to award fewer PBVs than requested. These decisions may be based on voucher availability, funding constraints, or any other circumstance.

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). HACSC reserves the right to both determine and make changes to the voucher type for the project at any stage prior to AHAP execution.

HACSC maintains a list of parties interested in updated information about the PBV RFP or Scoring Criteria. When the RFP or Scoring Criteria are updated, HACSC will contact persons on this list. To be added to the PBV RFP Interest List, please contact Eric C. Johnson at ericj@hacosantacruz.org.

SCORING CRITERIA

HACSC publishes the **PBV RFP Scoring Criteria** currently in effect on the HACSC website. The **Scoring Criteria** include 200 base points, with a possible 10 bonus points. The minimum threshold score for PBV consideration is 125 points for new construction projects and 120 points for existing housing projects.

Scoring Criteria	Maximum Points Available
Project Type	45
Extent to Which the Project Creates Housing Opportunities for Top Applicants on the Housing Authority's Existing Housing Choice Voucher Waiting List	25
Deconcentration of Poverty / Creation of Economic Opportunities	10
Extent to Which Project Creates Additional non-PBV Affordable Units	50
Location Amenities	14
Management and Owner Experience	6
Construction Readiness	15
Community Engagement	5
Financing and Funding	30
Total Base Points	**200**
Bonus Points	10
Total Available Points	**210**

PROJECT ELIGIBILITY & GENERAL REQUIREMENTS

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

Projects can be multi-family buildings or single-family buildings. Please see 24 CFR 983.52 for a complete list of ineligible housing types.

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, which include compliance with the accessibility requirements of Section 504 of the Rehabilitation Act and implementing regulations at 24 CFR Part 8, Title II of the Americans with Disabilities Act (ADA) and implementing regulations at 24 CFR Part 35, as well as the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205, as applicable. In new construction projects, five percent (5%) of units, but no less than one, must be accessible for persons with mobility impairments, and two percent (2%) of units, but no less than one, must be accessible for persons with visual and/or hearing impairments. Existing and rehabilitated housing may be subject to different requirements. New construction projects that do not meet these requirements will be ineligible to execute a HAP Contract.

New construction or rehabilitation projects must comply with environmental review and Subsidy Layering Review requirements. More information on these processes can be found in the **Environmental Review** and **Subsidy Layering Review** sections.

OWNER ELIGIBILITY

The Owner, 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's legal structure must receive HACSC's written approval. Otherwise, HACSC reserves the right to withdraw its conditional commitment of PBVs.

Yet-to-be-formed entities cannot apply for PBVs, however, organizations that will be part of the to-be-formed entity may apply.

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 but not limited to, property acquisition, demolition, movement, rehabilitation, conversion, repair, construction, disposition, transfer, removal, or leasing of real property prior to receiving environmental clearance.
- 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.

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 15 PBVs or 40 percent of the units at the project**. HACSC reserves the right to both determine and make changes to the voucher type for the project.

Owners are prohibited from entering into prospective tenant selection agreements with third parties for PBV units without prior HACSC written agreement.

RENT TO OWNER

The a maximum rent to owner for PBV units of the lesser of:

1. 110% of the Fair Market Rent minus the utility allowance for the unit bedroom size.
2. The applicable payment standard for the unit bedroom size.
3. The reasonable rent (24 CFR 982.507).
4. The rent requested by the owner.

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

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 <u>exceeds</u> the fair market rental (or exception payment standard) <u>minus</u> any utility allowance for tenant paid utilities as determined for units without tax credits above;

   Then, the rent to owner must not exceed the <u>lowest</u> of:

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

These rent restrictions apply to the PBV Program only. Other rent restrictions related to other funding/financing sources may still apply.

ENVIRONMENTAL REVIEW

An environmental review (ER) under the National Environmental Policy Act (NEPA) is required for all new construction or rehabilitation projects proposing to have PBV units. The application of PBVs to an existing housing project by itself does not trigger NEPA, but NEPA may still apply for a non-PBV related reason. Owners must contact the responsible entity to complete NEPA requirements. The responsible entity is the jurisdiction in which the project is located (county or municipal government).

Owners, or their agents/contractors may not take any choice-limiting action, which may include, but is not limited to, acquiring, rehabilitating, converting, repairing, disposing of, demolishing, constructing, transferring, removing, or leasing real property or committing or expending program or local funds for PBV activities until an ER is completed and environmental clearance is received.

Environmental clearance typically is received in the form of an Authority to Use Grant Funds (AUGF) from HUD, after a Request for Release of Funds (RROF) is submitted. However, some projects may be categorically excluded or exempt from NEPA, as determined by the responsible entity.

Prior to submitting the RROF, the owner or responsible entity must contact HACSC.

The owner is responsible for the preparation and costs associated with any NEPA documents.

Environmental clearance must be received before the AHAP can be executed. It is not necessary for the ER to be completed prior to the Subsidy Layering Review, but it must at least have been requested from the responsible entity.

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 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 owner is still required to obtain certification from the responsible entity that it is exempt or categorically excluded.

NEPA may apply ***in addition*** to any other ER process, such as CEQA. HACSC is not responsible for knowing when another ER process may apply.

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 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 to HUD. Submissions to CTCAC may require different materials.

Required Elements of an SLR Submission to HUD
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.
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
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)
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]**
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
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
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
7. **HOME Commitment Letter:** (When applicable) Signed document clearly identifying requirements of the HOME designated units and intended rents
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
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
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]**
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 appliable)**:** 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 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.

<u>Projects not utilizing LIHTCs</u> 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.

<u>Projects utilizing LIHTCs</u> 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.** 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 may take a significant amount of time and often involves revisions, so please plan accordingly. HACSC will coordinate any requests from the SLR reviewer with the owner. The owner should not contact the SLR reviewers directly, unless otherwise instructed by HACSC.

The SLR certification for the project must be received by HACSC before the 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.
5. **Exhibit C** – Description of housing.
6. **Exhibit D** – *Blank* **HUD-52530-A** PBV Housing Assistance Payments Contract for New Construction or Rehabilitation, Parts 1 and 2.

HACSC expects that an AHAP will be executed within twenty-four (24) months of the notice of conditional award to the selected owner, unless otherwise agreed to. **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 includes land preparation.** Upon completion of the Subsidy Layering Review, the AHAP should be executed within thirty (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

New construction or rehabilitation 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).

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 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 HASCSC requests an updated progress report, owners must complete and return the report as soon as possible. Failure to return progress reports in a timely manner may result in rescission of the award of PBVs.

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. HACSC may provide you with a checklist or template of items that must be included in these plans. In tenant selection plans, HACSC will typically include a "PBV addendum" that includes all the provisions required by HACSC for the PBV units. Any tenant selection plan, project marketing plan, marketing flyer, MOU, or other lease-up document that relates to the PBV units **must** be approved by HACSC.

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 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 owner and third party.

For third party referral based PBV units, the 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 owner. However, HACSC may bill the owner for costs associated with a mailing if the owner needs to fill a PBV unit with a special population 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 to any interested party. Paper versions **cannot only** be made available on a reasonable accommodation basis, and online-only applications are not permitted.

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. 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).

Prior to execution of the HAP Contract, all PBV units must pass a HUD housing inspection. Typically, HACSC will require TCO prior to scheduling the inspections. 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 the HQS inspection needs to be cancelled, HACSC cannot guarantee that it will be able to reschedule the inspections in a timely manner. However, HACSC will certainly work with you and attempt to re-schedule the inspections as soon as possible. If a unit does not meet HUD's housing standards, it cannot be included in the HAP Contract.

Additionally, units will be inspected upon turnover and at least 20% of units will be inspected at least biennially, as required by HUD.

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.). 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
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 remove the PBV unit from the HAP Contract.. HACSC is not required to provide prior notice of its intent to remove the voucher and may choose to exercise this option at any time after 120 days of vacancy. However, HACSC staff will generally discuss any extended vacancy with you prior to taking any action. 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.

   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.

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.

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. HACSC may also request that a list of on-site amenities be provided. Requests can be submitted to landlords@hacosantacruz.org.

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

Additionally, HUD regulations state that the owner may not receive any rent increase unless the owner complies with all aspects of the PBV HAP Contract, including the Housing Quality Standards (HQS). This means that even if one (1) PBV unit does not comply with HQS at the time of the rent increase, it cannot be processed. HACSC recommends that you understand all provisions of the PBV HAP Contract.

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.

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 Webpage
- HACSC Administrative Plan – Section 8 Housing Choice Voucher Program
- HACSC Payment Standards, Utility Allowances, and Income Limits

HUD RESOURCES AND FORMS

- HUD Project Based Voucher Program Webpage
- HUD 24 CFR Part 983 Project Based Voucher (PBV) Regulations

END OF GUIDE