

# Section 8 Voucher Program Basics



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Resident Academy

## Basics of the Section 8 Voucher Program

- **Number of Units and Characteristics of Families:**
  - 2.331 million vouchers nationwide
- **Parties Involved and Their Roles**
  - HUD provides the funds,
  - The Public Housing Agency (PHA) administers the program
    - Most PHAs are governed by a Board of Commissioners with a tenant commissioner
  - PHA enters into contract with a willing landlord
- **Key Regulatory Features**
  - Federal statute, regulations and forms
    - Statute: 42 U.S.C.A. § 1437f(o).
    - Regulations: 24 C.F.R. Part 982 (comprehensive regulations for the voucher program). 24 C.F.R. Part 5 (General HUD Program Requirements).
    - HUD, Voucher Program Guidebook, 7420.10G (April 2001), available at
    - Form HUD-52641 Housing Assistance Payments Contract (HAP Contract) (08/2009) (contract between PHA and the landlord).
    - Form HUD-52641-A, Tenancy Addendum, Section 8 Tenant-Based Assistance Housing Choice Voucher Program (08/2009) (between landlord and tenant).
    - HUD Notices and HUD Forms and Guidebooks are available at <http://www.hud.gov/offices/adm/hudclips/>
  - Locally developed rules, policies and contracts
    - PHA 5-year and Annual Plan is available on the HUD web site. [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/pha](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha); 24 C.F.R. Part 903; form HUD 50075; HUD, PHA Plan Desk Guide
    - Section 8 Administrative Plan, 24 C.F.R. § 982.54.
    - Landlord lease (in addition to the Lease Addendum mentioned above).
- **Finding this Housing in Your Community**
  - To find a PHA, <http://www.hud.gov/offices/pih/systems/pic/haprofiles/>
  - A voucher may be used anywhere. 24 C.F.R. § 982.353.
- **Tips for Determining What Kind of Housing Is Involved**
  - Tenant gets voucher from PHA, which inspects the unit & annually recertifies income.
  - Tenant finds the unit and a willing landlord.
  - Landlord is most often a private landlord without any other federal assistance.

## MAJOR APPLICANT AND TENANT ISSUES FOR VOUCHER PROGRAM

- **ADMISSIONS**

The admission process for a voucher applicant is divided between the PHA and a landlord. The PHA creates a wait list, conducts eligibility review and screens for certain criminal history and may do more extensive screening. The landlord may also have a waiting list and screen the voucher tenant.

- **Waiting list**
  - PHA maintains a list of applicants.
  - List for voucher applicants may be combined with public housing lists.
  - Vouchers issued for different bedroom sizes depending on the size and needs of the family.
  
- **Eligibility**
  - Income: Low Income (80% of Area Median Income (AMI) or very low income (50% of AMI). 42 U.S.C.A. § 1437(o)(4).
  - Targeting: 75% of all new admissions must be families with Extremely Low Incomes (ELI) (30% of AMI). 42 U.S.C.A. § 1437n(b).
  - The AMI for each jurisdiction is available at <http://huduser.org/portal/datasets/il.html>.
  - Immigration status: In general a family must have one member of the household who is a citizen or who has eligible immigration status under one of the categories set forth in 42 U.S.C.A. § 1436a(a). If any members of the household are not citizens or lack eligible immigration status, the assistance for the family is prorated, i.e., the family may pay more rent. 24 C.F.R. §§ 5.500–5.528.
  
- **Preferences**

PHAs may adopt local preferences for applicants. For example, preferences for families whose head of household and/or other adults are working, residency preferences, preferences for victims of domestic violence, and families who are homeless or threatened with homelessness. 42 U.S.C.A. § 1437f(o)(6)(A); 24 C.F.R. § 982.207.
  
- **Screening**
  - PHAs must screen for certain types of criminal activity and may screen for other kinds of criminal activity. 24 C.F.R. § 982.553; 42 U.S.C.A. §§ 13,661 (3 yrs. for eviction) 13,663 (sex offender), 1437n(f) (methamphetamine), 24 C.F.R. §§ 982.553(a)(2) and (3) (other criminal activity).
  - Some PHAs do not screen for poor tenant history and poor credit history and leave that up to the landlord
  
- **Procedural Protections**
  - Applicants rejected by the PHA must be notified of the reasons and offered an informal review. 24 C.F.R. §§ 982.552 and 982.554.
  
- **RENTS**
  - **Generally:**
    - HUD has an Enterprise Income Verification (EIV) program to get government income as well as wage income and new hire data.
    - Rent contributions for voucher residents are based on the family contribution, the payment standard and the amount by which the actual unit rent exceeds (if at all) the local payment standard (see discussion below).

- Family contribution is generally based on 30% of adjusted income, but family may pay more, if rent is greater than payment standard.
- **Payment Standard**
  - The payment standard is the maximum subsidy that a PHA will pay on behalf of a family. Generally the payment standard is between 90% and 110% of the Fair Market Rent (FMR). Information on the level of payment standard maybe in the PHA Plan. HUD annually publishes the FMRs in the Federal Register. PHAs may seek HUD approval to increase the payment standard. See e.g., HUD Notices PIH 2005-9, PIH 2009-44 and PIH 2011-28, 24 C.F.R. § 982.503 (reasonable accommodation)
- **Annual Income and Exclusions**
  - Annual income includes all income that the family anticipates that it will receive in the coming year. There are many exclusions, deductions and disallowances from anticipated income. Some of these exclusions include the Earned Income Disregard/disallowance (EID), which is available only to disabled members of a voucher household; income from full-time students who are not the head of household; income for foster care; income of live-in aides; deferred lump sum additions to family income due to the delayed start of SSI or social security payments, etc. 24 C.F.R. § 5.609.
- **Adjusted Income after Deductions**
  - The standard mandatory deductions include:
    - \$480 for each dependent,
    - \$400 for each elderly or disabled family,
    - For each elderly or disabled family, unreimbursed medical expenses and cost of reasonable attendant care or auxiliary apparatus to allow a family member to work that exceeds 3% of annual income, and
    - Child care expenses (for children under 13) that allow a family member to work. 42 U.S.C.A. § 1437a(a)(5); 24 C.F.R. § 5.611.
- **Minimum Rent and hardship exemptions**

A PHA may charge no minimum rent up to \$50 per month. There is a hardship exemption. 24 C.F.R. § 5.630; 42 U.S.C.A. § 1437a(a)(3).
- **Utility Allowance**

Residents who pay their own utilities are entitled to a “reasonable” allowance for utilities. Voucher tenants may take advantage of the allowance if the rent for the unit is less than the payment standard. 24 C.F.R. § 5.603 (definition of utility allowance), 24 C.F.R. §§ 5.632 and 982.514(b).
- **Recertification**
  - Annual recertification required for all families.
  - Family must report changes in family composition and increase in income. 24 C.F.R. §§ 903.7(d), 982.54(d)(18).

- Interim recertification required if family reports decrease in income (except for loss of certain welfare income). 24 C.F.R. § 982.516; 42 U.S.C.A. § 1437f(o)(5).
- **Other rent issues**
  - Tenant rent, including a reasonable utility allowance, *cannot* exceed 40% of income for a new unit or for a unit upon initial participation in the program. 24 C.F.R. § 982.508; 42 U.S.C.A. § 1437f(o)(3).
  - PHAs must review the rent to be charged by the landlord to determine if it is reasonable. If it is not reasonable, the PHA may decline to enter into a Housing Assistance Payments (HAP) contract with the landlord. 42 U.S.C. § 1437f(o)(10).
- **INFORMAL HEARING**
  - Tenant may request an informal hearing for reasons to dispute rent and income determinations, proposed termination of the voucher and denial of porting. 24 C.F.R. § 982.555.
- **EVICCTIONS AND TERMINATIONS**
  - **Lease Term**
    - PHA may set initial lease term for one year or less. 42 U.S.C. § 1437f(o)(7); 24 C.F.R. § 982.309.
    - PHA must make voucher payments to landlord until court order of eviction. 24 C.F.R. § 892.311(b).
  - **Notice (content and term)**
    - Midterm evictions: written notice must specify the grounds. 24 C.F.R. § 982.310(e); term of notice set by state law.
    - End-of-term evictions: no federal notice requirements; state law may require notice of specified length for termination at lease expiration.
    - Copy of eviction notice must be given to the PHA by the landlord and also by the tenant. 24 C.F.R. §§ 982.310(e)(2), 982.551(g)
  - **Good cause required at end of lease term?**
    - Not required by federal statute or regulation.
    - Some leases or local law may require good cause for all terminations of tenancy.
    - Because voucher may be combined with other federally subsidized housing, the good cause requirements of those programs may also apply.
  - **Good cause required during lease term**
    - 24 C.F.R. § 982.310(a) (serious or repeated violation of lease; violation of applicable laws imposing tenant obligations).
    - Good cause includes drug-related activity *on or near* (*on* premises if offender is “other person under control”) or criminal activity that threatens health and safety of the premises. 24 C.F.R. §982.310(c).
    - Owner has discretion to consider all circumstances. 24 C.F.R. §982.310(h).
  - **State or local law** may impose additional requirements.

- **Pre-judicial administrative review prior to eviction?** Not required
- **Section 8 Voucher terminations**
  - Grounds: eviction for serious lease violation, 24 C.F.R. § 982.552(b)(2) (termination *required*, also for immigration status or failure to submit consent forms); many other grounds *authorized* (e.g., violation of family obligations such as failure to supply required information, not allowing PHA inspection, failing to give PHA notice of move, not using unit as sole residence, committing fraud or drug-related or threatening criminal activity or alcohol abuse; also owing money to PHA, breach of repayment agreement, threatened or actual abusive behavior to PHA staff ). 24 C.F.R. §§ 982.552(c)(1) and 982.551.
  - PHA has discretion to consider all circumstances. § 982.552(c)(2).
  - Notice and hearing protections for voucher termination: 24 C.F.R. § 982.555.

#### **Related Subprograms or Set-Asides for Special Uses**

- There are many types of voucher programs that are targeted to families with special needs, such as Welfare to Work, Family Unification, Mainstream, Designated Housing, Enhanced Vouchers and VASH (Veteran Affairs Supportive Housing). With the exception of Enhanced Vouchers and VASH, PHAs apply for these special programs by responding to Notice of Funding Availability (NOFA) announcements. The PHA Annual Plan should list the special voucher programs administered by the local PHA.
- A local PHA may decide to have a voucher homeownership program, permitting voucher payments to enable a family to purchase a home. 42 U.S.C.A. § 1437f(y); 24 C.F.R. § 982.625 et seq.
- A PHA may also decide to have a project-based voucher (PBV) program. The voucher is attached to the unit, but tenant may move with a voucher after first year. The owner retains the PBV assistance for the unit. 42 U.S.C.A. § 1437f(o)(13); 24 C.F.R. part 983.

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