



### **Appendix 3**

#### **Section 8 Administrative Plan**

#### **Section 8 Housing Choice Project-Based Voucher (PBV) Program**

#### **Updated to Include PBV Related HOTMA regulations**

**November 2017**

This addendum to the Fall River Housing Authority's Section 8 Administrative Plan contains the key policy statements and operating parameters for a Housing Choice Project-based Voucher (PBV) program. This addendum reflects the requirements of the regulations up and through the regulatory revisions required to comply with the Housing Opportunity Through Modernization Act of 2016 (HOTMA) PBV related changes, (see Federal Register Notice January 18, 2017). This Addendum is NOT intended to repeat every provision of 24 CFR Part 983 but rather highlight discretionary policy choices made by the FRHA.

This Addendum is a statement of interest to operate a Project-Based Assistance Voucher program (PBV) and to provide information on how it intends to operate the PBV under the requirements of the law. This Addendum also provides information to eligible families, owners, and other interested members of the public.

The FRHA PBV program has two tracks. 1) There is a Watuppa Heights PBV program track and 2) a "general" FRHA PBV program track.

#### **The Watuppa Heights PBV Track**

The former is a specific set-aside of fifty (50) Vouchers intended to replace in part units from the former Watuppa Heights State-aided Family Housing Development. The Watuppa Heights PBV program is subject to a Memorandum of Understanding (MOU) between the Massachusetts Department of Housing & Community Development, Mass Law Reform and the FRHA. The MOU requires that the Watuppa Heights PBV program use a map created by Mass Law Reform that pre-identifies suitable census blocks that meet site and neighborhood standards which exceed the regulatory standard. Pursuant to the MOU, the FRHA cannot approve applications for PBV submitted under the Watuppa Heights track in "red" or "orange" zones without the concurrence of Mass Law Reform or their designee. In addition, Watuppa Heights PBV units are to be two bedroom or larger suitable for families with children.

The “General” PBV Tract:

The “general” FRHA PBV program relies solely on the site selection standards of the regulations found at 24 CFR 983.57. The “general” FRHA PBV program will not exceed the HUD maximum allowable cap as defined in section D below.

**PROVISIONS OF THE FRHA’s PBV PROGRAM.**

Except where this section specifies otherwise, the project-based voucher regulations at 24 CFR 983 continue to apply to newly constructed and substantially rehabilitated housing and now also apply to existing housing. Upon determination of good cause and subject to statutory limitations, the FRHA may seek a waiver from HUD for any provisions of the applicable project-based regulations in accordance with 5 CFR 5.110

Except where noted, statements in this Addendum apply to both tracks.

Once PBV assistance awarded under either track is assigned to a dwelling unit under a fully executed Housing Assistance Payment (HAP) Agreement, the day to day administration of the PBV generally follows the requirements of the tenant-based Housing Choice Voucher program (of which the PBV program is a budgetary subset). There is a list of exceptions to the tenant-based program regulations at 24 CFR 983.2.

The eligible housing types for the PBV program include: single room occupancy, congregate housing, group homes, manufactured (mobile) homes and cooperatives.

The FRHA may not attach or pay PBV assistance for units in the following types of housing:

- (1) Shared housing;
  - (2) Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institution;
  - (3) Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care. However, the PHA may attach PBV assistance for a dwelling unit in an assisted living facility that provides home health care services such as nursing and therapy for residents of the housing;
  - (4) Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;
  - (5) Manufactured homes; and
  - (6) Transitional Housing.
- (b) Prohibition against assistance for owner-occupied unit. The PHA may not attach or pay PBV assistance for a unit occupied by an owner of the housing. A

member of a cooperative who owns shares in the project assisted under the PBV program shall not be considered an owner for purposes of participation in the PBV program.

(c) Prohibition against selecting unit occupied by an ineligible family. Before a PHA selects a specific unit to which assistance is to be attached, the PHA must determine whether the unit is occupied and, if occupied, whether the unit's occupants are eligible for assistance. The PHA must not select or enter into an Agreement or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

(d) Prohibition against assistance for units for which commencement of construction or rehabilitation occurred prior to AHAP. The PHA may not attach or pay PBV assistance for units for which construction or rehabilitation has commenced as defined in § 983.152 after proposal submission and prior to execution of an AHAP.

Unlike the tenant-based program, a PBV program participant may not pay more than 30% of their adjusted gross income for rent.

## **OVERALL GOALS AND OBJECTIVES OF THE FRHA'S PBV PROGRAM**

While complying with the regulatory requirements of 24 CFR Part 983, the FRHA wishes to emphasize the following PBV goals and objectives:

- (1) To utilize the PBV program to foster the new development of affordable housing in conjunction with any City of Fall River initiatives and those required by law.
- (2) To utilize the PBV program to promote more secure and affordable rental housing for rent-burdened families.
- (3) To utilize the PBV program to preserve existing affordable housing, which might otherwise be at-risk.
- (4) To utilize the PBV program to increase affordable rental housing opportunities for families at or under 50% of the Area Median Income (AMI) limit.

### **A. Authorization to Provide Project-Based Vouchers for Existing Housing**

Consistent with HUD regulation, the FRHA may from time to time enter into HAP contract agreements that attach project-based voucher assistance to existing housing that fully meets the Housing Choice Voucher program Housing Quality Standards at 24 CFR 982.401.

A housing unit will be considered an "existing unit" for purposes of the project-based voucher program if, at the time of the FRHA's written notice of selection of the project the units required a maximum expenditure of less than \$1,000 per assisted unit (including

the unit's prorated share of any work to be accomplished on common areas or systems) to comply with the HQS. The regulations also require that for a period of at least twelve (12) months after entering into a PBV HAP for an existing unit, no modernization work is permitted that would put the unit out of compliance with HQS and would total more than \$1000 per unit. This does not apply to routine repairs required to keep the unit habitable.

Existing units are exempt from any requirement for Subsidy Layering Review (SLR).

### **B. Unit Selection Policy, Advertising, and Owner Application Requirements**

The FRHA will advertise the availability of PBV assistance to owners of property in a newspaper of general circulation. The advertisement will be published once a week for two consecutive weeks; specify an application deadline unless a rolling RFP is initiated; specify the number of units the FRHA estimates that it will be able to assist under the funding the FRHA is making available for this purpose; and state that only applications submitted in response to the advertisement will be considered. The FRHA advertisement will also state the FRHA's selection policies. In all cases, the FRHA will maintain documentation of responses to advertisements or competitive proposals received in response to the FRHA notice.

The FRHA may opt not to conduct a separate competition if proposals presented to the FRHA were accepted as part of a different competition for federal funds (HOME, HOPE VI, and Tax Credit) within 3 years of the PBV proposal selection date. The original competition, however, cannot have considered the possibility of future PBV assistance, but the selection must be based on the project's merits at the time of the competition. The FRHA may give a preference to Community Housing Development organizations or projects with Low Income Housing Tax Credits. The FRHA may submit an application to attach project-based assistance to an existing structure that it owns. For certain public housing projects where the FRHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the FRHA may select a project without following the competitive processes cited above.

HUD will review the selection process in this case and determine that the FRHA-owned units were appropriately selected based on the selection procedures specified herein. The FRHA must determine that the proposed site meets all HUD "Site and Neighborhood" standards as defined at 983.57. Units in cooperative housing are eligible for PBV assistance.

For certain public housing projects where the FRHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the FRHA may select a project without following the competitive processes cited above.

### **Procedures for Owner Submission of Proposals**

Owner proposals will be requested in an advertisement with a reasonable deadline. Owners will be sent an RFP application and information packet, which will contain the following:

- A description of the PBV program at 24 CFR983
- Project selection criteria
- Sample program documents including payment standard schedule, utility allowance schedule and sample HAP agreement
- An application / proposal form.
- Information about application due date

### **Procedures for Selection of Proposals**

Evidence that property is eligible housing as defined at 24 CFR 983.53 and 983.54, Evidence that property complies with or is exempted from the cap on the number of PBV units per project (24 CFR 983.56) Evidence that property meets the site selection standards (24 CFR 983.57).

Initial Review and Screening of Proposals - the

The FRHA will review only proposals submitted in response to the Request for Proposal advertisement and submitted by the stated deadline. The FRHA shall review proposals for completeness and compliance with RFP requirements.

After this initial threshold review, the following action will be taken:

1) Incomplete proposals will not be processed. If the Owner fails to provide the needed information within a reasonable time, the proposal will be rejected. Proposals, which would require permanent displacement of tenants, will be rejected. Proposals where there is no site control will be rejected. Proposals where the property has liens attached as a result of the current Owner's negligence will be rejected.

2) Owners of rejected proposals will be notified in writing of the reasons for rejection.

3) The FRHA will schedule initial inspections of all projects which meet the threshold requirements described above.

4) Based on the initial inspection, the FRHA will review the general work and cost estimate and determine that the project qualifies as a New Construction, Rehabilitation or Existing housing project. In the case of an existing project, the FRHA will ensure that the minimum HQS standards are met using Article II of the State Sanitary Code and the Federal Housing Quality Standards. Included in this report will be a statement on the need for temporary relocation of tenants and an estimate of the time needed to complete construction.

5) Upon receipt of the general work and cost estimate, the FRHA will conduct a

feasibility analysis for each project. The FRHA will review the requested rents and supporting rent reasonableness information to determine if the rents are permissible under the PBV program. The FRHA will determine that the rents approved are reasonable and comparable to private unassisted units in the market.

6) Feasible proposals will be ranked.

### **C. Cap on Number of Units in a Project.**

Generally the maximum number of units allowed in a project is the greater of 25% of the total number of units or 25 units.

#### Exceptions to Limit on Number of Units Assisted per Project

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families or
- the units are for households eligible for supportive services available to all families receiving PBV assistance in the project or
- The project is located in a census tract with a poverty rate of 20 % percent or less, as determined in the most recent American Community Survey Five-Year estimates.
- PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap.

For Supportive Service Projects:

The project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A FRHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

### **D. Maximum Number of PBV Units**

Under the Project-Based Voucher (PBV) program, the FRHA may enter into contracts with private Owners/Project Sponsors (Owners) to utilize up to 20 % percent of the FRHA's authorized HCVP units.

Additional Project-Based Units

The FRHA may project-base an additional 10% percent of its units above the 20% percent program limit, if the units:

1. Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).
2. Are specifically made available to house families that are comprised of or include a veteran. *Veteran* means an individual who has served in the United States Armed Forces.
3. Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
4. Are located in a census tract with a poverty rate of 20% percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

Required HUD Notification Before the FRHA issues a Request for Proposals for PBV assistance, the FRHA will must submit the following information to the HUD field office for review:

- A. The total amount of units authorized under the ACC for the FRHA (excluding those PBV units entirely excluded from the cap), including special purpose vouchers, as well as the number of PBV units excluded from the total, if applicable.
- B. The current number of units currently committed to PBV (excluding those entirely excluded from the cap), including units currently under PBV HAP contract, under Agreement to Enter into a HAP contract (AHAP), or covered by a notice of proposal selection. The number of units excluded from the total must also be identified.
- C. The number of units to which the FRHA is proposing to attach project-based assistance through the new RFP or selection.

**E. Consistency With the Goals of Deconcentrating Poverty and Expanding Housing and Economic Opportunities.**

The FRHA's PBV program will be consistent with the goals of deconcentrating poverty and expanding housing opportunities.

The FRHA will consider a PBV site if it is consistent with the following deconcentration goals:

- The housing site must be located in Malden and be consistent with the deconcentration goals already established in the FRHA's FRHA plan, and with civil rights laws and regulations, including HUD's rules on accessibility

at 24 CFR 8.4 (b) 950.

- The FRHA will evaluate each proposal based on whether the site is in an Enterprise Zone, Economic Community or Renewal Community (EZ/EC/RC);
- Whether the concentration or number of assisted units has or will decrease as a result of public housing demolition;
- Whether the census tract is undergoing significant revitalization;
- Whether government funding has been invested in the area;
- Whether new market rate units are being developed in the area which are likely to positively impact the poverty rate in the area;
- If the poverty rate in the area is greater than 20%, whether in the past five years there has been an overall decline in the poverty rate; and
- Whether there are meaningful opportunities for educational and economic advancement in the area.

Additionally, the following site and neighborhood standards will apply:

(A) Existing Housing Site and Neighborhood Standards

An acceptable site for PBV Existing housing must meet the following site and neighborhood standards:

**The site must:**

- (1) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities and streets must be available to service the site.
- (2) Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- (3) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.
- (4) Be so located that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. While it is important that housing for the elderly not be totally isolated from employment opportunities, this



requirement need not be adhered to rigidly for such projects.

(B) Rehabilitation and New Construction Site and Neighborhood Standards.

A site for rehabilitation or newly constructed housing must meet the following site and neighborhood standards:

**The site must:**

(1) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.

(2) The site must not be located in an area of minority concentration, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(3) A project may be located in an area of minority concentration only if:

(i) Sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration; or

(ii) The project is necessary to meet overriding housing needs that cannot be met in that housing market area.

(iii) "Sufficient" comparable opportunities does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, which, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality's population.

(iv) Units may be considered comparable opportunities, if they have the same household type (elderly, disabled, family, large family) and tenure type (owner/renter); require approximately the same tenant contribution towards rent; serve the same income group; are located in the same housing market; and are in standard condition.

(v) Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors

relevant to housing choice:

(A) A significant number of assisted housing units are available outside areas of minority concentration.

(B) There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.

(C) There are racially integrated neighborhoods in the locality.

(D) programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.

(E) Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.

(F) A significant proportion of minority households have been successful in finding units in non-minority areas under the tenant-based assistance programs.

(G) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.

(vi) Application of the "overriding housing needs" criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a "revitalizing area"). An "overriding housing need," however, may not serve as the basis for determining that a site is acceptable, if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

(4) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(5) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate,

unless there is actively in progress a concerted program to remedy the undesirable conditions.

(6) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(7) Except for new construction, housing designed for elderly persons, travel time, and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

### **F. Family Choice to Move With Continued Assistance**

Assisted families who are in good standing and have resided in a PBV unit for 12 months may move from the assisted building and retain federal housing assistance. The FRHA will offer tenant-based HCVP assistance to the families in the order that they request tenant-based assistance and subject to funding availability. If no such assistance is available at the time the family moves, the FRHA will give the family priority to receive the next available tenant-based voucher. Vouchers under funding allocations targeted by HUD for special purposes (e.g. family unification, mainstream disabled) are not available for this purpose, since they are required to be used only for the targeted purpose.

### **G. HAP Contract Term**

Consistent with the law, a HAP contract between the FRHA and an owner of housing under this program may have a duration of at least 1 year and a maximum initial term of up to 20 years subject to the future availability of sufficient appropriated funds under the FRHA's consolidated ACC with HUD.

Upon expiration of the HAP contract term and consistent with the law and funding availability, the FRHA may extend the HAP contract for one additional term of 20 years

In evaluating HAP contract extensions, the FRHA will place emphasis on the following factors:

- (1) The extent to which the extension protects affordable housing developed under any City of Fall River initiative and those required by law.
- (2) The extent to which the extension promotes the provision of secure and affordable rental housing for rent-burdened families.
- (3) The extent to which at-risk housing continues to be preserved as affordable housing.
- (4) The extent to which the extension benefits affordable housing rental opportunities for families at, or under, 50% of the Area Median Income (AMI)

## **H. Rent Limits**

In general, PBV rents cannot exceed the **lower** of 1) the rent the owner is requesting; 2) the reasonable rent as determined by the FRHA; or 3) 110 % percent of the FMR (or, for units with tax credits, the tax credit rent (except under certain circumstances)).

For Tax Credit Properties: The FRHA may use the higher Section 8 rent to owners of certain Low Income Housing Tax Credits (LIHTC) units if the LIHTC rent to owner is less than the amount that would be permitted under Section 8. For units assisted with either HOME or LIHTCs HERA the need to conduct a rent comparison is eliminated, if the rent to the owner does not exceed the rent for other HOME or LIHTC units in a project that are not occupied by families with vouchers. Gross rents (rent to owner plus the allowance for tenant-paid utilities) may not exceed 110% percent of the established Fair Market Rent (“FMR”) or any HUD-approved “exception payment standard” (i.e., a payment standard amount that exceeds 110 percent of the published FMR) for the area where the housing is located.

All rents approved must be reasonable in relation to rents charged in the private market for comparable unassisted units (see 42 U.S.C. 1437((f) (o)(19)(A)).

## **I. Rent Adjustments During the Term of the HAP Contract**

HAP contracts for project-based voucher assistance shall provide for rent adjustments and that the adjusted rent for any assisted unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market and may not exceed the maximum rent limits permitted under the statutory limitations summarized above. Determination of whether rent is reasonable in relation to comparable units shall be governed by 24 CFR 983.303.1

## **J. Family Share of Rent and Housing Assistance Payment**

The housing assistance payment and family share of rent are governed by 24 CFR 983.301, 983.302, and 983.353.

## **K. Tenant Selection**

The FRHA’s Section 8 Project Based Voucher (PBV) program is made up of privately owned and operated housing developments which have Section 8 subsidy attached to some or all of the units at the site. The FRHA’s PBV sites may offer residents, in some cases, supportive services, such as economic improvement, case management, mental health counseling, recovery programs, on site medical services, etc. Applicants are screened by the Owner/Agent of each property for suitability based upon criteria established in each property’s Tenant Selection Plan. The FRHA screens applicants for Section 8 Eligibility purposes, only.

The FRHA will administer a stand-alone PBV waiting list apart and separate from any tenant-based waiting list and may decide to implement site-based waiting lists to ease

administrative burden and speed the referral of families to fill vacant units. Households will be able to apply directly to the FRHA outside of the centralized state-wide waiting list referenced elsewhere in the Section 8 Administrative Plan.

The FRHA may establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The FRHA must provide an absolute selection preference for eligible in-place families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the FRHA plan. The FRHA may not, however, grant a preference to a person with a specific disability.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must offer the services to all residents and be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled or other qualified residents may not be required to accept the particular services offered as a condition of occupancy.

If the FRHA has projects with “excepted units” for elderly families or supportive services, the FRHA must give preference to such families when referring families to these units [24 CFR 983.261(b)]

The PBV program will permit a preference for households determined eligible for supportive services under an address specific Supportive Service Plan (SSP). A household that obtains a letter from an owner that says the household has been determined to be eligible for services under the site specific SSP will be referred from the list to that owner on a date and time basis. All other applicants will be referred on a date and time basis as PBV units become available.

The SSP must have been part of the original application for PBV. The SSP must demonstrate one or more sources of funding. The owner will be required to certify with every request for a rent increase that the services described in the SSP are in place and funded.

**The FRHA selection system for project-based units will also comply with the requirements specified below:**

Income Targeting: The requirements of 42 U.S.C. 1437n (b) and CFR 982.201(b) (2) govern the selection of eligible families for this program, and generally provide that not less than 75 percent of families admitted annually to the FRHA’s combined tenant-based and project-based voucher program shall be families whose incomes do not exceed 30 percent of the area median, as determined by HUD.

The FRHA will only maintain a separate project-based waiting list if all FRHA tenant-based assistance applicants who seek project-based housing can be placed on this list upon request and without penalty to any other application for assisted housing they may have pending. In the case of existing housing with eligible in-place families, these families shall receive an automatic preference for these units. Subject to its waiting list

policies and selection preferences specified in the FRHA administrative plan, the FRHA may place a family referred by an owner of project-based voucher units on its waiting list.

In all cases, the FRHA will administer the project-based waiting list. In no case will the FRHA allow an owner to maintain the waiting list.

According to its regular applicant selection policies, if an applicant does not lease a unit with project-based assistance, or the owner turns an application down for admission to a project-based unit, the applicant will not be removed from the FRHA's tenant-based assistance waiting list for that reason. In this case, the applicant will maintain their position on the list as though no offer of housing had been made.

Owners choose a family for occupancy based on each Owner's individual and distinct written tenant selection policy. The FRHA must approve the Owner's tenant selection procedures. When a family is approved by the Owner and the FRHA, they will execute a lease with the Owner (a HUD PBV addendum will be included).

### **Applicant right to appeal an Owner denial**

If an Owner denies a unit to a referred applicant, the Owner must send a written notice to the applicant clearly stating the reason(s) for denial and advising of any right to appeal that determination. The Owner must provide FRHA with a copy of this denial letter. The applicant may request that the FRHA review the Owner's denial to verify the Owner's compliance with the approved written tenant selection plan for the project.

**Vacant units:** The HAP contract will be in a form prescribed by HUD. The FRHA may agree to provide vacancy payments under the HAP contract, pursuant to 24 CFR 983.352, for up to 60 days after a unit becomes vacant, in an amount not to exceed the rent to the owner as provided by the HAP contract on the day the family vacated.

### **The PHA may only make such payments for a vacant unit if:**

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and containing the dates and other details of the move-out;
- The owner certifies that vacancy was not the owner's fault and that the unit was actually vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of any vacancy; and
- The owner provides any additional information required and requested by the FRHA.

### **Reduction of Contract Units**

Except for units for which a HAP was executed before the effective date of this notice.

The new law supersedes 24 CFR 983.152(B) and (C). Instead, the following provisions apply:

- If no eligible family rents a vacant unit within 120 days (commencing on the first day on the month when the vacancy occurs, the FRHA may terminate its commitment to make any additional housing assistance payments for the unit for the balance of the HAP contract term. The FRHA may use the amounts so saved to provide other forms of voucher assistance.
- In addition, if no HAP is made for a period of at least 180 days because the household residing in the unit is over-income and no subsidy is required, the unit will be removed by the HAP Agreement.

### **Termination of HAP Contract by the FRHA**

The HAP contract must provide that the term of the FRHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the FRHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that FRHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the FRHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

### **Statutory Notice Requirements: Contract Termination or Expiration**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the FRHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The FRHA must provide the family with a voucher and the family must also be given the option by the FRHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements.

The family must pay their total tenant payment (TTP) and any additional amount if the

gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the

FRHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

### **Addition of Contract Units**

The FRHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the FRHA must submit to the local field office information outlined in FR Notice 1/18/17. The FRHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

### **FRHA briefing of applicants selected to occupy a PBV unit**

All applicants selected to occupy the PBV units must be briefed on HCV program benefits and responsibilities. The oral briefing must include a description of how the PBV program works and family and Owner responsibilities. Each family must receive a briefing packet that contains: 1) information on how the FRHA determines the total tenant payment for the family; 2) family obligations under the program; 3) applicable fair housing information; and, 4) information about continued program eligibility if household composition changes and unit size is no longer suitable.

### **Occupying accessible units**

The Owner must make every effort to fill accessible units with eligible households that would benefit from the unit's accessibility features. Owners must list accessible units with the Massachusetts Accessible Housing Registry. Both the Owner and the FRHA should also notify all local and regional disability organizations of accessible PBV unit availability.

### **Applicant suitability determination**

Applicant suitability determination will be made by the Owner. The FRHA will periodically monitor the project sponsor's applicant selection determinations for compliance with the Owner's FRHA-approved Tenant Selection plan for the project.



## **In-place Families**

### **Owner responsibility**

The Owner-sponsor must send all in-place tenants a letter explaining that the Owner's units have been selected for PBV assistance and that if the tenants are determined program eligible (including being appropriately housed according to FRHA's occupancy standards), they will be eligible to receive PBV assistance. The Owner's letter must emphasize that any tenant found ineligible will not be displaced. The FRHA will provide the Owner with the details about HCV program eligibility and relocation requirements.

### **FRHA responsibility**

Upon receipt of the Owner's certification that the requisite letter has been sent to all in-place tenant families, the FRHA will send those families a HCVP pre-application that seeks information about each tenant's household composition. This information will assist the FRHA in determining whether or not the household is occupying the appropriate bedroom-size unit. Once the family completes and returns the pre-application to FRHA,

Because of time delays in getting the various HUD approvals (when required), the FRHA will not perform the final tenant eligibility determination for any in-place tenant until the unit(s) has been otherwise approved for PBV assistance (e.g. passed HQS, met all other HUD requirements). Final eligibility includes the determination that the in-place household is appropriately housed in a unit with the correct number of bedrooms.

### **Over-housed and under-housed in-place households**

Any unit occupied by an in-place non-eligible (program ineligible, over/under-housed, etc.) household cannot be brought onto the PBV program unless the Owner, at his/her/it's expense, finds a suitable replacement unit acceptable to the ineligible family.

### **Households eligible for supportive services available to all families**

Any supportive service project must make supportive services available to all families receiving PBV assistance in the project, but the participant family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. The FRHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

### **Types of Services**

The FRHA may attach PBV assistance to units for occupancy by families in need of services. This may include disabled families, families in need of particular supportive

services, or families participating in the Family Self-Sufficiency (FSS) program. Families will not be required to accept and receive supportive services for the exception to apply to the unit. The types of services may include, but are not limited to:

- 1) Household Training (i.e., homemaking, parenting skills, money management); 2) Job Training (preparation and counseling, job development and placement, Follow-up assistance after job placement, completion of FSS “Contract of Family Participation);
- 3) Self Sufficiency Services and Resources (appropriate to assist families to achieve economic independence and self-sufficiency);
- 4) Remedial Education (education for the completion of Secondary or post-secondary education);
- 5) Substance Abuse Treatment (counseling and treatment for substance abuse)

The FRHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered. If supportive services are offered, they must be available to all families receiving assistance in the project

### **Remaining Members Residing in an Excepted Unit**

When a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a “qualifying family” because the family is no longer an elderly family due to a change in family composition, the FRHA has the discretion to allow the family to remain in the excepted unit. If the FRHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the FRHA, and the FRHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance.

### **Overcrowded, under-occupied, and accessible units**

#### **Under-housed**

Any family that experiences a change in family size or composition that results in the family becoming under-housed and the occupied unit non-compliant with HQS requirements must relocate with assistance to an appropriately sized PBV unit, if available, or be issued a tenant- based voucher in the appropriate bedroom size, if available, or be terminated from the HCV program. If there is no available, comparable PBV unit to which the family can relocate, and no tenant-based voucher available to issue the family, the family can choose remain in-place without penalty to the Owner until the family can relocate with assistance.

## Over-housed

If a family becomes over-housed due to a change in family size or composition after the first year of tenancy, the family must relocate at their expense to a smaller PBV unit, if available, or accept a tenant-based voucher, if available, to relocate. If there is no appropriately sized comparable PBV unit or tenant-based voucher available for the family, the family can choose to remain in-place with no reduction in the contract rent until such time as there is either an appropriate unit or voucher available. If the project is partially assisted, the Owner may request to substitute another comparable unit for the one that is occupied the ineligible in-place family.

### **Inappropriately housed in an accessible unit**

In order to minimize loss of income to a project, an accessible unit may be leased to a family that does not require the unit's accessible features under the following circumstances: 1) the unit has been vacant for at least 45 days, and, 2) both the FRHA and the Owner have exhausted respective outreach efforts to identify a family that would benefit from the unit's accessible features. Because a non-disabled family would be inappropriately housed in an accessible unit, that family must be required to sign a lease addendum prior to initial occupancy agreeing to move from the unit should a family with a need for the accessible features of the unit be identified for placement. If there is a suitable, non-accessible PBV unit available within the project, the inappropriately housed family must be offered the opportunity to move to that unit. If there is no such PBV unit available, the FRHA will issue a tenant-based voucher, if available, to the family. If there is no unit or voucher available, the non-disabled family will remain in the accessible unit without penalty until such time as an appropriate PBV unit or tenant-based voucher becomes available.

### **L. Future Modifications to this PBV Addendum to the Administrative Plan**

The FRHA's PBV Addendum will remain in effect until any new project-based voucher rules have been fully implemented through new regulation.

In the event of changes required to this addendum because of future rulemaking concerning the project-based voucher program, the FRHA will take all reasonable steps to comply with new rules without jeopardizing actions previously taken that are consistent 24 CFR Part 983.

### **M. Consistency with 24 CFR Part 983**

The FRHA intends that this addendum be consistent with 24 CFR Part 983.

### **N. Extremely Low Income Admissions**

The FRHA, may at its discretion, require that all admissions to a building or group of buildings accepted into the Project Based Voucher program be occupants meeting the

Extremely Low Income Limits in effect at the time of the occupants admission to the program.