



HOUSING AUTHORITY OF COOK COUNTY (HACC)

**REQUEST FOR QUALIFICATION FOR DEVELOPERS AND OWNERS OF
RESIDENTIAL RENTAL HOUSING UNITS TO UTILIZE PROJECT BASED
VOUCHERS (PBV) IN THE DEVELOPMENT OF AFFORDABLE HOUSING**

SPECIFICATION NO.: 2022-100-040

HACC POINT OF CONTACT: DEBORAH O'DONNELL
PROCUREMENT MANAGER
PHONE: 312-542-4725 **E-MAIL:** DODONNELL@THEHACC.ORG

Proposals will be accepted on an on-going basis until the HACC awards 200 PBVs or terminates this process. Developers and Owners who intend on submitting applications to IHDA for the LIHTC round must have their proposals for PBVs submitted at least 120 days prior to the IHDA application date. Proposals received with less than 120 days may not be evaluated and approved in time for the IHDA deadline.

QUESTIONS FOR THIS RFQ MAY BE SUBMITTED TO DEBORAH O'DONNELL AT dodonnell@thehacc.org AT ANY TIME.

ALL SUBMISSIONS AND OTHER COMMUNICATIONS MUST BE ADDRESSED TO:

HOUSING AUTHORITY OF COOK COUNTY
DEPARTMENT OF PROCUREMENT SERVICES
175 WEST JACKSON BOULEVARD, SUITE 350
CHICAGO, ILLINOIS 60604
ATTENTION: DEBORAH O'DONNELL

Proposals must clearly indicate the name of the project, "Developer and Owners of Residential Rental Housing Units Utilizing the Housing Choice Voucher Project Based Vouchers (PBV)", the Specification Number **2022-100-040**. The name and the address of the Respondent(s) must be clearly printed on all correspondence.

**RICHARD MONOCCHIO
EXECUTIVE DIRECTOR**

REQUEST FOR QUALIFICATION

For

DEVELOPER AND OWNERS OF RESIDENTIAL RENTAL HOUSING UNITS UTILIZING THE HOUSING CHOICE VOUCHER PROJECT BASED VOUCHERS (PBV)

SECTION I – Introduction & Background 2
SECTION II – Scope of Services 5
SECTION III – Fee Structure 11
SECTION IV – General Requirements & Qualifications 11
SECTION V – Content of Response Documents 15
SECTION VI – Evaluation Criteria 16
SECTION VII – Procurement and Award Process 20

Attachments:

- A. Section 3 – Notice of Commitment
- B. Special MBE/WBE Participation Summary Form
- C. MBE/WBE Subcontractor Affidavit
- D. Summary of MBE/WBE Participation Form
- E. HUD-5369-B Instructions to Offerors – Non-Construction
- F. Chapter 24 Code of Federal Regulations, Part 983

SECTION I – INTRODUCTION & BACKGROUND

I. Introduction

The Housing Authority of Cook County (“HACC” or “Authority”) is a municipal corporation, formed under the United States Housing Act of 1937, charged with providing decent, safe, and affordable housing for low-income families and individuals. The HACC provides federally assisted tenant-based rental assistance in its Housing Choice Voucher (“HCV”) Program. Tenant-based rental assistance allows HCV Program participants to select the type and location of housing; if the family moves, the tenant-based rental assistance moves with them. The HACC’s HCV Program serves nearly 14,000 households throughout suburban Cook County, including the elderly, persons with disabilities, and families with children. The HACC has chosen to convert a portion of its tenant-based HCV rental assistance to project-based voucher (PBV) rental assistance where the rental assistance remains with the unit, not the tenant.

The HACC’s current PBV portfolio consists of over 1,271 units, 1,147 of which are currently under a Housing Assistance Payment (HAP) Contract. The HACC has made commitments to developers for the remaining 124 PBV units. One of the goals of the PBV Program is to expand housing choice for participants in areas of opportunity, meaning areas that promote access to quality schools, employment, transportation, low poverty, low crime rates, and racial/ethnic diversity. The HACC is hereby issuing this Request for Qualification (RFQ) to Developers/Owners (D/O) who are interested in promoting the development of affordable rental housing units in opportunity areas within suburban Cook County utilizing PBV rental assistance.

II. Background

The HACC is committed to the goals of de-concentrating poverty and expanding housing and economic opportunities for its participants. Families with children are a priority for the HACC. Research shows that the younger children are when they move to areas with reduced crime, lower poverty, better schools, and a healthy living environment, the more successful they will be as adults. The HACC is also committed to providing permanent supportive housing (PSH) for people with disabilities who may need supportive services to live independently in the community.

In offering the PBV assistance, the HACC has two primary objectives: (1) to produce the highest quality rental housing units for low-income families within diverse and healthy communities within suburban Cook County and (2) to promote the stabilization and revitalization of communities within suburban Cook County. The HACC may provide PBV assistance for up to 25% of the units in a property that will be leased to eligible families and up to 100% of the units in a property that will be leased to the elderly and persons eligible to receive supportive services. The HACC is seeking to allocate up to 200 PBVs; of particular interest are larger unit sizes for families and permanent supportive housing (PSH) for people with disabilities. As such, proposals for these types of developments will receive priority consideration.

The PBV Program should be of interest to D/Os seeking to complete funding for a project or recapitalize an existing project. In addition, this program should also be of interest to those who wish to include a low-income component in their development in order to satisfy requirements or rating criteria in other governmental assistance programs, such as the Low-Income Housing Tax Credit (“LIHTC”) Program. D/Os may submit proposals in response to this RFQ at any time until all the PBVs are allocated or the HACC determines that it is in its best interest to terminate this process.

The HACC is interested in working with small businesses and Minority/Women/Disadvantaged Business Enterprises (MBE/WBE/DBE) with demonstrated housing development experience.

Proposals for larger unit sizes for families and for PSH will be prioritized for review and selection. The HACC is not prioritizing housing for seniors at this time; however, if a D/O submits a proposal for senior housing, occupancy should not require that all members of the household be at least 55 years of age or older. The HACC has seen an increase in the number of households lead by grandparents or older persons responsible for the care of a younger person or a disabled person and does not want to exclude these households from potential housing in developments serving people at least 55 years of age. The HACC understands that the Housing for Older Persons Act (HOPA) permits owners to restrict occupancy based on age, but it also permits owners to set occupancy requirements that allow *at least one person* in each unit to be a specific age or to have an 80/20 designation where only 80% of the units must be occupied by *at least one person* over a specific age. If a D/O submits a proposal for senior housing, the D/O may require that 100% of the units be occupied by *at least one person* over a specific age, but may not require that *all* occupants in *all* units be at least 55 years of age or older. Proposals that require a specific age restriction for *all occupants* will not be considered. The D/O must address this in the proposal when describing the type of housing or the proposal will not be considered.

The HACC will evaluate, within a reasonable time period, all proposals received. A decision will be made to accept or reject the proposal and the Proposer will be notified accordingly. Approved proposals must have the units completed and the Housing Assistance Payments contract executed within two years of the award. Commitments for PBVs are contingent upon appropriations authorized by the Congress of the United States of America, the HACC's fiscal budget authority, and voucher utilization capacity. This procurement process has been designed to allow the HACC and D/Os, to the greatest extent possible, to refine a development proposal that is viable and meets the requirements under 24 CFR Part 983. All D/Os are expected to understand all the provisions of the PBV Program, including the environmental review and subsidy layering review processes.

HUD provides the funding for PBVs; therefore, the utilization of these vouchers must be in compliance with all rules and regulations of HUD, the Federal Regulations at 24 CFR Part 983, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), Uniform Federal Accessibility Standards (UFAS), Davis-Bacon wage requirements, Environmental Protection Agency rules and regulations, HUD's Modernization Design Standards, Federal procurement requirements, and any other applicable state, county, and local laws and regulations. The regulations require that applicants being considered for occupancy must come the HACC's waiting list. The HACC has made a commitment to house people transitioning from institutionalized settings and may allocate 10% of new PBV units for the statewide referral network (SRN). D/Os may not propose that all PBV units will be used to house applicants from the SRN. If the D/O proposes to use a PBV on any of the SRN units, this must be addressed in the proposal or the proposal will not be considered.

For additional information about the HACC and our programs, please visit our website at www.thehacc.org.

C. Key Information

Following is Key Information associated with this Request for Qualifications:

DEADLINES FOR QUESTIONS:

Questions regarding this solicitation may be emailed to Deborah O'Donnell, Procurement Manager at dodonnell@thehacc.org at any time.

DEADLINE FOR SUBMISSION:

Proposals will be accepted on an on-going basis until the HACC awards 200 PBVs or terminates this process. However, Developers and Owners should consider the IHDA LIHTC application deadline if their intent is to include PBVs in their applications to IHDA and ensure their response to this RFQ is submitted at least 120 days prior to the IHDA deadline.

DOCUMENTS TO BE SUBMITTED:

One (1) 'ORIGINAL' Proposal Package and Four (4) 'COPY' Proposal Packages

Proposals must be submitted to:

Housing Authority of Cook County
Department of Procurement Services
175 W. Jackson Boulevard, Room 350
Chicago, Illinois 60604
Attn: Deborah O'Donnell

Proposer's Name
Proposer's Address
Developers/Owners seeking the use of HCV Program's PBVs
Specification Number

If more than one envelope/box is used to deliver the package, both envelopes/boxes must clearly indicate the required information.

SECTION II – SCOPE OF SERVICES

A. General Scope of Services

The HACC is willing to award PBV's to D/Os who are committed to providing long-term affordable housing for new construction, units requiring substantial rehabilitation, and existing rental housing. The housing must be developed in accordance with the regulations set forth at 24 CFR Part 983 for PBVs and be consistent with the goals of de-concentrating poverty and expanding opportunities, both economically and in housing quality, as outlined in the HACC's Administrative Plan.

1. **Building/Community Requirements for Project Based Voucher Assisted Units**

A Respondent to this RFQ is encouraged to present a development proposal that provides low income families an opportunity to live in high quality, mixed-income communities. The HACC seeks PBV-assisted units in new construction, units requiring substantial rehabilitation, and existing housing developments that, at a minimum, meet the following requirements:

- a. **Design, Construction, and Condition.** The HACC seeks PBV-assisted units in developments that are well designed, well constructed, and well maintained. Developments must have sound maintenance plans and adequately funded replacement reserves.
- b. **Section 504/ADA Accessible Buildings and Units.** The HACC places a high priority on meeting, at a minimum, the Federal requirements for housing that is accessible and/or adaptable for people with disabilities. Federal requirements under Section 504 and the Fair Housing Amendments Act apply and may vary with building type and design. Such features must be integrated into designs that are marketable to a broad range of residents and that are financially feasible to build. D/Os should designate 5% of the total PBVs requested or one unit, whichever is greater, as accessible and/or adaptable.
- c. **Economic Diversity.** To promote economic diversity, PBV-assisted units should represent no more than 25% of all units in the development. The HACC, though, may consider up to 100% of all units in buildings specifically designated for the elderly and/or persons eligible to receive supportive services, but prefers that proposals for these types of developments will not request PBV assistance for more than 50% of the units. The PBV-assisted units must be distributed throughout the development and represent a proportional distribution of unit sizes.
- d. **Unit Size.** The HACC has a general need for a variety of larger unit sizes for families with children in communities of greater opportunity. Special consideration will be given to projects that contain three and four-bedroom units.

- e. **Facilities, Services, and Amenities.** The Respondent(s) should offer all facilities and amenities generally offered in the overall market by rental communities housing moderate-income families. It is important to the HACC that all developments, not just PSH developments, have a plan to offer services that promote self-sufficiency and improve the quality of life for the residents. Special consideration will be given to family developments offering employment training programs, employment opportunities, and/or opportunities to further education.
- f. **Healthy Neighborhoods.** The HACC seeks units in neighborhoods that, at a minimum, satisfy HUD's site and neighborhood standards as prescribed in 24 CFR Part 983.57 and generally are conducive to healthy family life and economic opportunity. Neighborhoods for the PBV units should have census tracts where fewer than 10% of the families live at or below the poverty level and the population is racially and ethnically diverse. Additionally, the areas should be close to jobs, transit, and/or quality schools.
- g. **High-Quality Management.** The HACC seeks units in developments whose owners and managers can demonstrate a history of high-quality management, including sensitivity to the needs of lower-income families and/or the ability to coordinate with social service providers.
- h. **Feasibility and Readiness.** The HACC requires that all projects have a sound financial structure, including realistic income and expense projections and provisions for adequate reserves. The HACC seeks D/Os who can demonstrate the commitment and resources to provide new housing units promptly. D/Os have until two (2) years from the date of their award to complete construction on their project. If this deadline cannot be met, the HACC may rescind the award and require the D/O to submit a new proposal.

2. **Regulatory Requirements for the Project Based Voucher Program**

Participation in the PBV Program is subject to various federal, state and local requirements. The Respondent's ability to comply with all applicable requirements will be a material condition of the HACC's final commitment of PBV-assistance. Important requirements are described below. This list is not necessarily complete and Respondents are responsible for assuring their own compliance and full understanding of all the PBV regulations, including the environmental review and subsidy layering review requirements.

- a. **Role of HUD.** Since the HACC will be providing rent subsidies provided by HUD, certain HUD approvals will be required as set forth in 24 CFR Part 983. The HACC recommends that prospective Respondents read the regulations; PBV requirements may require a different approach or additional procedures than the Respondent may be accustomed to performing.
- b. **Economic De-concentration and Mixed-Income Use.** The HACC has determined as a matter of policy that PBV-assisted units should not constitute more than 25% of the units in any development occupied by families with children. The remaining units should be occupied by families representing a wide range of incomes. The HACC is content with a lower percentage of PBV-assisted units than 25%, so long as the absolute number is not so small as to be excessively costly on a transactional and oversight basis.

- c. **Desired Development Sites:** The HACC's preference for PBV-assisted units is in communities that are job-enriched, transit oriented, have quality schools, less than 10% affordable units, and/or are undergoing revitalization. Additionally, the communities should be located in census tracts where fewer than 10% of the families live at or below the poverty line and the population is racially and ethnically diverse.
- d. **Development Team.** At the time of proposal submission D/Os must submit a complete description of the Development Team, including the principal professional disciplines and trades required for the success of the development effort. The D/O must identify the intended architect for any new development or substantial rehabilitation and the property management team for all housing types; the identification of other team members is discretionary. The HACC does not prohibit the appearance of any person or entity on more than one Development Team.
- e. **Reporting Controls.** The Respondent will be required to report to the HACC on a monthly basis progress with respect to the development/rehabilitation and related activities. Semi-Annual reports on project operations will be required.
- f. **Community and Supportive Services.** The HACC encourages D/Os to implement supportive services programs that will be available to all residents of the PBV- assisted units, not just to residents in PSH developments. The supportive services programs should provide the necessary job training, counseling, job placement and other initiatives aimed at removing barriers to employment and migrating residents to self-sufficiency and economic independence. D/Os will be expected to coordinate with the service providers and other community resources available to the residents as part of the overall development effort. The HACC will give special consideration to projects that will access and secure other resources so that residents have sustained access to the supportive services they need to adequately provide for the emotional, physical and economic health and well-being of their families.
- g. **Federal, State and Local Requirements.** The developer must comply with all Federal, State and local laws and ordinances relating to the development of the project. This includes, but is not limited to, state and local requirements relating to employment, fair housing, obtaining bonds and licenses, complying with building codes and zoning requirements, Davis Bacon, the Uniform Relocation Act, Section 106 Historic Review, Section 504 accessibility regulations, and any other applicable requirements. This includes regulations contained in 24 CFR 983.
- h. **Environmental Clearance.** The developer utilizes federal funds directed to the property. All projects – new construction, rehab, as well as existing / preservation applications – must receive environmental clearance prior to the issuance of an AHAP or HAP contract.
- i. **Davis Bacon.** For PBV properties in which there is or will be construction, Davis Bacon wages are required. The Davis Bacon Act (DBA) requires the payment of appropriate prevailing wage rates for all Federal construction projects in excess of \$2,000. The Department of Labor determines the customary wage. The goal of the Davis-Bacon Act is to protect the statutory rights of construction workers by ensuring they are being paid appropriately for HUD or HUD "Related Acts" construction projects.

- j. **Guarantees.** Developers shall be solely responsible for all guarantees of completion, working capital, operating deficits or tax credit compliance required by tax credit investors or lenders. The HACC will not make any guarantees except as set forth in the Project Based Voucher Housing Assistance Payment Contract (HAP). Additionally, if there are delays in the construction or rehabilitation process, the HACC cannot guarantee that a D/O will meet its tax credit delivery date and will not compromise processes, procedures, and regulations to do so.

3. **Operation and Management of Project Based Voucher Units**

- a. **Long-Term Use Restrictions.** The HACC will enter into a HAP contract with the Owner for an initial term of up to 20 years. Within one year before expiration, the HACC may agree to extend the term of the HAP contract for additional terms up to five years for a total of 30 years if the HACC determines an extension is appropriate to continue providing affordable housing for low-income families. The extension is contingent upon appropriations authorized by the Congress of the United States of America, the HACC's fiscal budget authority, and voucher utilization capacity.
- b. **Rents and Operating Assistance.** Residents of PBV-assisted units pay an income-based rent equal to 30% of adjusted gross income less the utility allowance; the HACC pays the remainder of the rent to owner. However, the HACC has a maximum payment standard for each unit size and a utility allowance schedule that are considered when determining rent to the owner.
- c. **Management and Operations.** The HACC expects developments containing the PBV-assisted units to be managed to high standards with effective lease enforcement a priority. The PBV-assisted units must be maintained and operated in compliance with all requirements of applicable law and HUD regulations. The property management efforts are expected, at all times, to be sensitive to issues facing low-income residents.
- d. **Resident Selection.** Applicants currently on any of the HACC's wait lists for affordable housing receive a preference over other applicants. A site-based wait list will be formed for each PBV development and maintained by the HACC. The preferences, if any, the HACC uses in its HCV Program will also apply to its PBV Program; however, the preferences may be applied in a different order based on the target population of the development. The HACC may also implement additional project specific preferences in its PBV Program based on the target population. Applicants must be processed in the order they appear on the site-based wait list. Property management may not maintain a separate wait list for the PBV units and must follow all HACC policies and procedures when opening and closing a wait list.

B. Special Conditions Provision

1. Contract Period

The initial HAP contract may be for a term up to 20 years and should be executed within two years of the PBV award.

2. Insurance

The Respondent(s) hereby agrees to obtain and shall maintain during the life of this

Contract, at its own expense, until Contract completion and during the time period following final completion if the Respondent(s) is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

GENERAL REQUIREMENTS:

Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable State of Illinois law covering all employees who are to provide a service under this Contract and Employers Liability coverage with limits of not less than the State of Illinois statutory limits.

General Liability/Professional Liability (Primary and Umbrella)

General Liability/Professional Liability Insurance or equivalent with aggregate limits of not less than \$2,000,000 and limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). Housing Authority of Cook County is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Respondent(s) must provide Automobile Liability Insurance as prescribed by applicable State of Illinois law covering all employees who are to provide a service under this Contract with limits of not less than the State of Illinois statutory limits. Housing Authority of Cook County is to be named as an additional insured on a primary, non-contributory basis.

Additional Requirements

The Respondent(s) must furnish the HACC's Department of Procurement Services, 175 W. Jackson Boulevard, Suite 350, Chicago, Illinois 60604, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The receipt of any certificate does not constitute agreement by HACC that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of HACC to obtain certificates or other insurance evidence from the Respondent(s) is not a waiver by HACC of any requirements for the Respondent(s) to obtain and maintain the specified coverages. The Respondent(s) must advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve the Respondent(s) of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and HACC retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The Respondent(s) shall provide HACC with a Certificate of Insurance naming the

HACC as an additional insured for General Liability/Professional Liability, and Automobile Liability Insurance required under the contractual agreement and shall provide HACC with the actual insurance policy endorsement. Certificate MUST be submitted within five days of Notification of Contract Award. HACC will not issue a fully executed copy of the contract without receipt of the required insurance certificate meeting the requirements stated herein.

The insurance must provide for sixty (60) days prior written notice to be given to HACC in the event coverage is substantially changed, canceled, or non-renewed. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by the Contractor. The Contractor agrees that insurers waive their rights of subrogation against HACC, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by the Respondent(s) in no way limit the Respondent(s)'s liabilities and responsibilities specified within the Contract or by law. Any insurance or self-insurance programs maintained by HACC do not contribute with insurance provided by the Respondent(s) under the Contract.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed on the indemnity in this Contract given as a matter of law.

The Respondent(s) must require all subcontractors to provide the insurance required herein, or the Respondent(s) may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of the Respondent(s) unless otherwise specified in this Contract. If the Respondent(s) or subcontractor desire additional coverages, the party desiring the additional coverage is responsible for the acquisition and cost.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)
PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED	INSURERS AFFORDING COVERAGE	
	INSURER A:	NAIC #
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR _____ _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ _____ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ _____ MEDEXP (Any one person) \$ _____ PERSONAL & ADV INJURY \$ _____ GENERAL AGGREGATE \$ _____ PRODUCTS - COMPROP AGG \$ _____
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNERS <input type="checkbox"/> SCHEDULED <input type="checkbox"/> HIRE <input type="checkbox"/> NON-OWNERS				COMBINED SINGLE LIMIT (Ea accident) \$ _____ BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE (Per accident) \$ _____ AUTO ONLY - IDENT \$ _____ THAN ONLY: \$ _____
		GARAGE LIABILITY <input type="checkbox"/> ANY				AUTO ONLY - IDENT \$ _____ THAN ONLY: \$ _____
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE _____ DEDUCTIBLE \$ _____ RETENTION \$ _____				EACH OCCURRENCE \$ _____ AGGREGATE \$ _____ _____ \$ _____ _____ \$ _____
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> <input type="checkbox"/> OUT-OF-STATE E.L. EACH ACCIDENT \$ _____ E.L. DISEASE - EA EMPLOYEE \$ _____ E.L. DISEASE - POLICY LIMIT \$ _____
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER	CANCELLATION
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. _____ AUTHORIZED REPRESENTATIVE

SECTION III – FEE STRUCTURE

HUD compensates the HACC with monthly administrative fees for units under contract on the first day of the month in both the tenant-based HCV Program and in the PBV Program. However, there is no additional funding available prior to the execution of the PBV HAP contract, but there is a substantial increase in administrative cost borne by the HACC for the PBV Program.

A PBV HAP contract provides significant cash value/leverage to a project, is viewed favorably in the tax credit allocation process, and reduces the level of income required to make the units affordable for low-income families. The HACC undertakes a significant amount of work in reviewing PBV proposals, preparing for HUD approval, execution of the PBV HAP contract, and leasing the PBV units. As such, the HACC is imposing the following fee structure:

Application Fees

A non-refundable application fee of \$3,200 per PBV Proposal is due at the time of proposal submission. Proposals submitted without the application fee will not be reviewed. If a D/O has to resubmit a proposal to the HACC because it was not able to execute a PBV HAP contract within 2 years of approval, an additional application fee of \$1,500 will be imposed.

Processing Fees

At the time of execution of the Agreement to enter into a Housing Assistance Payment (AHAP) Contract, the HACC will impose a one-time processing fee per unit based on the number of units requested for PBV assistance as follows:

For 20 units or less - \$300 per unit
For more than 20 units - \$375 per unit

The processing fees are due when the AHAP is submitted to the HACC for approval.

SECTION IV - GENERAL REQUIREMENTS & QUALIFICATIONS

A. General Requirements of the Firm

The Respondent may be an individual or a business corporation, partnership or a joint venture duly authorized to do business in Cook County, financially sound, and able to provide the services being procured by the HACC.

If the Respondent has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, such firm shall disclose that information in its offer, which may be sufficient ground for rejection. If the selected firm fails to disclose such information, and the HACC discovers it thereafter, then the HACC may rescind the award or terminate the contract.

The Respondent must be in good standing with any federal, state or local government that has or has had a contracting relationship with the Respondent. Therefore, if a federal, state or local government entity has terminated any contract with the Respondent for deficiencies or defaults, the Respondent is not eligible to submit a response to this solicitation.

The Respondent(s) must submit a Statement of Interest in its proposal that includes but shall not be limited to:

Specification Number: 2022-100-040,
Request for Qualifications for Developers/Owners
Seeking the Housing Choice Voucher Program's Project Based Vouchers

1. Introduction/Cover Letter: Respondent must submit a cover letter signed by an authorized representative of its company. The letter must outline the number of years the Respondent has been in business and must provide an overview of the experience and background of the company and its committed key personnel. The letter must also indicate the principal place of business, whether Respondent is authorized to do business in the State of Illinois, and the name(s) and telephone number(s) of the principal contact for oral presentation or negotiations. If the Respondent is comprised of more than one legal entity (e.g., the company is a limited partnership or joint venture), then Respondent must identify all entities and key personnel, and summarize the role, degree of involvement, and experience of each entity separately. The letter must also identify the name of the proposed development, location, type of housing, total number of units in the development, and the number of PBV units requested.
2. Company Overview: List Company's capacity, experience, and qualifications as it pertains to providing services similar in size, complexity and scope required under this RFQ. Identify key team members; staff and equipment resources; and number of years providing services being requested.
3. Type of Organization: State applicable organization type (i.e. Corporation, Partnership, Joint Venture or Sole Proprietorship). List names of shareholders, partners, principals and any other persons exercising control over the Firm or Organization.
4. Organizational Certification: Include Copies of Certificates of Incorporation, Partnership Agreements, Joint Venture or other organizational documents. A list of key personnel who will be assigned to the contract, along with an organizational chart, staff résumés, information on personnel training and certifications, if applicable, should be included with the proposal.
5. Financial Capacity: Provide the most recent 2 years audited financial statements, which shall include but not be limited to: current assets, net fixed assets, other assets, current liabilities, other liabilities. Provide name and address of firm preparing the financial statement and date thereof. If the financial statement identifies a name other than the name of the organization submitting a proposal, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g. parent-subsidiary). If the firm does not have audited financial statements, please provide a letter (on company letterhead) attesting to this and provide at least two of the following documents which can be utilized in lieu of audited financial statements to verify the financial capacity of the organization:
 - a. Unaudited financial statements
 - b. Copy of prior year business tax filing
 - c. Recent copy (within past 30 days) of Dunn & Bradstreet report on your firm.

B. Experience of Firm

In order to be considered eligible to submit a proposal, the Respondent must provide general information on the Developer and the Development Team, including the following information:

- a. Main address, telephone/fax numbers and email address of developer.
- b. Address and telephone number of the office from which services will be provided to the development (if different from above).
- c. Contact person, title, telephone/fax numbers and email address.

- d. Description of the size, number of employees, the current workload of the Respondent, and its ability to provide the resources necessary (staffing, equipment, office facilities, etc.) for completion of the proposal submitted in response to this solicitation.
- e. Identify the individual who will serve as Project Manager for the Respondent and who will direct and coordinate the development effort to completion.
- f. List the members of the Development Team. All entities that comprise the team should be identified, indicating their specialization(s) and specific contribution to the team. Respondent is encouraged to include specialists for all components of the project including design and property management professionals. Respondent who lacks the required expertise/experience are required to include such specialists who have the experience to prepare such documents in order to be favorably considered. With regard to a construction contractor, identify the construction partner or provide an explanation of when and how the construction partner(s) will be selected later.
- g. Provide a brief narrative description of previous collaboration among members of the Development Team.

C. Profile of Developer:

In order to be considered eligible to submit a proposal, the Respondent must provide an overview of the D/O's experience in the design, construction, ownership and management of projects similar to what will be proposed if selected. Include the following information:

- a. Provide two (2) examples of previous projects evidencing the D/O's experience with successful new construction or acquisition/rehabilitation of multi-family and mixed-use rental properties of similar size and context to what is being proposed, including any such projects that provide evidence of the D/O's experience in utilizing layered financing, including Low-Income Housing Tax Credits (LIHTC), tax-exempt multi-family housing revenue bonds, or other types of funding programs. If possible, the two examples should be projects where the HACC was not previously involved. State the source and amount of funding for each example. Absent specific LIHTC or other layered financing experience, Respondent must provide a narrative explaining how they intend to acquire this capacity. Include information about rent-up period, current occupancy, income groups served and operating deficit history.
- b. Provide a narrative description of the D/O's previous experience, if any, in integrating community and supportive services into the overall development and maintenance of similar projects.
- c. Provide profiles of key staff, including the Project Manager, who will be involved in the development/re-development effort. Also include information on current Property Management team, if an existing project. Specify the roles of key staff in carrying out this development initiative and their previous experience with housing development and re-development efforts.

D. Profile of Development Team Members:

- a. For team members not directly employed by the Respondent, provide a brief overview of their experience in contributing to mixed income development/re-development in a role as anticipated in response to this RFQ.

- b. If the selected Applicant will propose the new development or substantial rehabilitation of an existing building, provide three examples of projects (completed or underway) evidencing the experience of the architectural firm with the design of residential developments similar to that which is being proposed.

E. Provision of Community and Supportive Services

The Respondent must provide an overview of the social/supportive services and the community resources available to the residents served in its response to this solicitation. This is a requirement for all proposals, not just those for PSH. Respondent must include information as it pertains to the following:

- Supportive service plan (detailed plan for PSH is required)
- Project amenities, such as fitness center, computer lab, etc.
- Resources available to assist residents in achieving self-sufficiency
- Green space and uses
- Utilization of a mission-driven non-profit agency
- Performance of the non-profit agency and/or service provider
- Resident functions

The above list is not all inclusive, but provides examples of information to provide.

F. Legal Actions

Respondent must provide a listing and a brief description of all legal actions for the past three years in which Respondent or any team member or associated entity (e.g., joint venture partner, etc.) has been:

- A debtor in bankruptcy; or
- A defendant in a lawsuit for deficient performance under a contract; or
- A Respondent in an administrative action for deficient performance on a project; or
- A defendant in any criminal action.
- A defendant in any fair housing or civil rights action

G. MBE/WBE Participation

The Respondent, if not itself an M/WBE firm, shall demonstrate its ability to utilize M/WBE firms through completion of construction. Each proposal shall include a completed *Attachment B – Special MBE/WBE Participation Summary Form*.

The Respondent may itself be an M/WBE firm or directly utilize an M/WBE sub contractor on this project. The Respondent shall have the Subcontractor complete *Attachment C – MBE/WBE Subcontractor Affidavit* and then The Respondent shall complete the *Attachment D – Summary of MBE/WBE Participation Form*.

The Respondent may indirectly utilize an MBE/WBE firm (also referred to as ‘In Direct M/WBE Participation’) by engaging the MBE/WBE firm in any unrelated contract or business activity. The Respondent shall have the Subcontractor complete *Attachment C – MBE/WBE Subcontractor Affidavit* and then The Respondent shall complete the *Attachment D – Summary of MBE/WBE Participation Form*.

H. Section 3 Compliance

Section 3 – Compliance: The HACC has determined that the contract awarded under this solicitation is subject to the requirement of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, (Section 3), and Title 24 of Subchapter B, Part 75- Economic Opportunities for Low- and Very Low-Income Persons, 24CFR75.1 et seq. Section 3 compliance requires that any contract or subcontract entered into for the benefit of public housing residents shall require that, to the greatest extent feasible, economic opportunities in the form of training, employment, contracting, and other economic opportunities arising from the expenditure of public assistance for housing rehabilitation and housing construction be directed to low- and very low-income persons. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment generated by certain HUD financial assistance is directed to low- and very low-income persons, in particular those receiving housing assistance or residents of the community in which the Federal assistance is spent.

Contractors and their subcontractors may demonstrate compliance by committing to meet or exceed the Section 3 benchmarks for the total number of labor hours worked by a Section 3 Worker and Targeted Section 3 Workers of 25% of labor hours performed by Section 3 Worker and 5% of labor hours performed by Targeted Section 3 Workers in accordance with 24 CFR Part 75.

A Section 3 Worker is any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (1) The worker’s income for the previous or annualized calendar year is below the income limit established by HUD; or
- (2) The worker is employed by a Section 3 Business Concern; or
- (3) The worker is a YouthBuild participant.

A Targeted Section 3 Worker under HUD’s Section 3 Regulations is a worker who:

- (1) A worker employed by a Section 3 Business Concern; or
- (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - a. A resident of public housing or Section 8 assisted housing;
 - b. A resident of other public housing project or Section 8 assisted housing managed by HACC;
 - c. YouthBuild Participant

A Section 3 business concern is a business under HUD Regulations:

- (1) 51 percent or more owned and controlled by low or very low-income person; or
- (2) Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers; or
- (3) A business at least 51% owned and controlled by current public housing residents or residents who are currently living in Section 8-assisted housing

Respondents are required to subcontract with Section 3 business concerns for this project in accordance with the HACC’s Section 3 Policy. If subcontracting opportunities to Section 3 Business Concerns are not feasible, the Respondent shall develop and submit a Section 3 Narrative/Notice of Commitment which addresses the possibility of long-term employment and/or a career path that may include, e.g., employment opportunities on other projects with the Respondent, union sponsorship, mentor-protégé scenario, or internship, etc. This

approach is requested in an effort to maximize the economic opportunities available to HACC's Section 3 residents and increase the potential for a career track.

Documenting and Reporting

(1)Contract agrees to report the labor hours performed by Section 3 Workers in compliance with the above Section 3 benchmarks and Contractor's Section 3 Plan, which shall be prepared by the Contractor and agreed to by HACC. HACC shall not be required to agree to the Contractor's plan until the Contractor meets its burden to establish that it will comply with the HACC's Section 3 Policy as may be required. The contract Compliance Certification attached to this Solicitation is incorporated into the contract by this reference.

(2)The Contractor and its subcontractor shall provide all required compliance data with respect to Contractor's Section 3 Requirements to the HACC via monthly reports. The Contractor and its subcontractors shall be responsible for responding to any requests for data and information by the noted response due dates and shall on monthly basis manage contract information and contract records. The Contractor shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contract information is current.

Section 3 Notice of Commitment must be completed and return with your Proposal.

SECTION V – CONTENT OF RESPONSE DOCUMENTS

The Respondent shall fully read, comprehend and, where applicable, execute all attachments as outlined in the Table of Contents. Proposals received without all of the required information may be subject to rejection.

The Respondent must submit one (1) original plus four (4) copies of its' RFQ proposal. Proposals must include, in the same order as below and using the forms attached hereto, the following information, attachments and/or schedules:

A. General Information

Proposals shall be submitted in the following format, securely bound with tabs clearly identifying each section:

1. Tab 1 - Statement of Interest – Statement of Interest shall include all information being requested in *SECTION IV. General Requirements and Qualifications, A. General Requirements of Firm*.
2. Tab 2 – Project Narrative – Submission under this Tab shall include an overview of the proposal submitted in response to this solicitation. Include information about the type of housing; location (include zip code, census tract, poverty rate, and minority concentration); service provision; total number of units; total number requested for PBV assistance; utility type and responsibility; and owner requested rent.
3. Tab 3 - Developer/Owner Profile and Evaluation Criteria – Submission under this Tab shall include information specified in *SECTION IV. General Requirements and Qualifications (letters B-H)*. Respondent should also refer to *SECTION VI. Evaluation Criteria* to ensure information is provided that will enable the HACC to adequately score the proposal.
4. Tab 4 - RFQ Solicitation Document and Attachments – The entire solicitation document shall be completely signed (where applicable) and returned with Proposal.
5. Tab 5 - References – Provide names, addresses, and telephone numbers of at least three (3) of the largest contracts held by the Respondent for similar services as requested under this RFQ over the last three (3) years. If listing HACC as a reference, an additional reference must be submitted.
6. Tab 6 - Insurance – The Respondent must submit evidence that they can fulfill the Insurance Requirements under the contract terms of this RFQ. Prior to Contract Award, the Respondent will be required to submit its Insurance Certificate.

SECTION VI – EVALUATION CRITERIA

Proposals will be evaluated through consideration of several factors. Supporting materials should be included with each proposal to allow the following evaluation factors to be considered by the Evaluation Committee. In accordance with 24 CFR Part 85, a Committee has been established that will be responsible for overseeing the PBV proposal procurement process and making a recommendation for selection to the HACC's Executive Director and Board of Commissioners. The Committee will determine which proposals will be submitted for approval based upon the established evaluation criteria and point system:

1. **Technical Competence and Historical Performance of the Developer: (20 points maximum)**

- (A) The degree and nature of the resources that the Developer can dedicate to the satisfactory development of a mixed finance/income development.
- The ability to obtain, structure and implement layered public and private financing (including LIHTC) for such projects;
 - Financial capacity (of the developer/provider of guarantees);
 - Familiarity with requirements applicable to mixed- finance development and public housing operation;
 - Expertise in construction management to provide high quality, on budget, energy efficient housing;
 - Knowledge of the environmental review and subsidy layering review processes.
- (B) The professional qualifications and experience of personnel potentially available for assignment to the projects.
- Complete knowledge and understanding of the PBV regulations set forth at 24 CFR Part 983;
 - Degree to which members of team (other than the Developer) demonstrate successful experience in their respective disciplines as required for the design, development and operation of mixed finance/income properties of comparable size and complexity.
- (C) The historical performance of the Developer on other contracts in terms of quality of work, provision of services, and compliance with performance schedules. The Committee may solicit from previous clients, relevant information concerning the Developer's record of past performance.
- Successful experience in the design, construction and ownership of mixed-income and mixed-use housing developments of comparable size and complexity;
 - The degree to which the Developer demonstrates successful experience with ownership and property management (either directly or through supervision of property management provided by a third party) of mixed-income rental developments of a similar size;
 - Timeliness of unit delivery on past projects;
 - Historical involvement of Respondent in community development activities;
 - Ability to secure social service partnerships and resources that benefit residents living in the community;
 - Any innovative approaches to providing long term employment for low income residents.

2. Technical Competence and Historical Performance of Management: (15 points maximum)

(A) The historical performance of the Management Team on other contracts in terms of quality of work and compliance with performance schedules. The Committee may solicit from previous clients, relevant information concerning the Management Team’s record of past performance.

- Successful experience in the management of mixed- income and mixed-use housing developments of comparable size and complexity, including, but not limited to, the following;
 1. Effective lease enforcement
 2. Coaching, counseling, and educating residents as needed to avoid potential eviction
 3. Occupancy rates
 4. Rent collection;
- Historical involvement of management in community development activities;
- Ability to secure social service relationships and resources that benefit residents living in the community;
- Any innovative approaches to providing long term employment for low income residents;
- Knowledge and understanding of the needs of low- income persons.

3. Location and Housing Type (25 points maximum)

- Opportunity area, defined in part by a poverty rate below 10% and the population is racially and ethnically diverse;
- Location within the community, considering proximity to community essentials, such as shopping and healthcare;
- Transit oriented – location is close to major thoroughfares or easily accessible to public transit or a form of transportation is provided and available for the resident’s use;
- Quality schools;
- Economically, racially, and ethnically diverse;
- Part of a formal neighborhood revitalization plan endorsed by the community;
- PSH with a proven provider and service plan;
- 3-4 BR units for families with children;
- If senior housing, no restriction that *all* occupants must meet a certain minimum age requirement;
- Anticipated use of PBVs for SRN units;
- Energy efficient.

4. Services and Amenities (15 points maximum)

- All proposals must address services and amenities, not just proposals for PSH;
- Utilization of a mission-driven non-profit agency, if applicable;
- Supportive service plan, if applicable;
- Performance of service provider, if applicable;
- Project amenities, such as fitness center, community room, computer lab, etc.
- Resident events;
- Play area, if housing for families with children;
- Employment training/opportunities;
- Educational opportunities, such as access to secondary education, GED classes, computer training, etc.;
- Degree to which resources are available to assist residents in achieving self-sufficiency

5. Project Feasibility (15 points maximum)

- Timing of unit completion, including development/construction schedules and unit delivery schedule;
- Ability to execute the HAP contract within two years of award;
- Site control and location has zoning approved;
- Formal letter of support from the community has been secured;
- Drawings or specifications to show the final product;
- Degree to which funding sources are formally committed;
- 20 Year Operating Pro-forma;
- Adequate reserves, if existing housing or rehabilitation

6. M/WBE Participation: (5 points maximum)

Demonstrated experience and/or commitment of the Respondent to assist the HACC in meeting its requirements and goals related to M/WBE Participation. The Respondent shall demonstrate its ability to utilize M/WBE firms in the resultant contract or any unrelated contract let by the Respondent during the term of the resultant contract, as described in this Request for Qualifications.

7. Section 3 Compliance: (5 points maximum)

Demonstrated experience and/or commitment of the Respondent to assist the HACC in meeting its requirements and goals related to the Section 3 Benchmarking. The Respondent shall demonstrate the ability to comply with HUD's requirement for Economic Opportunities for Recipients of HUD Assistance. Subcontractors of the Respondent must make the same commitment.

TOTAL POINTS (100 Points maximum)

The HACC may seek clarification of any information that is submitted by any Respondent in any portion of its response to this RFQ or request additional information during the evaluation process. Any material misrepresentation made by a Respondent will eliminate the Respondent from further consideration. The Committee may consider unacceptable any response for which critical information is lacking or whose submission represents a major deviation from the requirements of this RFQ. Minor omissions, may, at the sole option and discretion of the HACC, be corrected subsequent to proposal submission.

The HACC reserves the right to reject any and all proposals or terminate the evaluation process at any time, if doing so would serve in its best interest.

SECTION VII – PROCUREMENT AND AWARD PROCESS

Pursuant to 24 CFR Section 85.36 (d)(3), interested D/Os of existing or proposed private rental housing developments, are being procured as described in Section II (Scope of Services) of this solicitation. The following instructions are intended to aid the Respondent in the preparation of their Proposal:

A. Addendums to Solicitation

Any and all amendments to this Solicitation will be posted on the HACC’s website. Notwithstanding any information that may be contained in the Solicitation and amendments thereto, Respondent is responsible for obtaining all information required, thus enabling them to submit Responses. Failure to obtain clarifications and/or addenda from the HACC will not relieve the Respondent from being bound by any additional terms and/or conditions in the clarification and/or addenda. The HACC will not be responsible for Respondent’s failure to consider additional information contained therein in preparing the proposal.

B. Submission of Proposals and/or Addendums to Proposals

Proposals may be hand-delivered or sent by certified or registered mail, return receipt requested, to the following HACC Representative:

Deborah Elliott O’Donnell, Procurement Manager
Housing Authority of Cook County
175 West Jackson Boulevard, Suite 350
Chicago, Illinois 60604

Proposals must be received at the above address and may not be received by facsimile or any other electronic method. Proposals will be date and time stamped immediately upon receipt at the HACC to document their submission.

All Proposals and accompanying materials become the property of the HACC and will not be returned to the Respondent. It is the responsibility of the Respondent to see that their proposal is received by the HACC.

C. Evaluation and Award Process

1. **Purpose.** The purpose of this RFQ is to solicit proposals from D/Os of affordable housing who will later work with the HACC to develop a variety of affordable and mixed income housing throughout Suburban Cook County that best meets the needs and requirements of the HACC.
 - i. Submissions of proposals containing the requested information in the RFQ will be evaluated according to the criteria in the RFQ to determine eligibility for assistance under the HACC’s PBV Program. All responses will be initially reviewed to determine compliance with the submission requirements specified in this RFQ. Responses that do not comply with these requirements may be rejected without further review.
2. **Advice on Rejected Responses.** The HACC may advise Respondent whose response is not accepted of the reason for the rejection. At the Respondent’s request, the HACC will consider whether to meet and discuss the proposal so that it can be refined and resubmitted.
3. **Preliminary Commitment, HUD Approval, and Closing.** Once the proposal is approved, the HACC will seek approval from its Board of Commissioners. After receiving approval from its Board of Commissioners, the HACC will issue a preliminary commitment letter to the Respondent. Final approval is subject to

completing all the necessary HUD and HACC requirements and is contingent upon appropriations authorized by the Congress of the United States of America, adequate budget authority, and voucher utilization capability. When all requirements and conditions are met, an Agreement to Enter into a Housing Assistance Payments (AHAP) Contract will be executed.

BASIS OF AWARD

Proposals received in response to this solicitation will be evaluated to determine that they meet the HACC's goal of de-concentrating poverty and expanding housing and economic opportunities for its participants. Proposals that do not meet the requirements set forth in this RFQ may be rejected without further review. Respondents whose proposals are selected will first enter into an Agreement to Enter into a Housing Assistance Payments (AHAP) Contract after specific requirements are met. A Housing Assistance Payments (HAP) Contract will be executed when the units are ready for occupancy and have passed a Housing Quality Standards (HQS) Inspection. This must be within two years of the date of the award.

Processing of Proposals:

- Proposals received in response to this solicitation will be reviewed by an Evaluation Committee at the HACC.

Reviewing of Proposals:

- **First Review:** The HACC's Evaluation Committee meets to discuss the proposals to determine that they meet the requirements outlined in this RFQ. The evaluation committee will score the proposals based on the Evaluation Criteria outlined in this RFQ. The Evaluation Committee will make a recommendation to the HACC's Executive Director whether to approve or reject the proposal.
- **Executive Director Review:** The Executive Director meets with the Evaluation Committee to review the proposals and makes a decision to submit to the HACC's Board of Commissioners for approval.
- **The HACC and Respondent Review Meeting:** The Evaluation Committee and Executive Director meet with the Respondent to discuss the project, including location, number of units, mix, financing structure, potential price and any other preliminary discussions at the request of the HACC. Respondent presents the project to the HACC's staff which might include:
 - Architectural drawings
 - Project Summary/Description
 - Evidence of site control
 - Finance commitments
 - Market study
 - Development team composition
 - Any possible social service plan
 - Entity that will own the project
 - Unit mix and site plan
 - Evidence of support from local governmental entities
 - Project costs
 - Development and operating budgets
 - Development and construction schedule

If staff believes the project is acceptable and eligible, a recommendation will be presented to the HACC's Board of Commissioners for approval. Special consideration will be given to Respondents who are proposing to develop/rehabilitate larger unit sizes and permanent supportive housing as outlined earlier in this RFQ.

- **The HACC’s Board of Commissioners:** The HACC will seek approval from its Board of Commissioners. Upon approval by the Board of Commissioners, the HACC shall notify the Respondent in writing with a preliminary commitment letter.
- **Closing the Transaction:** The HACC will work with the developer to close the project. Careful planning on the part of the D/O will be necessary so that the HAP contract can be executed within two years of the HACC award.

Successful respondents will be expected to comply with the HACC’s eligibility and leasing policies. The HACC provides a preference for the homeless in all its housing programs. All PBV developments must offer this same preference. D/O’s must consider the barriers to housing that the homeless and extremely low-income people may have when designing the Tenant Selection Plan. The HACC will review and approve the D/O’s Tenant Selection Plan prior to the beginning of the occupancy process for the development.

No award will be made to any Respondent that is determined not responsible to perform or if suspended, debarred, or otherwise determined ineligible to receive an award by HUD. Prior to award, the HACC will review the proposed Respondent’s ability to perform the contract successfully, considering such factors as the Respondent’s integrity (including a review of the List of Parties Excluded from Federal Procurement and Non-Procurement Programs published by the General Services Administration), compliance with public policy, record of past performance (including contacting the Respondent’s previous clients), and financial and technical resources.

Asst. Secry., for Public and Indian Housing, HUD

Pt. 983

(5) A family whose annual income is greater than 99 percent of the median income for the area shall not receive homeownership assistance under the pilot program.

(e) *Assistance payments to lender.* The PHA must make homeownership assistance payments to a lender on behalf of the disabled family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family. The provisions of §982.635(d), which permit the PHA to make monthly homeownership assistance payments directly to the family, do not apply to the pilot program.

(f) *Mortgage defaults.* The requirements of §982.638(d) regarding mortgage defaults are applicable to the pilot program. However, notwithstanding §982.638(d), the PHA may, in its discretion, permit a family that has defaulted on its mortgage to move to a new unit with continued voucher homeownership assistance if the PHA determines that the default is due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency. The requirements of §§982.627(a)(5) and 982.627(e) do not apply to such a family.

[66 FR 33613, June 22, 2001]

**§982.643 Homeownership option:
Downpayment assistance grants.**

(a) *General.* (1) A PHA may provide a single downpayment assistance grant for a participant that has received tenant-based or project-based rental assistance in the Housing Choice Voucher Program.

(2) The downpayment assistance grant must be applied toward the downpayment required in connection with the purchase of the home and/or reasonable and customary closing costs in connection with the purchase of the home.

(3) If the PHA permits the downpayment grant to be applied to closing costs, the PHA must define what fees and charges constitute reasonable and customary closing costs. However, if the purchase of a home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements, including any requirements concerning closing costs

(see §982.632(b) of this part regarding the applicability of FHA requirements to voucher homeownership assistance and §203.27 of this title regarding allowable fees, charges and discounts for FHA-insured mortgages).

(b) *Maximum downpayment grant.* A downpayment assistance grant may not exceed twelve times the difference between the payment standard and the total tenant payment.

(c) *Payment of downpayment grant.* The downpayment assistance grant shall be paid at the closing of the family's purchase of the home.

(d) *Administrative fee.* For each downpayment assistance grant made by the PHA, HUD will pay the PHA a one-time administrative fee in accordance with §982.152(a)(1)(iii).

(e) *Return to tenant-based assistance.* A family that has received a downpayment assistance grant may apply for and receive tenant-based rental assistance, in accordance with program requirements and PHA policies. However, the PHA may not commence tenant-based rental assistance for occupancy of the new unit so long as any member of the family owns any title or other interest in the home purchased with homeownership assistance. Further, eighteen months must have passed since the family's receipt of the downpayment assistance grant.

(f) *Implementation of downpayment assistance grants.* A PHA may not offer downpayment assistance under this paragraph until HUD publishes a notice in the FEDERAL REGISTER.

[67 FR 64494, Oct. 18, 2002]

**PART 983—PROJECT-BASED
VOUCHER (PBV) PROGRAM**

Subpart A—General

Sec.

983.1 When the PBV rule (24 CFR part 983) applies.

983.2 When the tenant-based voucher rule (24 CFR part 982) applies.

983.3 PBV definitions.

983.4 Cross-reference to other Federal requirements.

983.5 Description of the PBV program.

983.6 Maximum amount of PBV assistance.

983.7 Uniform Relocation Act.

983.8 Equal opportunity requirements.

983.9 Special housing types.

§ 983.1

983.10 Project-based certificate (PBC) program.

Subpart B—Selection of PBV Owner Proposals

983.51 Owner proposal selection procedures.
983.52 Housing type.
983.53 Prohibition of assistance for ineligible units.
983.54 Prohibition of assistance for units in subsidized housing.
983.55 Prohibition of excess public assistance.
983.56 Cap on number of PBV units in each project.
983.57 Site selection standards.
983.58 Environmental review.
983.59 PHA-owned units.

Subpart C—Dwelling Units

983.101 Housing quality standards.
983.102 Housing accessibility for persons with disabilities.
983.103 Inspecting units.

Subpart D—Requirements for Rehabilitated and Newly Constructed Units

983.151 Applicability.
983.152 Purpose and content of the Agreement to enter into HAP contract.
983.153 When Agreement is executed.
983.154 Conduct of development work.
983.155 Completion of housing.
983.156 PHA acceptance of completed units.

Subpart E—Housing Assistance Payments Contract

983.201 Applicability.
983.202 Purpose of HAP contract.
983.203 HAP contract information.
983.204 When HAP contract is executed.
983.205 Term of HAP contract.
983.206 Statutory notice requirements: Contract termination or expiration.
983.207 HAP contract amendments (to add or substitute contract units).
983.208 Condition of contract units.
983.209 Owner responsibilities.
983.210 Owner certification.
983.211 Removal of unit from HAP contract.

Subpart F—Occupancy

983.251 How participants are selected.
983.252 PHA information for accepted family.
983.253 Leasing of contract units.
983.254 Vacancies.
983.255 Tenant screening.
983.256 Lease.
983.257 Owner termination of tenancy and eviction.
983.258 Continuation of housing assistance payments.

24 CFR Ch. IX (4-1-15 Edition)

983.259 Security deposit: amounts owed by tenant.

983.260 Overcrowded, under-occupied, and accessible units.

983.261 Family right to move.

983.262 When occupancy may exceed 25 percent cap on the number of PBV units in each project.

Subpart G—Rent to owner

983.301 Determining the rent to owner.

983.302 Redetermination of rent to owner.

983.303 Reasonable rent.

983.304 Other subsidy: effect on rent to owner.

983.305 Rent to owner: effect of rent control and other rent limits.

Subpart H—Payment to Owner

983.351 PHA payment to owner for occupied unit.

983.352 Vacancy payment.

983.353 Tenant rent; payment to owner.

983.354 Other fees and charges.

AUTHORITY: 42 U.S.C. 1437f and 3535(d).

SOURCE: 70 FR 59913, Oct. 13, 2005, unless otherwise noted.

Subpart A—General

§ 983.1 When the PBV rule (24 CFR part 983) applies.

Part 983 applies to the project-based voucher (PBV) program. The PBV program is authorized by section 8(o)(13) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)(13)).

§ 983.2 When the tenant-based voucher rule (24 CFR part 982) applies.

(a) *24 CFR Part 982.* Part 982 is the basic regulation for the tenant-based voucher program. Paragraphs (b) and (c) of this section describe the provisions of part 982 that do not apply to the PBV program. The rest of part 982 applies to the PBV program. For use and applicability of voucher program definitions at § 982.4, see § 983.3.

(b) *Types of 24 CFR part 982 provisions that do not apply to PBV.* The following types of provisions in 24 CFR part 982 do not apply to PBV assistance under part 983.

(1) Provisions on issuance or use of a voucher;

(2) Provisions on portability;

(3) Provisions on the following special housing types: Shared housing,

manufactured home space rental, and the homeownership option.

(c) *Specific 24 CFR part 982 provisions that do not apply to PBV assistance.* Except as specified in this paragraph, the following specific provisions in 24 CFR part 982 do not apply to PBV assistance under part 983.

(1) In subpart E of part 982: paragraph (b)(2) of § 982.202 and paragraph (d) of § 982.204;

(2) Subpart G of part 982 does not apply, with the following exceptions:

(i) Section 982.310 (owner termination of tenancy) applies to the PBV program, but to the extent that those provisions differ from § 983.257, the provisions of § 983.257 govern; and

(ii) Section 982.312 (absence from unit) applies to the PBV Program, but to the extent that those provisions differ from § 983.256(g), the provisions of § 983.256(g) govern; and

(iii) Section 982.316 (live-in aide) applies to the PBV Program;

(3) Subpart H of part 982;

(4) In subpart I of part 982: § 982.401(j); paragraphs (a)(3), (c), and (d) of § 982.402; § 982.403; § 982.405(a); and § 982.406;

(5) In subpart J of part 982: § 982.455;

(6) Subpart K of Part 982: subpart K does not apply, except that the following provisions apply to the PBV Program:

(i) Section 982.503 (for determination of the payment standard amount and schedule for a Fair Market Rent (FMR) area or for a designated part of an FMR area). However, provisions authorizing approval of a higher payment standard as a reasonable accommodation for a particular family that includes a person with disabilities do not apply (since the payment standard amount does not affect availability of a PBV unit for occupancy by a family or the amount paid by the family);

(ii) Section 982.516 (family income and composition; regular and interim examinations);

(iii) Section 982.517 (utility allowance schedule);

(7) In subpart M of part 982:

(i) Sections 982.603, 982.607, 982.611, 982.613(c)(2), 982.619(a), (b)(1), (b)(4), (c); and

(ii) Provisions concerning shared housing (§ 982.615 through § 982.618),

manufactured home space rental (§ 982.622 through § 982.624), and the homeownership option (§ 982.625 through § 982.641).

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36165, June 25, 2014]

§ 983.3 PBV definitions.

(a) *Use of PBV definitions*—(1) *PBV terms (defined in this section).* This section defines PBV terms that are used in this part 983. For PBV assistance, the definitions in this section apply to use of the defined terms in part 983 and in applicable provisions of 24 CFR part 982. (Section 983.2 specifies which provisions in part 982 apply to PBV assistance under part 983.)

(2) *Other voucher terms (terms defined in 24 CFR 982.4).* (i) The definitions in this section apply instead of definitions of the same terms in 24 CFR 982.4.

(ii) Other voucher terms are defined in § 982.4, but are not defined in this section. Those § 982.4 definitions apply to use of the defined terms in this part 983 and in provisions of part 982 that apply to part 983.

(b) *PBV definitions, 1937 Act.* The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

Activities of daily living. Eating, bathing, grooming, dressing, and home management activities.

Admission. The point when the family becomes a participant in the PHA's tenant-based or project-based voucher program (initial receipt of tenant-based or project-based assistance). After admission, and so long as the family is continuously assisted with tenant-based or project-based voucher assistance from the PHA, a shift from tenant-based or project-based assistance to the other form of voucher assistance is not a new admission.

Agreement to enter into HAP contract (Agreement). The Agreement is a written contract between the PHA and the owner in the form prescribed by HUD. The Agreement defines requirements for development of housing to be assisted under this section. When development is completed by the owner in accordance with the Agreement, the PHA enters into a HAP contract with the owner. The Agreement is not used for existing housing assisted under this

section. HUD will keep the public informed about changes to the Agreement and other forms and contracts related to this program through appropriate means.

Assisted living facility. A residence facility (including a facility located in a larger multifamily property) that meets all the following criteria:

(1) The facility is licensed and regulated as an assisted living facility by the state, municipality, or other political subdivision;

(2) The facility makes available supportive services to assist residents in carrying out activities of daily living; and

(3) The facility provides separate dwelling units for residents and includes common rooms and other facilities appropriate and actually available to provide supportive services for the residents.

Comparable rental assistance. A subsidy or other means to enable a family to obtain decent housing in the PHA jurisdiction renting at a gross rent that is not more than 40 percent of the family's adjusted monthly gross income.

Contract units. The housing units covered by a HAP contract.

Development. Construction or rehabilitation of PBV housing after the proposal selection date.

Excepted units (units in a multifamily project not counted against the 25 percent per-project cap). See § 983.56(b)(2)(1).

Existing housing. Housing units that already exist on the proposal selection date and that substantially comply with the HQS on that date. (The units must fully comply with the HQS before execution of the HAP contract.)

Household. The family and any PHA-approved live-in aide.

Housing assistance payment. The monthly assistance payment for a PBV unit by a PHA, which includes:

(1) A payment to the owner for rent to owner under the family's lease minus the tenant rent; and

(2) An additional payment to or on behalf of the family, if the utility allowance exceeds the total tenant payment, in the amount of such excess.

Housing credit agency. For purposes of performing subsidy layering reviews

for proposed PBV projects, a housing credit agency includes a State housing finance agency, a State participating jurisdiction under HUD's HOME program (see 24 CFR part 92), or other State housing agencies that meet the definition of "housing credit agency" as defined by section 42 of the Internal Revenue Code of 1986.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the program. See 24 CFR 982.401.

Lease. A written agreement between an owner and a tenant for the leasing of a PBV dwelling unit by the owner to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Multifamily building. A building with five or more dwelling units (assisted or unassisted).

Newly constructed housing. Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the PHA and owner for use under the PBV program.

Partially assisted project. A project in which there are fewer contract units than residential units.

PHA-owned unit. A dwelling unit owned by the PHA that administers the voucher program. PHA-owned means that the PHA or its officers, employees, or agents hold a direct or indirect interest in the building in which the unit is located, including an interest as titleholder or lessee, or as a stockholder, member or general or limited partner, or member of a limited liability corporation, or an entity that holds any such direct or indirect interest.

Premises. The project in which the contract unit is located, including common areas and grounds.

Program. The voucher program under section 8 of the 1937 Act, including tenant-based or project-based assistance.

Project. A project is a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. *Contiguous* in this definition includes "adjacent to", as well as touching along a boundary or a point.

Project-based certificate (PBC) program. The program in which project-based assistance is attached to units pursuant to an Agreement executed by a PHA and owner before January 16, 2001 (see § 983.10).

Proposal selection date. The date the PHA gives written notice of PBV proposal selection to an owner whose proposal is selected in accordance with the criteria established in the PHA's administrative plan.

Qualifying families (for purpose of exception to 25 percent per-project cap). See § 983.56(b)(2)(ii).

Rehabilitated housing. Housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed, pursuant to an Agreement between the PHA and owner, for use under the PBV program.

Release of funds (for purposes of environmental review). Release of funds in the case of the project-based voucher program, under 24 CFR 58.1(b)(6)(iii) and § 983.58, means that HUD approves the local PHA's Request for Release of Funds and Certification by issuing a Letter to Proceed (in lieu of using form HUD-7015.16) that authorizes the PHA to execute an "agreement to enter into housing assistance payment contract" (AHAP) or, for existing housing, to directly enter into a HAP with an owner of units selected under the PBV program.

Rent to owner. The total monthly rent payable by the family and the PHA to the owner under the lease for a contract unit. Rent to owner includes payment for any housing services, maintenance, and utilities to be provided by the owner in accordance with the lease. (Rent to owner must not include charges for non-housing services including payment for food, furniture, or supportive services provided in accordance with the lease.)

Responsible entity (RE) (for environmental review). The unit of general local government within which the project is located that exercises land use responsibility or, if HUD determines this infeasible, the county or, if HUD determines that infeasible, the state.

Single-family building. A building with no more than four dwelling units (assisted or unassisted).

Site. The grounds where the contract units are located, or will be located after development pursuant to the Agreement.

Special housing type. Subpart M of 24 CFR part 982 states the special regulatory requirements for single-room occupancy (SRO) housing, congregate housing, group homes, and manufactured homes. Subpart M provisions on shared housing, manufactured home space rental, and the homeownership option do not apply to PBV assistance under this part.

Tenant-paid utilities. Utility service that is not included in the tenant rent (as defined in 24 CFR 982.4), and which is the responsibility of the assisted family.

Total tenant payment. The amount described in 24 CFR 5.628.

Utility allowance. See 24 CFR 5.603.

Utility reimbursement. See 24 CFR 5.603.

Wrong-size unit. A unit occupied by a family that does not conform to the PHA's subsidy guideline for family size, by being either too large or too small compared to the guideline.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36165, June 25, 2014]

§ 983.4 Cross-reference to other Federal requirements.

The following provisions apply to assistance under the PBV program.

Civil money penalty. Penalty for owner breach of HAP contract. See 24 CFR 30.68.

Debarment. Prohibition on use of debarred, suspended, or ineligible contractors. See 24 CFR 5.105(c) and 2 CFR part 2424.

Definitions. See 24 CFR part 5, subpart D.

Disclosure and verification of income information. See 24 CFR part 5, subpart B.

Environmental review. See 24 CFR parts 50 and 58 (see also provisions on PBV environmental review at § 983.58).

Fair housing. Nondiscrimination and equal opportunity. See 24 CFR 5.105(a) and section 504 of the Rehabilitation Act.

Fair market rents. See 24 CFR part 888, subpart A.

Fraud. See 24 CFR part 792. PHA retention of recovered funds.

§ 983.5

24 CFR Ch. IX (4-1-15 Edition)

Funds. See 24 CFR part 791. HUD allocation of voucher funds.

Income and family payment. See 24 CFR part 5, subpart F (especially § 5.603 (definitions), § 5.609 (annual income), § 5.611 (adjusted income), § 5.628 (total tenant payment), § 5.630 (minimum rent), § 5.603 (utility allowance), § 5.603 (utility reimbursements), and § 5.661 (section 8 project-based assistance programs: approval for police or other security personnel to live in project)).

Labor standards. Regulations implementing the Davis-Bacon Act, Contract Working Hours and Safety Standards Act (40 U.S.C. 3701-3708), 29 CFR part 5, and other federal laws and regulations pertaining to labor standards applicable to development (including rehabilitation) of a project comprising nine or more assisted units.

Lead-based paint. Regulations implementing the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856). See 24 CFR part 35, subparts A, B, H, and R.

Lobbying restriction. Restrictions on use of funds for lobbying. See 24 CFR 5.105(b).

Noncitizens. Restrictions on assistance. See 24 CFR part 5, subpart E.

Program accessibility. Regulations implementing Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). See 24 CFR parts 8 and 9.

Protection for victims of domestic violence, dating violence, and stalking. See 24 CFR part 5, subpart L.

Protection for victims of domestic violence, dating violence, or stalking. See 24 CFR part 5, subpart L.

Relocation assistance. Regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655). See 49 CFR part 24.

Section 3—Training, employment, and contracting opportunities in development. Regulations implementing Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). See 24 CFR part 135.

Uniform financial reporting standards. See 24 CFR part 5, subpart H.

Waiver of HUD rules. See 24 CFR 5.110.

[70 FR 59913, Oct. 13, 2005, as amended at 72 FR 73497, Dec. 27, 2007; 73 FR 72345, Nov. 28, 2008; 75 FR 66264, Oct. 24, 2010; 79 FR 36165, June 25, 2014]

§ 983.5 Description of the PBV program.

(a) *How PBV works.* (1) The PBV program is administered by a PHA that already administers the tenant-based voucher program under an annual contributions contract (ACC) with HUD. In the PBV program, the assistance is “attached to the structure.” (See description of the difference between “project-based” and “tenant-based” rental assistance at 24 CFR 982.1(b).)

(2) The PHA enters into a HAP contract with an owner for units in existing housing or in newly constructed or rehabilitated housing.

(3) In the case of newly constructed or rehabilitated housing, the housing is developed under an Agreement between the owner and the PHA. In the Agreement, the PHA agrees to execute a HAP contract after the owner completes the construction or rehabilitation of the units.

(4) During the term of the HAP contract, the PHA makes housing assistance payments to the owner for units leased and occupied by eligible families.

(b) *How PBV is funded.* (1) If a PHA decides to operate a PBV program, the PHA’s PBV program is funded with a portion of appropriated funding (budget authority) available under the PHA’s voucher ACC. This pool of funding is used to pay housing assistance for both tenant-based and project-based voucher units and to pay PHA administrative fees for administration of tenant-based and project-based voucher assistance.

(2) There is no special or additional funding for project-based vouchers. HUD does not reserve additional units for project-based vouchers and does not provide any additional funding for this purpose.

(c) *PHA discretion to operate PBV program.* A PHA has discretion whether to operate a PBV program. HUD approval is not required, except that the PHA must notify HUD of its intent to

project-base its vouchers, in accordance with § 983.6(d).

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36165, June 25, 2014]

§ 983.6 Maximum amount of PBV assistance.

(a) The PHA may select owner proposals to provide project-based assistance for up to 20 percent of the amount of budget authority allocated to the PHA by HUD in the PHA voucher program. PHAs are not required to reduce the number of PBV units selected under an Agreement or HAP contract if the amount of budget authority is subsequently reduced.

(b) All PBC and project-based voucher units for which the PHA has issued a notice of proposal selection or which are under an Agreement or HAP contract for PBC or project-based voucher assistance count against the 20 percent maximum.

(c) The PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and for ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC.

(d) Before a PHA issues a Request for Proposals in accordance with § 983.51(b)(1) or makes a selection in accordance with § 983.51(b)(2), the PHA must submit the following information to a HUD field office for review:

(1) The total amount of annual budget authority;

(2) The percentage of annual budget authority available to be project-based; and

(3) The total amount of annual budget authority the PHA is planning to project-base pursuant to the selection and the number of units that such budget authority will support.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36165, June 25, 2014]

§ 983.7 Uniform Relocation Act.

(a) *Relocation assistance for displaced person.* (1) A displaced person must be provided relocation assistance at the levels described in and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

(URA) (42 U.S.C. 4201-4655) and implementing regulations at 49 CFR part 24.

(2) The cost of required relocation assistance may be paid with funds provided by the owner, or with local public funds, or with funds available from other sources. Relocation costs may not be paid from voucher program funds; however, provided payment of relocation benefits is consistent with state and local law, PHAs may use their administrative fee reserve to pay for relocation assistance after all other program administrative expenses are satisfied. Use of the administrative fee reserve in this manner must be consistent with legal and regulatory requirements, including the requirements of 24 CFR 982.155 and other official HUD issuances.

(b) *Real property acquisition requirements.* The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B.

(c) *Responsibility of PHA.* The PHA must require the owner to comply with the URA and 49 CFR part 24.

(d) *Definition of initiation of negotiations.* In computing a replacement housing payment to a residential tenant displaced as a direct result of privately undertaken rehabilitation or demolition of the real property, the term "initiation of negotiations" means the execution of the Agreement between the owner and the PHA.

§ 983.8 Equal opportunity requirements.

(a) The PBV program requires compliance with all equal opportunity requirements under federal law and regulation, including the authorities cited at 24 CFR 5.105(a).

(b) The PHA must comply with the PHA Plan civil rights and affirmatively furthering fair housing certification submitted by the PHA in accordance with 24 CFR 903.7(o).

§ 983.9 Special housing types.

(a) *Applicability.* (1) For applicability of rules on special housing types at 24 CFR part 982, subpart M, see § 983.2.

(2) In the PBV program, the PHA may not provide assistance for shared housing, manufactured home space rental, or the homeownership option.

(b) *Group homes.* A group home may include one or more group home units. A separate lease is executed for each elderly person or person with disabilities who resides in a group home.

(c) *Cooperative housing.* (1) *Applicability of part 983.* Except as provided in paragraph (c)(3) of this section, assistance under this housing type is subject to the regulations of part 983, except the following sections of part 983, subpart F: §§ 983.256(b) and (c), 983.258 and 983.259 do not apply.

(2) *Applicability of part 982.* (i) Cooperative housing under the PBV program is also subject to the requirements of 24 CFR 982.619(b)(2), (b)(3), (b)(5), (d), and (e).

(ii) Cooperative housing under the PBV program is not subject to the requirements of 24 CFR 982.619(a), (b)(1), (b)(4), and (c).

(3) *Assistance in cooperative housing.* Rental assistance for PBV cooperative housing where families lease cooperative housing units from cooperative members is not a special housing type and all requirements of 24 CFR 983 apply.

(4) *Rent to owner.* The regulations of 24 CFR part 983, subpart G, apply to PBV housing under paragraph (c) of this section. The reasonable rent for a cooperative unit is determined in accordance with § 983.303. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

(5) *Other fees and charges.* Fees such as application fees, credit report fees, and transfer fees shall not be included in the rent to owner.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36165, June 25, 2014]

§ 983.10 Project-based certificate (PBC) program.

(a) *What is it?* "PBC program" means project-based assistance attached to units pursuant to an Agreement executed by a PHA and owner before January 16, 2001, and in accordance with:

(1) The regulations for the PBC program at 24 CFR part 983, codified as of May 1, 2001 and contained in 24 CFR part 983 revised as of April 1, 2002; and

(2) Section 8(d)(2) of the 1937 Act, as in effect before October 21, 1998 (the

date of enactment of Title V of Public Law 105-276, the Quality Housing and Work Responsibility Act of 1998, codified at 42 U.S.C. 1437 *et seq.*).

(b) *What rules apply?* Units under the PBC program are subject to the provisions of 24 CFR part 983, codified as of May 1, 2001, with the following exceptions:

(1) *PBC renewals.* (i) *General.* Consistent with the PBC HAP contract, at the sole option of the PHA, HAP contracts may be renewed for terms for an aggregate total (including the initial and any renewal terms) of 15 years, subject to the availability of appropriated funds.

(ii) *Renewal of PBC as PBV.* At the sole discretion of the PHA, upon the request of an owner, PHAs may renew a PBC HAP contract as a PBV HAP contract. All PBV regulations (including 24 CFR part 983, subpart G—Rent to Owner) apply to a PBC HAP contract renewed as a PBV HAP contract with the exception of §§ 983.51, 983.56, and 983.57(b)(1). In addition, the following conditions apply:

(A) The term of the HAP contract for PBC contracts renewed as PBV contracts shall be consistent with § 983.205.

(B) A PHA must make the determination, within one year before expiration of a PBC HAP contract, that renewal of the contract under the PBV program is appropriate to continue providing affordable housing for low-income families.

(C) The renewal of PBC assistance as PBV assistance is effectuated by the execution of a PBV HAP contract addendum as prescribed by HUD and a PBV HAP contract for existing housing.

(2) *Housing quality standards.* The regulations in 24 CFR 982.401 (housing quality standards) (HQS) apply to units assisted under the PBC program.

(i) *Special housing types.* HQS requirements for eligible special housing types, under this program, apply (See 24 CFR 982.605, 982.609 and 982.614).

(ii) *Lead-based paint requirements.* (A) The lead-based paint requirements at 24 CFR 982.401(j) do not apply to the PBC program.

(B) The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846),

the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

(iii) *HQS enforcement.* The regulations in 24 CFR parts 982 and 983 do not create any right of the family or any party, other than HUD or the PHA, to require enforcement of the HQS requirements or to assert any claim against HUD or the PHA for damages, injunction, or other relief for alleged failure to enforce the HQS.

(c) *Statutory notice requirements.* In addition to provisions of 24 CFR part 983 codified as of May 1, 2001, § 983.206 applies to the PBC program.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36166, June 25, 2014]

Subpart B—Selection of PBV Owner Proposals

§ 983.51 Owner proposal selection procedures.

(a) *Procedures for selecting PBV proposals.* The PHA administrative plan must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing (§§ 983.53 and 983.54), complies with the cap on the number of PBV units per project (§ 983.56), and meets the site selection standards (§ 983.57).

(b) *Selection of PBV proposals.* The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

(1) *PHA request for PBV Proposals.* The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

(2) *Selection based on previous competition.* The PHA may select, without competition, a proposal for housing assisted under a federal, State, or local government housing assistance, community development, or supportive

services program that required competitive selection of proposals (e.g., HOME, and units for which competitively awarded low-income housing tax credits (LIHTCs) have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within 3 years of the PBV proposal selection date, and the earlier competitively selected housing assistance proposal did not involve any consideration that the project would receive PBV assistance.

(c) *Public notice of PHA request for PBV proposals.* If the PHA will be selecting proposals under paragraph (b)(1) of this section, PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

(d) *PHA notice of owner selection.* The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

(e) *PHA-owned units.* A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. Under no circumstances may PBV assistance be used with a public housing unit.

(f) *Public review of PHA selection decision documentation.* The PHA must make documentation available for public inspection regarding the basis for the PHA selection of a PBV proposal.

§ 983.52

24 CFR Ch. IX (4-1-15 Edition)

(g) Owner proposal selection does not require submission of form HUD-2530 or other HUD previous participation clearance.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36166, June 25, 2014]

§ 983.52 Housing type.

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an Agreement.

(a) *Existing housing*—A housing unit is considered an existing unit for purposes of the PBV program, if at the time of notice of PHA selection the units substantially comply with HQS.

(1) Units for which rehabilitation or new construction began after owner's proposal submission but prior to execution of the AHAP do not subsequently qualify as existing housing.

(2) Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

(b) Subpart D of this part applies to newly constructed and rehabilitated housing.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36166, June 25, 2014]

§ 983.53 Prohibition of assistance for ineligible units.

(a) *Ineligible unit.* The PHA 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.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36166, June 25, 2014]

§ 983.54 Prohibition of assistance for units in subsidized housing.

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

(a) A public housing dwelling unit;

(b) A unit subsidized with any other form of Section 8 assistance (tenant-based or project-based);

(c) A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);

(d) A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;

(e) A unit subsidized with Section 236 rental assistance payments (12 U.S.C. 1715z-1). However, the PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments;

(f) A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, the PHA may attach assistance for a unit subsidized with Section

515 interest reduction payments (42 U.S.C. 1485);

(g) A Section 202 project for non-elderly persons with disabilities (assistance under Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701q note);

(h) Section 811 project-based supportive housing for persons with disabilities (42 U.S.C. 8013);

(i) Section 202 supportive housing for the elderly (12 U.S.C. 1701q);

(j) A Section 101 rent supplement project (12 U.S.C. 1701s);

(k) A unit subsidized with any form of tenant-based rental assistance (as defined at 24 CFR 982.1(b)(2)) (e.g., a unit subsidized with tenant-based rental assistance under the HOME program, 42 U.S.C. 12701 *et seq.*);

(l) A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or by the PHA in accordance with HUD requirements. For this purpose, "housing subsidy" does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

§ 983.55 Prohibition of excess public assistance.

(a) *Subsidy layering requirements.* The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations (24 CFR 4.13) and other requirements. The subsidy layering review is intended to prevent excessive public assistance for the housing by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits. The subsidy layering requirements are not applicable to existing housing. A further subsidy layering review is not required for housing selected as new construction or rehabilitation of housing, if HUD's designee has conducted a review, which included a review of PBV assistance, in accordance with HUD's PBV subsidy layering review guidelines.

(b) *When subsidy layering review is conducted.* The PHA may not enter into an Agreement or HAP contract until

HUD or a housing credit agency approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

(c) *Owner certification.* The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36166, June 25, 2014]

§ 983.56 Cap on number of PBV units in each project.

(a) *25 percent per project cap.* Except as provided in paragraph (b) of this section, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an Agreement or HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

(b) *Exception to 25 percent per building cap—(1) When PBV units are not counted against cap.* In the following cases, PBV units are not counted against the 25 percent per project cap:

- (i) Units in a single-family building;
- (ii) Excepted units in a multifamily project.

(2) Terms (i) "Excepted units" means units in a multifamily project that are specifically made available for qualifying families.

(ii) "Qualifying families" means:

(A) Elderly and/or disabled families; and/or

(B) Families receiving supportive services. PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least

one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. If a family in an excepted unit fails without good cause to complete its FSS contract of participation or if the family fails to complete the supportive services requirement as outlined in the PHA administrative plan, the PHA will take the actions provided under § 983.262(d), and the owner may terminate the lease in accordance with § 983.257(c). Also, at the time of initial lease execution between the family and the owner, the family and the PHA must sign a statement of family responsibility. The statement of family responsibility must contain all family obligations including the family's participation in a service program under this section. Failure by the family without good cause to fulfill its service obligation will require the PHA to terminate assistance. If the unit at the time of such termination is an excepted unit, the exception continues to apply to the unit as long as the unit is made available to another qualifying family.

(C) The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

(3) *Combining exception categories.* Exception categories in a multifamily housing project may be combined.

(4) *Set-aside for qualifying families.* (i) In leasing units in a multifamily project pursuant to the PBV HAP, the

owner must set aside the number of excepted units made available for occupancy by qualifying families.

(ii) The PHA may refer only qualifying families for occupancy of excepted units.

(c) *Additional, local requirements promoting partially assisted projects.* A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. For example, a PHA may:

(1) Establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building.

(2) Determine not to provide PBV assistance for excepted units, or

(3) Establish a per-project cap of less than 25 percent.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

§ 983.57 Site selection standards.

(a) *Applicability.* The site selection requirements in paragraph (d) of this section apply only to site selection for existing housing and rehabilitated PBV housing. The site selection requirements in paragraph (e) of this section apply only to site selection for newly constructed PBV housing. Other provisions of this section apply to selection of a site for any form of PBV housing, including existing housing, newly constructed housing, and rehabilitated housing.

(b) *Compliance with PBV goals, civil rights requirements, and HQS.* The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an Agreement or HAP contract for units on the site, unless the PHA has determined that:

(1) Project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR part 903 and the PHA Administrative Plan. In developing the standards to apply in determining whether a proposed PBV development

will be selected, a PHA must consider the following:

(i) Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

(ii) Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;

(iii) Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;

(iv) Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;

(v) Whether new market rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;

(vi) If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, the PHA should consider whether in the past five years there has been an overall decline in the poverty rate;

(vii) Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located.

(2) The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d(4)) and HUD's implementing regulations at 24 CFR part 1; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-3629); and HUD's implementing regulations at 24 CFR parts 100 through 199; Executive Order 11063 (27 FR 11527; 3 CFR, 1959-1963 Comp., p. 652) and HUD's implementing regulations at 24 CFR part 107. The site must meet the section 504 site selection requirements described in 24 CFR 8.4(b)(5).

(3) The site meets the HQS site standards at 24 CFR 982.401(1).

(c) *PHA PBV site selection policy.* (1) The PHA administrative plan must establish the PHA's policy for selection

of PBV sites in accordance with this section.

(2) The site selection policy must explain how the PHA's site selection procedures promote the PBV goals.

(3) The PHA must select PBV sites in accordance with the PHA's site selection policy in the PHA administrative plan.

(d) *Existing and rehabilitated housing site and neighborhood standards.* A site for existing or rehabilitated 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. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with law, may be considered adequate utilities.)

(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.

(e) *New construction site and neighborhood standards.* A site for newly constructed housing must meet the following site and neighborhood standards:

(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, except as permitted under paragraph (e)(3) of this section, 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 (see paragraph (e)(3)(iii), (iv), and (v) of this section for further guidance on this criterion); or

(ii) The project is necessary to meet overriding housing needs that cannot be met in that housing market area (see paragraph (e) (3)(vi) of this section for further guidance on this criterion).

(iii) As used in paragraph (e)(3)(i) of this section, "sufficient" 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, that, 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," as used in paragraph (e)(3)(i) of this section, 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-in-

come 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 has 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.

§ 983.58 Environmental review.

(a) *HUD environmental regulations.* Activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58.

(b) *Who performs the environmental review?* (1) Under 24 CFR part 58, a unit of general local government, a county or a state (the "responsible entity" or "RE") is responsible for the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and related applicable federal laws and authorities in accordance with 24 CFR 58.5 and 58.6.

(2) If a PHA objects in writing to having the RE perform the federal environmental review, or if the RE declines to perform it, then HUD may perform the review itself (24 CFR 58.11). 24 CFR part 50 governs HUD performance of the review.

(c) *Existing housing.* In the case of existing housing under this part 983, the RE that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded

from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

(d) *Limitations on actions before completion of the environmental review.* (1) The PHA may not enter into an Agreement or HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until one of the following occurs:

(i) The responsible entity has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and HUD has given a release of funds, as defined in § 983.3(b);

(ii) The responsible entity has determined that the project to be assisted is exempt under 24 CFR 58.34 or is categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or

(iii) HUD has performed an environmental review under 24 CFR part 50 and has notified the PHA in writing of environmental approval of the site.

(2) HUD will not approve the release of funds for PBV assistance under this part if the PHA, the owner, or any other party commits funds (*i.e.*, enters an Agreement or HAP contract or otherwise incurs any costs or expenditures to be paid or reimbursed with such funds) before the PHA submits and HUD approves its request for release of funds (where such submission is required).

(e) *PHA duty to supply information.* The PHA must supply all available, relevant information necessary for the RE (or HUD, if applicable) to perform any required environmental review for any site.

(f) *Mitigating measures.* The PHA must require the owner to carry out mitigating measures required by the RE (or HUD, if applicable) as a result of the environmental review.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

§ 983.59 PHA-owned units.

(a) *Selection of PHA-owned units.* The selection of PHA-owned units must be done in accordance with § 983.51(e).

(b) *Inspection and determination of reasonable rent by independent entity.* In the case of PHA-owned units, the following program services may not be performed by the PHA, but must be performed instead by an independent entity approved by HUD.

(1) *Determination of rent to owner for the PHA-owned units.* Rent to owner for PHA-owned units is determined pursuant to §§ 983.301 through 983.305 in accordance with the same requirements as for other units, except that the independent entity approved by HUD must establish the initial contract rents based on PBV program requirements;

(2) *Initial and renewal HAP contract term.* The term of the HAP contract and any HAP contract renewal for PHA-owned units must be agreed upon by the PHA and the independent entity approved by HUD. Any costs associated with implementing this requirement must be paid for by the PHA; and

(3) *Inspection of PHA-owned units as required by § 983.103(f).*

(c) *Nature of independent entity.* The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

(d) *Payment to independent entity.* (1) The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services.

(2) The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

Subpart C—Dwelling Units

§ 983.101 Housing quality standards.

(a) *HQS applicability.* Except as otherwise provided in this section, 24 CFR 982.401 (housing quality standards) applies to the PBV program. The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

(b) *HQS for special housing types.* For special housing types assisted under the PBV program, HQS in 24 CFR part 982 apply to the PBV program. (Shared housing, manufactured home space rental, and the homeownership option are not assisted under the PBV program.) HQS contained within 24 CFR part 982 that are inapplicable to the PBV program pursuant to § 983.2 are also inapplicable to special housing types under the PBV program.

(c) *Lead-based paint requirements.* (1) The lead-based paint requirements at § 982.401(j) of this chapter do not apply to the PBV program.

(2) The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

(d) *HQS enforcement.* Parts 982 and 983 of this chapter do not create any right of the family or any party, other than HUD or the PHA, to require enforcement of the HQS requirements or to assert any claim against HUD or the PHA for damages, injunction, or other relief for alleged failure to enforce the HQS.

(e) *Additional PHA quality and design requirements.* This section establishes the minimum federal housing quality standards for PBV housing. However, the PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing, and any such additional requirements must be specified in the Agreement.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

§ 983.102 Housing accessibility for persons with disabilities.

(a) *Program accessibility.* The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29

U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA shall ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR part 8, subpart C.

(b) *Design and construction.* Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable.

§ 983.103 Inspecting units.

(a) *Pre-selection inspection*—(1) *Inspection of site.* The PHA must examine the proposed site before the proposal selection date.

(2) *Inspection of existing units.* If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with the HQS. To qualify as existing housing, units must substantially comply with the HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with the HQS.

(b) *Pre-HAP contract inspections.* The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with the HQS.

(c) *Turnover inspections.* Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with the HQS.

(d) *Annual inspections.* (1) At least annually during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections pursuant to paragraph (c) of this section are not counted toward meeting this annual inspection requirement.

(2) If more than 20 percent of the annual sample of inspected contract units

in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

(e) *Other inspections.* (1) The PHA must inspect contract units whenever needed to determine that the contract units comply with the HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

(2) The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of the HQS. (Family HQS obligations are specified in 24 CFR 982.404(b).)

(3) In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

(f) *Inspecting PHA-owned units.* (1) In the case of PHA-owned units, the inspections required under this section must be performed by an independent agency designated in accordance with § 983.59, rather than by the PHA.

(2) The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located.

(3) The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA owner.

Subpart D—Requirements for Rehabilitated and Newly Constructed Units

§ 983.151 Applicability.

This Subpart D applies to PBV assistance for newly constructed or rehabilitated housing. This Subpart D does not apply to PBV assistance for existing housing. Housing selected under this subpart cannot be selected as existing housing, as defined in § 983.52, at a later date.

§ 983.152 Purpose and content of the Agreement to enter into HAP contract.

(a) *Purpose of Agreement.* In the Agreement the owner agrees to develop the contract units to comply with the HQS, and the PHA agrees that, upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units.

(b) *Requirement.* The PHA must enter into an Agreement with the owner at such time as provided in § 983.153. The Agreement must be in the form required by HUD headquarters (see 24 CFR 982.162).

(c) *Commencement of construction or rehabilitation.* The PHA may not enter into an agreement if commencement of construction or rehabilitation has commenced after proposal submission.

(1) Construction begins when excavation or site preparation (including clearing of the land) begins for the housing;

(2) Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

(d) *Description of housing.* (1) At a minimum, the Agreement must describe the following features of the housing to be developed (newly constructed or rehabilitated) and assisted under the PBV program:

(i) Site;

(ii) Location of contract units on site;

(iii) Number of contract units by area (size) and number of bedrooms and bathrooms;

(iv) Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to owner;

(v) Utilities available to the contract units, including a specification of utility services to be paid by owner (without charges in addition to rent) and utility services to be paid by the tenant;

(vi) Indication of whether or not the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205 and the accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing

regulations at 24 CFR 8.22 and 8.23 apply to units under the Agreement. If these requirements are applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement, as specified in paragraph (c)(i)(viii) of this section.

(vii) Estimated initial rents to owner for the contract units;

(viii) Description of the work to be performed under the Agreement. If the Agreement is for rehabilitation of units, the work description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications, and plans. If the Agreement is for new construction, the work description must include the working drawings and specifications.

(2) At a minimum, the housing must comply with the HQS. The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing, over and above the HQS, and any such additional requirement must be specified in the Agreement.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

§ 983.153 When Agreement is executed.

The agreement must be promptly executed, in accordance with the following conditions:

(a) *Prohibition of excess subsidy.* The PHA may not enter the Agreement with the owner until the subsidy layering review is completed (see § 983.55).

(b) *Environmental approval.* The PHA may not enter the Agreement with the owner until the environmental review is completed and the PHA has received the environmental approval (see § 983.58).

(c) *Prohibition on construction or rehabilitation.* The PHA shall not enter into the Agreement with the owner if construction or rehabilitation has commenced after proposal submission.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

§ 983.154 Conduct of development work.

(a) *Development requirements.* The owner must carry out development

work in accordance with the Agreement and the requirements of this section.

(b) *Labor standards.* (1) In the case of an Agreement for development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in development of the housing.

(2) The HUD prescribed form of Agreement shall include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

(3) The owner and the owner's contractors and subcontractors must comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

(c) *Equal opportunity.* (1) *Section 3—Training, employment, and contracting opportunities.* The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135.

(2) *Equal employment opportunity.* The owner must comply with federal equal employment opportunity requirements of Executive Orders 11246 as amended (3 CFR, 1964–1965 Comp., p. 339), 11625 (3 CFR, 1971–1975 Comp., p. 616), 12432 (3 CFR, 1983 Comp., p. 198) and 12138 (3 CFR, 1977 Comp., p. 393).

(d) *Eligibility to participate in federal programs and activities.* The Agreement and HAP contract shall include a certification by the owner that the owner and other project principals (including the officers and principal members, shareholders, investors, and other parties having a substantial interest in the project) are not on the U.S. General Services Administration list of parties excluded from federal procurement and nonprocurement programs.

(e) *Disclosure of conflict of interest.* The owner must disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

§983.155 Completion of housing.

(a) *Completion deadline.* The owner must develop and complete the housing in accordance with the Agreement. The Agreement must specify the deadlines for completion of the housing and for submission by the owner of the required evidence of completion.

(b) *Required evidence of completion—(1) Minimum submission.* At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

(i) Owner certification that the work has been completed in accordance with the HQS and all requirements of the Agreement; and

(ii) Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

(2) *Additional documentation.* At the discretion of the PHA, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion. For example, such documentation may include:

(i) A certificate of occupancy or other evidence that the units comply with local requirements (such as code and zoning requirements); and

(ii) An architect's certification that the housing complies with:

(A) HUD housing quality standards;

(B) State, local, or other building codes;

(C) Zoning;

(D) The rehabilitation work write-up (for rehabilitated housing) or the work description (for newly constructed housing); or

(E) Any additional design or quality requirements pursuant to the Agreement.

§983.156 PHA acceptance of completed units.

(a) *PHA determination of completion.* When the PHA has received owner notice that the housing is completed:

(1) The PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with the HQS and any additional requirement imposed by the PHA under the Agreement.

(2) The PHA must determine if the owner has submitted all required evidence of completion.

(3) If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

(b) *Execution of HAP contract.* If the PHA determines that the housing has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

Subpart E—Housing Assistance Payments Contract

§ 983.201 Applicability.

Subpart E applies to all PBV assistance under part 983 (including assistance for existing, newly constructed, or rehabilitated housing).

§ 983.202 Purpose of HAP contract.

(a) *Requirement.* The PHA must enter into a HAP contract with the owner. With the exception of single family scattered site projects, a HAP contract shall cover a single project. If multiple projects exist, each project shall be covered by a separate HAP contract. The HAP contract must be in such form as may be prescribed by HUD.

(b) *Purpose of HAP contract.* (1) The purpose of the HAP contract is to provide housing assistance payments for eligible families.

(2) The PHA makes housing assistance payments to the owner in accordance with the HAP contract. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

§ 983.203 HAP contract information.

The HAP contract must specify:

(a) The total number of contract units by number of bedrooms;

(b) Information needed to identify the site and the building or buildings where the contract units are located. The information must include the project's name, street address, city or

county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;

(c) Information needed to identify the specific contract units in each building. The information must include the number of contract units in the building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;

(d) Services, maintenance, and equipment to be supplied by the owner without charges in addition to the rent to owner;

(e) Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;

(f) Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(g) The HAP contract term;

(h) The number of units in any project that will exceed the 25 percent per-project cap (as described in § 983.56), which will be set-aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and

(i) The initial rent to owner (for the first 12 months of the HAP contract term).

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36167, June 25, 2014]

§ 983.204 When HAP contract is executed.

(a) *PHA inspection of housing.* (1) Before execution of the HAP contract, the PHA must inspect each contract unit in accordance with § 983.103(b).

(2) The PHA may not enter into a HAP contract for any contract unit until the PHA has determined that the unit complies with the HQS.

(b) *Existing housing.* In the case of existing housing, the HAP contract must be executed promptly after PHA selection of the owner proposal and PHA inspection of the housing.

(c) *Newly constructed or rehabilitated housing.* (1) In the case of newly constructed or rehabilitated housing the

HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the Agreement and the owner has furnished all required evidence of completion (see §§ 983.155 and 983.156).

(2) In the HAP contract, the owner certifies that the units have been completed in accordance with the Agreement. Completion of the units by the owner and acceptance of units by the PHA is subject to the provisions of the Agreement.

§ 983.205 Term of HAP contract.

(a) *15-year initial term.* The PHA may enter into a HAP contract with an owner for an initial term of up to 15 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 15 years. In the case of PHA-owned units, the term of the initial HAP contract shall be determined in accordance with § 983.59.

(b) *Extension of term.* A PHA may agree to enter into an extension at the time of the initial HAP contract term or any time before expiration of the contract, for an additional term of up to 15 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 15 years. A PHA may provide for multiple extensions; however, in no circumstance may such extensions exceed 15 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term provided that not more than 24 months prior to the expiration of the previous extension contract, the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations described in this paragraph. Any extension of the term must be on the form and subject to the conditions prescribed by HUD at the

time of the extension. In the case of PHA-owned units, any extension of the initial term of the HAP contract shall be determined in accordance with § 983.59.

(c) *Termination by PHA—insufficient funding.* (1) The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding (budget authority) as determined by HUD or by the PHA in accordance with HUD instructions. For purposes of this section, "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.

(2) The availability of sufficient funding must be determined by HUD or by the PHA in accordance with HUD instructions. 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 PHA has the right to terminate the HAP contract by notice to the owner for all or any of the contract units. Such action by the PHA shall be implemented in accordance with HUD instructions.

(d) *Termination by owner—reduction below initial rent.* The owner may terminate the HAP contract, upon notice to the PHA, if the amount of the rent to owner for any contract unit, as adjusted in accordance with § 983.302, is reduced below the amount of the initial rent to owner (rent to owner at the beginning of the HAP contract term). In this case, the assisted families residing in the contract units will be offered tenant-based voucher assistance.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36168, June 25, 2014]

§ 983.206 Statutory notice requirements: Contract termination or expiration.

(a) Notices required in accordance with this section must be provided in the form prescribed by HUD.

(b) Not less than one year before termination of a PBV or PBC HAP contract, the owner must notify the PHA

and assisted tenants of the termination.

(c) For purposes of this section, the term "termination" means the expiration of the HAP contract or an owner's refusal to renew the HAP contract.

(d)(1) If an owner does not give timely notice of termination, 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 an owner's inability to collect an increased tenant portion of rent.

(2) 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.

[79 FR 36168, June 25, 2014]

§ 983.207 HAP contract amendments (to add or substitute contract units).

(a) *Amendment to substitute contract units.* At the discretion of the PHA and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Prior to such substitution, the PHA must inspect the proposed substitute unit and must determine the reasonable rent for such unit.

(b) *Amendment to add contract units.* At the discretion of the PHA, and provided that the total number of units in a project that will receive PBV assistance will not exceed 25 percent of the total number of dwelling units in the project (assisted and unassisted), (unless units were initially identified in the HAP contract as excepted from the 25 percent limitation in accordance with § 983.56(b)), or the 20 percent of authorized budget authority as provided in § 983.6, a HAP contract may be amended during the three-year period immediately following the execution date of the HAP contract to add additional PBV contract units in the same project. An amendment to the HAP contract is subject to all PBV requirements (e.g., rents are reasonable), except that a new PBV request for proposals is not required. The anniversary and expiration dates of the HAP con-

tract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally placed under HAP contract.

(c) *Staged completion of contract units.* Even if contract units are placed under the HAP contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP contract. The expiration of the HAP contract for all the contract units completed in stages must be concurrent with the end of the HAP contract term for the units originally placed under HAP contract.

[70 FR 59913, Oct. 13, 2005. Redesignated and amended at 79 FR 36168, June 25, 2014]

§ 983.208 Condition of contract units.

(a) *Owner maintenance and operation.*

(1) The owner must maintain and operate the contract units and premises in accordance with the HQS, including performance of ordinary and extraordinary maintenance.

(2) The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family.

(3) At the discretion of the PHA, the HAP contract may also require continuing owner compliance during the HAP term with additional housing quality requirements specified by the PHA (in addition to, but not in place of, compliance with the HUD-prescribed HQS). Such additional requirements may be designed to assure continued compliance with any design, architecture, or quality requirement specified in the Agreement.

(b) *Remedies for HQS violation.* (1) The PHA must vigorously enforce the owner's obligation to maintain contract units in accordance with the HQS. The PHA may not make any HAP payment to the owner for a contract unit covering any period during which the contract unit does not comply with the HQS.

(2) If the PHA determines that a contract unit is not in accordance with the housing quality standards (or other

HAP contract requirement), the PHA may exercise any of its remedies under the HAP contract for all or any contract units. Such remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

(c) *Maintenance and replacement—Owner's standard practice.* Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

[70 FR 59913, Oct. 13, 2005. Redesignated at 79 FR 36168, June 25, 2014]

§ 983.209 Owner responsibilities.

The owner is responsible for performing all of the owner responsibilities under the Agreement and the HAP contract. 24 CFR 982.452 (Owner responsibilities) applies.

[70 FR 59913, Oct. 13, 2005. Redesignated at 79 FR 36168, June 25, 2014]

§ 983.210 Owner certification.

By execution of the HAP contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

(a) All contract units are in good and tenable condition. The owner is maintaining the premises and all contract units in accordance with the HQS.

(b) The owner is providing all the services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases with assisted families.

(c) Each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements.

(d) To the best of the owner's knowledge, the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.

(e) The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any

member of a family residing in a contract unit.

(f) The amount of the housing assistance payment is the correct amount due under the HAP contract.

(g) The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.

(h) Except for the housing assistance payment and the tenant rent as provided under the HAP contract, the owner has not received and will not receive any payment or other consideration (from the family, the PHA, HUD, or any other public or private source) for rental of the contract unit.

(i) The family does not own or have any interest in the contract unit. The certification required by this section does not apply in the case of an assisted family's membership in a cooperative.

(j) Repair work on a project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

[70 FR 59913, Oct. 13, 2005. Redesignated and amended at 79 FR 36168, June 25, 2014]

§ 983.211 Removal of unit from HAP contract.

(a) Units occupied by families whose income has increased during their tenancy resulting in the tenant rent equaling the rent to the owner, shall be removed from the HAP Contract 180 days following the last housing assistance payment on behalf of the family.

(b) If the project is fully assisted, a PHA may reinstate the unit removed under paragraph (a) of this section to the HAP contract after the ineligible family vacates the property. If the project is partially assisted, a PHA may substitute a different unit for the unit removed under paragraph (a) of this section to the HAP contract when the first eligible substitute becomes available.

(c) A reinstatement or substitution of units under the HAP contract, in accordance with paragraph (b) of this section, must be permissible under

§ 983.207. The anniversary and expiration dates of the HAP contract for the unit must be the same as it was when it was originally placed under the HAP contract. The PHA must refer eligible families to the owner in accordance with the PHA's selection policies.

[79 FR 36168, June 25, 2014]

Subpart F—Occupancy

§ 983.251 How participants are selected.

(a) *Who may receive PBV assistance?*

(1) The PHA may select families who are participants in the PHA's tenant-based voucher program and families who have applied for admission to the voucher program.

(2) Except for voucher participants (determined eligible at original admission to the voucher program), the PHA may only select families determined eligible for admission at commencement of PBV assistance.

(3) The protections for victims of domestic violence, dating violence, or stalking in 24 CFR part 5, subpart L, apply to admission to the project-based program.

(4) A PHA may not approve a tenancy if the owner (including a principal or other interested party) of a unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

(b) *Protection of in-place families.* (1) The term "in-place family" means an eligible family residing in a proposed contract unit on the proposal selection date.

(2) In order to minimize displacement of in-place families, if a unit to be placed under contract that is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the PHA's waiting list (if the family is not already on the list) and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project. (However, the PHA may deny

assistance for the grounds specified in 24 CFR 982.552 and 982.553.) Admission of such families is not subject to income-targeting under 24 CFR 982.201(b)(2)(i), and such families must be referred to the owner from the PHA's waiting list. A PHA shall give such families priority for admission to the PBV program. This protection does not apply to families that are not eligible to participate in the program on the proposal selection date.

(c) *Selection from PHA waiting list.* (1) Applicants who will occupy PBV units must be selected by the PHA from the PHA waiting list. The PHA must select applicants from the waiting list in accordance with the policies in the PHA administrative plan.

(2) The PHA may use a separate waiting list for admission to PBV units or may use the same waiting list for both tenant-based assistance and PBV assistance. If the PHA chooses to use a separate waiting list for admission to PBV units, the PHA must offer to place applicants who are listed on the waiting list for tenant-based assistance on the waiting list for PBV assistance.

(3) The PHA may use separate waiting lists for PBV units in individual projects or buildings (or for sets of such units) or may use a single waiting list for the PHA's whole PBV program. In either case, the waiting list may establish criteria or preferences for occupancy of particular units.

(4) The PHA may merge the waiting list for PBV assistance with the PHA waiting list for admission to another assisted housing program.

(5) The PHA may place families referred by the PBV owner on its PBV waiting list.

(6) Not less than 75 percent of the families admitted to a PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the PHA waiting list shall be extremely low-income families. The income-targeting requirements at 24 CFR 982.201(b)(2) apply to the total of admissions to the PHA's project-based voucher program and tenant-based voucher program during the PHA fiscal year from the PHA waiting list for such programs.

(7) In selecting families to occupy PBV units with special accessibility

features for persons with disabilities, the PHA must first refer families who require such accessibility features to the owner (see 24 CFR 8.26 and 100.202).

(d) *Preference for services offered.* In selecting families, PHAs may give preference to disabled families who need services offered at a particular project in accordance with the limits under this paragraph. The prohibition on granting preferences to persons with a specific disability at 24 CFR 982.207(b)(3) continues to apply.

(1) *Preference limits.* (i) The preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;

(ii) Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and

(iii) For whom such services cannot be provided in a nonsegregated setting.

(2) Disabled residents shall not be required to accept the particular services offered at the project.

(3) In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project.

(e) *Offer of PBV assistance.* (1) If a family refuses the PHA's offer of PBV assistance, such refusal does not affect the family's position on the PHA waiting list for tenant-based assistance.

(2) If a PBV owner rejects a family for admission to the owner's PBV units, such rejection by the owner does not affect the family's position on the PHA waiting list for tenant-based assistance.

(3) The PHA may not take any of the following actions against an applicant who has applied for, received, or refused an offer of PBV assistance:

(i) Refuse to list the applicant on the PHA waiting list for tenant-based assistance;

(ii) Deny any admission preference for which the applicant is currently qualified;

(iii) Change the applicant's place on the waiting list based on preference, date, and time of application, or other

factors affecting selection under the PHA selection policy;

(iv) Remove the applicant from the waiting list for tenant-based voucher assistance.

[70 FR 59913, Oct. 13, 2005, as amended at 73 FR 72345, Nov. 28, 2008; 75 FR 66264, Oct. 27, 2010; 79 FR 36168, June 25, 2014]

§ 983.252 PHA information for accepted family.

(a) *Oral briefing.* When a family accepts an offer of PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on the following subjects:

(1) A description of how the program works; and

(2) Family and owner responsibilities.

(b) *Information packet.* The PHA must give the family a packet that includes information on the following subjects:

(1) How the PHA determines the total tenant payment for a family;

(2) Family obligations under the program; and

(3) Applicable fair housing information.

(c) *Providing information for persons with disabilities.* (1) If the family head or spouse is a disabled person, the PHA must take appropriate steps to assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet, including in alternative formats.

(2) The PHA shall have some mechanism for referring to accessible PBV units a family that includes a person with mobility impairment.

(d) *Providing information for persons with limited English proficiency.* The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with obligations contained in Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

§ 983.253 Leasing of contract units.

(a) *Owner selection of tenants.* (1) During the term of the HAP contract, the owner must lease contract units only to eligible families selected and referred by the PHA from the PHA waiting list.

§ 983.254

24 CFR Ch. IX (4-1-15 Edition)

(2) The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

(3) An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

(b) *Size of unit.* The contract unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards.

§ 983.254 Vacancies.

(a) *Filling vacant units.* (1) The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving the owner notice, the PHA must make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies.

(2) The owner must lease vacant contract units only to eligible families on the PHA waiting list referred by the PHA.

(3) The PHA and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy.

(b) *Reducing number of contract units.* If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the PHA to fill such vacancies), the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

§ 983.255 Tenant screening.

(a) *PHA option.* (1) The PHA has no responsibility or liability to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny admission to an applicant based on such screening.

(2) The PHA must conduct any such screening of applicants in accordance with policies stated in the PHA administrative plan.

(b) *Owner responsibility.* (1) The owner is responsible for screening and selection of the family to occupy the owner's unit.

(2) The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

- (i) Payment of rent and utility bills;
- (ii) Caring for a unit and premises;
- (iii) Respecting the rights of other residents to the peaceful enjoyment of their housing;
- (iv) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- (v) Compliance with other essential conditions of tenancy;

(c) *Providing tenant information to owner.* (1) The PHA must give the owner:

(i) The family's current and prior address (as shown in the PHA records); and

(ii) The name and address (if known to the PHA) of the landlord at the family's current and any prior address.

(2) When a family wants to lease a dwelling unit, the PHA may offer the owner other information in the PHA possession about the family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members.

(3) The PHA must give the family a description of the PHA policy on providing information to owners.

(4) The PHA policy must provide that the PHA will give the same types of information to all owners.

(d) The protections for victims of domestic violence, dating violence, or stalking in 24 CFR part 5, subpart L, apply to tenant screening.

[70 FR 59913, Oct. 13, 2005, as amended at 73 FR 72345, Nov. 28, 2008; 75 FR 66264, Oct. 27, 2010]

§ 983.256 Lease.

(a) *Tenant's legal capacity.* The tenant must have legal capacity to enter a lease under state and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

(b) *Form of lease.* (1) The tenant and the owner must enter a written lease for the unit. The lease must be executed by the owner and the tenant.

(2) If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form, except as provided in paragraph (b)(4) of this section. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

(3) In all cases, the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

(4) The PHA may review the owner's lease form to determine if the lease complies with state and local law. The PHA may decline to approve the tenancy if the PHA determines that the lease does not comply with state or local law.

(c) *Required information.* The lease must specify all of the following:

(1) The names of the owner and the tenant;

(2) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);

(3) The term of the lease (initial term and any provision for renewal);

(4) The amount of the tenant rent to owner. The tenant rent to owner is subject to change during the term of the lease in accordance with HUD requirements;

(5) A specification of what services, maintenance, equipment, and utilities are to be provided by the owner; and

(6) The amount of any charges for food, furniture, or supportive services.

(d) *Tenancy addendum.* (1) The tenancy addendum in the lease shall state:

(i) The program tenancy requirements (as specified in this part);

(ii) The composition of the household as approved by the PHA (names of family members and any PHA-approved live-in aide).

(2) All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum shall prevail over other provisions of the lease.

(e) *Changes in lease.* (1) If the tenant and the owner agree to any change in the lease, such change must be in writing, and the owner must immediately give the PHA a copy of all such changes.

(2) The owner must notify the PHA in advance of any proposed change in lease requirements governing the allocation of tenant and owner responsibilities for utilities. Such changes may be made only if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with § 983.303(c), based on any change in the allocation of responsibility for utilities between the owner and the tenant, and the redetermined reasonable rent shall be used in calculation of rent to owner from the effective date of the change.

(f) *Term of lease.* (1) The initial lease term must be for at least one year.

(2) The lease must provide for automatic renewal after the initial term of the lease. The lease may provide either:

(i) For automatic renewal for successive definite terms (e.g., month-to-month or year-to-year); or

(ii) For automatic indefinite extension of the lease term.

(3) The term of the lease terminates if any of the following occurs:

(i) The owner terminates the lease for good cause;

(ii) The tenant terminates the lease;

(iii) The owner and the tenant agree to terminate the lease;

(iv) The PHA terminates the HAP contract; or

(v) The PHA terminates assistance for the family.

(g) *Lease provisions governing absence from the unit.* The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. (PHA termination-of-assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.)

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36168, June 25, 2014]

§ 983.257 Owner termination of tenancy and eviction.

(a) In general, 24 CFR 982.310 applies with the exception that § 982.310(d)(1)(iii) and (iv) do not apply to the PBV program. (In the PBV program, “good cause” does not include a business or economic reason or desire to use the unit for an individual, family, or non-residential rental purpose.) 24 CFR 5.858 through 5.861 on eviction for drug and alcohol abuse apply to this part. Part 5, subpart L of 24 CFR, on protection for victims of domestic violence, dating violence, or stalking applies to this part.

(b) If a family resides in a project-based unit excepted from the 25 percent per-project cap on project-basing because of participation in an FSS or other supportive services program, and the family fails without good cause to complete its FSS contract of participation or supportive services requirement, such failure is grounds for lease termination by the owner.

[70 FR 59913, Oct. 13, 2005, as amended at 73 FR 72345, Nov. 28, 2008; 75 FR 66265, Oct. 27, 2010; 79 FR 36169, June 25, 2014]

§ 983.258 Continuation of housing assistance payments.

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family’s other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to § 983.211.

[79 FR 36169, June 25, 2014]

§ 983.259 Security deposit: amounts owed by tenant.

(a) The owner may collect a security deposit from the tenant.

(b) The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

(c) When the tenant moves out of the contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts which the tenant owes under the lease.

(d) The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

(e) If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant. However, the PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

[70 FR 59913, Oct. 13, 2005. Redesignated at 79 FR 36169, June 25, 2014]

§ 983.260 Overcrowded, under-occupied, and accessible units.

(a) *Family occupancy of wrong-size or accessible unit.* The PHA subsidy standards determine the appropriate unit size for the family size and composition. If the PHA determines that a family is occupying a:

- (1) Wrong-size unit, or
- (2) Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the PHA must promptly notify the family and the owner of this determination, and of the PHA’s offer of continued assistance in another unit pursuant to paragraph (b) of this section.

(b) *PHA offer of continued assistance.*

- (1) If a family is occupying a:
 - (i) Wrong-size unit, or
 - (ii) Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the PHA must offer the family the opportunity to receive continued housing assistance in another unit.
- (2) The PHA policy on such continued housing assistance must be stated in

the administrative plan and may be in the form of:

(i) Project-based voucher assistance in an appropriate-size unit (in the same project or in another project);

(ii) Other project-based housing assistance (e.g., by occupancy of a public housing unit);

(iii) Tenant-based rental assistance under the voucher program; or

(iv) Other comparable public or private tenant-based assistance (e.g., under the HOME program).

(c) *PHA termination of housing assistance payments.* (1) If the PHA offers the family the opportunity to receive tenant-based rental assistance under the voucher program, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration date of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

(2) If the PHA offers the family the opportunity for another form of continued housing assistance in accordance with paragraph (b)(2) of this section (not in the tenant-based voucher program), and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the wrong-sized or accessible unit, at the expiration of a reasonable period as determined by the PHA, and remove the unit from the HAP contract.

[70 FR 59913, Oct. 13, 2005. Redesignated and amended at 79 FR 36169, June 25, 2014]

§ 983.261 Family right to move.

(a) The family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to the PHA) in accordance with the lease.

(b) If the family has elected to terminate the lease in this manner, the PHA must offer the family the opportunity for continued tenant-based rental as-

sistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

(c) Before providing notice to terminate the lease under paragraph (a) of this section, a family must contact the PHA to request comparable tenant-based rental assistance if the family wishes to move with continued assistance. If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family's lease of a PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based rental assistance.

(d) If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

[70 FR 59913, Oct. 13, 2005. Redesignated at 79 FR 36169, June 25, 2014]

§ 983.262 When occupancy may exceed 25 percent cap on the number of PBV units in each project.

(a) Except as provided in § 983.56(b), the PHA may not pay housing assistance under the HAP contract for contract units in excess of the 25 percent cap pursuant to § 983.56(a).

(b) In referring families to the owner for admission to excepted units, the PHA must give preference to elderly and/or disabled families, or to families receiving supportive services.

(c) If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received FSS supportive services or any other service as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

(d) A family (or the remaining members of the family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception (i.e., a family that does not successfully complete its FSS contract of participation or the supportive services requirement as defined in the PHA administrative plan

or the remaining members of a family that no longer qualifies for elderly or disabled family status where the PHA does not exercise its discretion under paragraph (e) of this section) must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying housing assistance payments on behalf of the non-qualifying family. If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the project in accordance with § 983.207(a); or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations (e.g., a family fails, without good cause, to successfully complete its FSS contract of participation or supportive services requirement) shall be terminated by the PHA.

(e) The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly or disabled family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly or disabled family member or long term or permanent hospitalization or nursing care), the elderly or disabled family member no longer resides in the unit. In this case, the unit may continue to count as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualifying family.

[70 FR 59913, Oct. 13, 2005. Redesignated and amended at 79 FR 36169, June 25, 2014]

Subpart G—Rent to Owner

§ 983.301 Determining the rent to owner.

(a) *Initial and redetermined rents.* (1) The amount of the initial and redetermined rent to owner is determined in accordance with this section and § 983.302.

(2) The amount of the initial rent to owner is established at the beginning of the HAP contract term. For rehabilitated or newly constructed housing, the Agreement states the estimated amount of the initial rent to owner, but the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

(3) The rent to owner is redetermined at the owner's request for a rent increase in accordance with this section and § 983.302. The rent to owner is also redetermined at such time when there is a five percent or greater decrease in the published FMR in accordance with § 983.302.

(b) *Amount of rent to owner.* Except for certain tax credit units as provided in paragraph (c) of this section, the rent to owner must not exceed the lowest of:

(1) An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the unit bedroom size minus any utility allowance;

(2) The reasonable rent; or

(3) The rent requested by the owner.

(c) *Rent to owner for certain tax credit units.* (1) This paragraph (c) applies if:

(i) A contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986 (see 26 U.S.C. 42);

(ii) The contract unit is not located in a qualified census tract;

(iii) In the same building, there are comparable tax credit units of the same unit bedroom size as the contract unit and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and

(iv) The tax credit rent exceeds the applicable fair market rental (or any exception payment standard) as determined in accordance with paragraph (b) of this section.

(2) In the case of a contract unit described in paragraph (c)(1) of this section, the rent to owner must not exceed the lowest of:

(i) The tax credit rent minus any utility allowance;

(ii) The reasonable rent; or

(iii) The rent requested by the owner.

(3) 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 housing tax credit but do not have any additional rental assistance (e.g., additional assistance such as tenant-based voucher assistance).

(4) A "qualified census tract" is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which:

(i) At least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI); or

(ii) Where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

(d) *Rent to owner for other tax credit units.* Except in the case of a tax-credit unit described in paragraph (c)(1) of this section, the rent to owner for all other tax credit units may be determined by the PHA pursuant to paragraph (b) of this section.

(e) *Reasonable rent.* The PHA shall determine the reasonable rent in accordance with §983.303. The rent to the owner for each contract unit may at no time exceed the reasonable rent, except in cases where, the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

(f) *Use of FMRs and utility allowance schedule in determining the amount of rent to owner—(1) Amounts used.* (i) *Determination of initial rent (at beginning of HAP contract term).* When determining the initial rent to owner, the PHA shall use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. At its discretion, the PHA may use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract.

(ii) *Redetermination of rent to owner.* When redetermining the rent to owner,

the PHA shall use the most recently published FMR and the PHA utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may use the amounts in effect at any time during the 30-day period immediately before the redetermination date.

(2) *Exception payment standard and PHA utility allowance schedule.* (i) Any HUD-approved exception payment standard amount under 24 CFR 982.503(c) applies to both the tenant-based and project-based voucher programs. HUD will not approve a different exception payment standard amount for use in the PBV program.

(ii) The PHA may not establish or apply different utility allowance amounts for the PBV program. The same PHA utility allowance schedule applies to both the tenant-based and PBV programs.

(g) *PHA-owned units.* For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the annual anniversary of the HAP contract are determined by the independent entity approved by HUD in accordance with §983.59. The PHA must use the rent to owner established by the independent entity.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36169, June 25, 2014]

§983.302 Redetermination of rent to owner.

(a) The PHA must redetermine the rent to owner:

(1) Upon the owner's request; or

(2) When there is a five percent or greater decrease in the published FMR in accordance with §983.301.

(b) *Rent increase.* (1) The PHA may not make any rent increase other than an increase in the rent to owner as determined pursuant to §983.301. (Provisions for special adjustments of contract rent pursuant to 42 U.S.C. 1437f(b)(2)(B) do not apply to the voucher program.)

(2) The owner must request an increase in the rent to owner at the annual anniversary of the HAP contract by written notice to the PHA. The length of the required notice period of the owner request for a rent increase at the annual anniversary may be established by the PHA. The request must

§ 983.303

24 CFR Ch. IX (4-1-15 Edition)

be submitted in the form and manner required by the PHA.

(3) The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with all requirements of the HAP contract, including compliance with the HQS. The owner may not receive any retroactive increase of rent for any period of non-compliance.

(c) *Rent decrease.* (1) If there is a decrease in the rent to owner, as established in accordance with § 983.301, the rent to owner must be decreased, regardless of whether the owner requested a rent adjustment.

(2) If the PHA has elected within the HAP contract to not reduce rents below the initial rent to owner, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP contract, except:

(i) To correct errors in calculations in accordance with HUD requirements;

(ii) If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to § 983.55; or

(iii) If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

(d) *Notice of rent redetermination.* Rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent (as determined in accordance with §§ 983.301 and 983.302). The PHA notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract.

(e) *Contract year and annual anniversary of the HAP contract.* (1) 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.

(2) The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted rent to owner amount applies for the period of 12 calendar months

from the annual anniversary of the HAP contract.

(3) See § 983.207(c) for information on the annual anniversary of the HAP contract for contract units completed in stages.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36170, June 25, 2014]

§ 983.303 Reasonable rent.

(a) *Comparability requirement.* At all times during the term of the HAP contract, the rent to the owner for a contract unit may not exceed the reasonable rent as determined by the PHA, except that where the PHA has elected in the HAP contract to not reduce rents below the initial rent under the initial HAP contract, the rent to owner shall not be reduced below the initial rent in accordance with § 983.302(e)(2).

(b) *Redetermination.* The PHA must redetermine the reasonable rent:

(1) Whenever there is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR in effect one year before the contract anniversary;

(2) Whenever the PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;

(3) Whenever the HAP contract is amended to substitute a different contract unit in the same building or project; and

(4) Whenever there is any other change that may substantially affect the reasonable rent.

(c) *How to determine reasonable rent.*

(1) The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units.

(2) In determining the reasonable rent, the PHA must consider factors that affect market rent, such as:

(i) The location, quality, size, unit type, and age of the contract unit; and

(ii) Amenities, housing services, maintenance, and utilities to be provided by the owner.

(d) *Comparability analysis.* (1) For each unit, the PHA comparability analysis must use at least three comparable units in the private unassisted market, which may include comparable

unassisted units in the premises or project.

(2) The PHA must retain a comparability analysis that shows how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.

(3) The comparability analysis may be performed by PHA staff or by another qualified person or entity. A person or entity that conducts the comparability analysis and any PHA staff or contractor engaged in determining the housing assistance payment based on the comparability analysis may not have any direct or indirect interest in the property.

(e) *Owner certification of comparability.* By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere.

(f) *Determining reasonable rent for PHA-owned units.* (1) For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with § 983.59, rather than by the PHA. The reasonable rent must be determined in accordance with this section.

(2) The independent entity must furnish a copy of the independent entity determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

[70 FR 59913, Oct. 13, 2005, as amended at 79 FR 36170, June 25, 2014]

§ 983.304 Other subsidy: effect on rent to owner.

(a) *General.* In addition to the rent limits established in accordance with § 983.301 and 24 CFR 982.302, the following restrictions apply to certain units.

(b) *HOME.* For units assisted under the HOME program, rents may not exceed rent limits as required by the HOME program (24 CFR 92.252).

(c) *Subsidized projects.* (1) This paragraph (c) applies to any contract units in any of the following types of federally subsidized project:

(i) An insured or non-insured Section 236 project;

(ii) A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

(iii) A Section 221(d)(3) below market interest rate (BMIR) project;

(iv) A Section 515 project of the Rural Housing Service;

(v) Any other type of federally subsidized project specified by HUD.

(2) The rent to owner may not exceed the subsidized rent (basic rent) as determined in accordance with requirements for the applicable federal program listed in paragraph (c)(1) of this section.

(d) *Combining subsidy.* Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements. See § 983.55.

(e) *Other subsidy: rent reduction.* To comply with HUD subsidy layering requirements, at the direction of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized financing.

(f) *Prohibition of other subsidy.* For provisions that prohibit PBV assistance to units in certain types of subsidized housing, see § 983.54.

[70 FR 59913, Oct. 13, 2005, as amended at 72 FR 65207, Nov. 19, 2007; 79 FR 36170, June 25, 2014]

§ 983.305 Rent to owner: effect of rent control and other rent limits.

In addition to the limitation to 110 percent of the FMR in § 983.301(b)(1), the rent reasonableness limit under §§ 983.301(b)(2) and 983.303, the rental termination provisions of § 983.301(f), the special limitations for tax credit units under § 983.301(c), and other rent limits under this part, the amount of rent to owner also may be subject to rent control or other limits under local, state, or federal law.

Subpart H—Payment to Owner**§ 983.351 PHA payment to owner for occupied unit.**

(a) *When payments are made.* (1) During the term of the HAP contract, the PHA shall make housing assistance payments to the owner in accordance with the terms of the HAP contract. The payments shall be made for the months during which a contract unit is leased to and actually occupied by an eligible family.

(2) Except for discretionary vacancy payments in accordance with § 983.352, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

(b) *Monthly payment.* Each month, the PHA shall make a housing assistance payment to the owner for each contract unit that complies with the HQS and is leased to and occupied by an eligible family in accordance with the HAP contract.

(c) *Calculating amount of payment.* The monthly housing assistance payment by the PHA to the owner for a contract unit leased to a family is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

(d) *Prompt payment.* The housing assistance payment by the PHA to the owner under the HAP contract must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

(e) *Owner compliance with contract.* To receive housing assistance payments in accordance with the HAP contract, the owner must comply with all the provisions of the HAP contract. Unless the owner complies with all the provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

§ 983.352 Vacancy payment.

(a) *Payment for move-out month.* If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out ("move-out month"). However, the

owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

(b) *Vacancy payment at PHA discretion.* (1) At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner (in the amounts determined in accordance with paragraph (b)(2) of this section) for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.

(2) The vacancy payment to the owner for each month of the maximum two-month period will be determined by the PHA, and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment may cover only the period the unit remains vacant.

(3) The PHA may make vacancy payments to the owner only if:

(i) The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and containing the date when the family moved out (to the best of the owner's knowledge and belief);

(ii) The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

(iii) The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

(iv) The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

(4) The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

§ 983.353 Tenant rent; payment to owner.

(a) *PHA determination.* (1) The tenant rent is the portion of the rent to owner

paid by the family. The PHA determines the tenant rent in accordance with HUD requirements.

(2) Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family and the owner.

(b) *Tenant payment to owner.* (1) The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance).

(2) The amount of the tenant rent as determined by the PHA is the maximum amount the owner may charge the family for rent of a contract unit. The tenant rent is payment for all housing services, maintenance, equipment, and utilities to be provided by the owner without additional charge to the tenant, in accordance with the HAP contract and lease.

(3) The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

(4) The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the HAP contract. The owner may not terminate the tenancy of an assisted family for non-payment of the PHA housing assistance payment.

(c) *Limit of PHA responsibility.* (1) The PHA is responsible only for making housing assistance payments to the owner on behalf of a family in accordance with the HAP contract. The PHA is not responsible for paying the tenant rent, or for paying any other claim by the owner.

(2) The PHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the tenant rent or to pay any other claim by the owner. The PHA may not make any payment to the owner for any damage to the unit, or for any other amount owed by a family under the family's lease or otherwise.

(d) *Utility reimbursement.* (1) If the amount of the utility allowance exceeds the total tenant payment, the PHA shall pay the amount of such excess as a reimbursement for tenant-paid utilities ("utility reimburse-

ment") and the tenant rent to the owner shall be zero.

(2) The PHA either may pay the utility reimbursement to the family or may pay the utility bill directly to the utility supplier on behalf of the family.

(3) If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

§ 983.354 Other fees and charges.

(a) *Meals and supportive services.* (1) Except as provided in paragraph (a)(2) of this section, the owner may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

(2) In assisted living developments receiving project-based assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

(b) *Other charges by owner.* The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

PART 984—SECTION 8 AND PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

Subpart A—General

Sec.	
984.101	Purpose, scope, and applicability.
984.102	Program objectives.
984.103	Definitions.
984.104	Basic requirements of the FSS program.
984.105	Minimum program size.

Subpart B—Program Development and Approval Procedures

984.201	Action Plan.
984.202	Program Coordinating Committee (PCC).
984.203	FSS family selection procedures.
984.204	On-site facilities.

Instructions to Offerors Non-Construction

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

3. Amendments to Solicitations

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the HA will be considered at any time it is received and may be accepted.

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

7. Contract Award

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

8. Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2020)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$150,000

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

- proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
 - (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

-
- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
- (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

9. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

MBE/WBE Compliance Forms

SPECIAL MBE/WBE PARTICIPATION SUMMARY FORM

Instructions: This form is to be completed by the Proposer as statement of self-certification of MBE/WBE Participation under this Contract.

9. SMALL BUSINESS PARTICIPATION

Is the Vendor a Small Business as defined by the size standards in 13 CFR 121?

Yes No N/A

10. MINORITY BUSINESS PARTICIPATION

Is the Vendor classified as a Minority Business Enterprise as defined in Art.2, Part C, of HUD-5369-C?

Yes No N/A

MINORITY TYPE:

- | | |
|---|--|
| <input type="checkbox"/> African American | <input type="checkbox"/> Female African American |
| <input type="checkbox"/> Native American | <input type="checkbox"/> Female Native American |
| <input type="checkbox"/> Hispanic | <input type="checkbox"/> Female Hispanic |
| <input type="checkbox"/> Asian | <input type="checkbox"/> Female Asian |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Female White American |

If "No", are any Subcontractors classified as Minority Business Enterprises?

Yes No N/A

If "Yes", please fill in the following information:

(MBE) SUBCONTRACTOR'S FIRM	CONTRACT \$ VALUE	% OF FEE
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
TOTAL	\$ _____	_____ %

11. WOMEN-OWNED BUSINESS PARTICIPATION

Is the Vendor classified as a Woman-Owned Business Enterprise as defined in Art.2, Part C, of HUD-5369C?

Yes No N/A

If "No", are any Subcontractors classified as Women-Owned Business Enterprises?

Yes No N/A

If "Yes", please fill in the following information:

(WBE) SUBCONTRACTOR'S FIRM	CONTRACT \$ VALUE	% OF FEE
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
TOTAL	\$ _____	_____ %

MBE/WBE SUBCONTRACTOR AFFIDAVIT

Instructions: This form is to be completed by MBE/WBE Sub Contractors being proposed for participation under this Contract.

Specification Number: _____

Project Description: _____

From: _____
(Name of MBE/WBE Firm)

MBE: Yes No
WBE: Yes No

Name of Prime Contractor – To: _____

The MBE/WBE status of the undersigned is confirmed by the attached letter of Certification dated _____.

The undersigned MBE/WBE firm is prepared to provide the following described goods and/or services or supply the following described goods and/or services in connection with the above named project:

The above described goods and/or services are offered for the following price and described terms of payment:

if more space is needed to fully describe the MBE/WBE firms proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned MBE/WBE firm will enter into a formal written agreement for the above described goods and/or services with the Prime Contractor, conditioned upon Prime Contractor's execution of a contract with HACC, and will do so within three (3) business days of receipt of a signed contract from HACC.

(Signature of Owner, President or Authorized Agent of MBE/WBE)

Name /Title (Print)

Phone Number

Fax Number

Email Address

SUMMARY OF MBE/WBE SUBCONTRACTOR PARTICIPATION FORM

Instructions: This form is to summarize all MBE/WBE firms proposed for participation under this Contract whether directly or indirectly utilized.

Specification Number: _____

Project Description: _____

State of (_____)

County (City) of (_____)

I HEREBY DECLARE AND AFFIRM that I am duly authorized representative of:

(Name of Contractor)

and that I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the MBE/WBE participation of this contract.

All MBE/WBE firms included in this plan are currently certified as such (Letters of Certification Attached).

Direct Participation of MBE/WBE Firms

(Note: The Contractor will, in determining the manner of MBE/WBE participation, first consider involvement with MBE/WBE firms as joint venture partners, subcontractors and suppliers of goods and services directly related to the performance of this contract.)

If Contractor is a certified MBE or WBE firm, attach copy of current Letter of Certification. (Certification of Contractor as a MBE satisfies the MBE participation only. Certification of Contractor as a WBE satisfies the WBE participation only.)

If Contractor is a joint venture and one or more joint venture partners are certified MBEs and WBEs, attach copies of Letters of Certification and a copy of Joint Venture Agreement clearly describing the role of the MBE/WBE firm(s) and its ownership interest in the joint venture.

MBE/WBE Subcontractors/Suppliers/Consultants:

Name of MBE/WBE: _____

Address: _____

Contact Person: _____ **Phone:** _____

Dollar Amount Participation: \$ _____

Percentage Amount of Participation: _____%

Affidavit of Subcontractor attached? Yes No *

Name of MBE/WBE: _____
Address: _____
Contact Person: _____ Phone: _____
Dollar Amount Participation: \$ _____
Percentage Amount of Participation: _____ %
Affidavit of Subcontractor attached? Yes No *

Name of MBE/WBE: _____
Address: _____
Contact Person: _____ Phone: _____
Dollar Amount Participation: \$ _____
Percentage Amount of Participation: _____ %
Affidavit of Subcontractor attached? Yes No *

Name of MBE/WBE: _____
Address: _____
Contact Person: _____ Phone: _____
Dollar Amount Participation: \$ _____
Percentage Amount of Participation: _____ %
Affidavit of Subcontractor attached? Yes No *

Name of MBE/WBE: _____
Address: _____
Contact Person: _____ Phone: _____
Dollar Amount Participation: \$ _____
Percentage Amount of Participation: _____ %
Affidavit of Subcontractor attached? Yes No *

Attach additional sheets as needed.

* All Affidavits of Subcontractors and Letters of Certification not submitted with proposal must be submitted so as to assure receipt by the Contracting Official within three (3) business days after receipt of proposal.

Indirect Participation of MBE/WBE Firms

(Note: This section need not be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE participation has not been met through direct participation, contractor will be expected to demonstrate that the proposed MBE/WBE direct participation represents the maximum achievable under the circumstances. Only after such a demonstration will indirect participation be considered.)

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract:

Name of MBE/WBE: _____

Address: _____

Contact Person: _____ Phone: _____

Dollar Amount Participation: \$ _____

Percentage Amount of Participation: _____%

Affidavit of Subcontractor attached? Yes No *

Name of MBE/WBE: _____

Address: _____

Contact Person: _____ Phone: _____

Dollar Amount Participation: \$ _____

Percentage Amount of Participation: _____%

Affidavit of Subcontractor attached? Yes No *

Name of MBE/WBE: _____

Address: _____

Contact Person: _____ Phone: _____

Dollar Amount Participation: \$ _____

Percentage Amount of Participation: _____%

Affidavit of Subcontractor attached? Yes No *

Name of MBE/WBE: _____

Address: _____

Contact Person: _____ Phone: _____

Dollar Amount Participation: \$ _____

Percentage Amount of Participation: _____%

Affidavit of Subcontractor attached? Yes No *

Attach additional sheets as needed.

* All Affidavits of Subcontractors and Letters of Certification not submitted with bid must be submitted so as to assure receipt by the Contracting Official within three (3) business days after bid opening.

Summary of MBE/WBE Firms Proposed

MBE Direct Participation

MBE Firm Name of Participation	Dollar Amount of Participation	Percent Amount of Participation
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Direct MBE Participation:	\$ _____	_____ %

MBE Indirect Participation (from Section II):

MBE Firm Name of Participation	Dollar Amount of Participation	Percent Amount of Participation
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Indirect MBE Participation:	\$ _____	_____ %

WBE Direct Participation:

WBE Firm Name of Participation	Dollar Amount of Participation	Percent Amount of Participation
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Direct WBE Participation:	\$ _____	_____ %

WBE Indirect Participation (from Section II):

WBE Firm Name of Participation	Dollar Amount of Participation	Percent Amount of Participation
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
Total Indirect WBE Participation:	\$ _____	_____ %

To the best of my knowledge, information and belief, the facts and representations contained in this Affidavit are true, and no material facts have been omitted.

The Contractor designates the following person as their MBE/WBE Liaison Officer:

Name: _____ Phone Number: _____

I do solemnly declare and affirm under penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the Contractor, to make this affidavit.

Signature (Date)

State of _____

County of _____

This instrument was acknowledged before me on _____ (date)

by _____ (name(s) of person(s))

as _____ (type of authority, e.g., officer, trustee, etc.)

of _____ (name of party on behalf of whom instrument was executed).

Notary Public Signature: _____

(Seal)

Commission Expires: _____



**Housing Authority of
COOK COUNTY**

HOUSING AUTHORITY OF COOK COUNTY

175 West Jackson Blvd. Suite 350
Chicago, Illinois

SECTION 3 PLAN

Adopted by PHA Board of Commissioners

Resolution No.: 2021-HACC-006

Date of Adoption: June 17, 2021

Effective Date of Implementation: June 17, 2021

Table of Contents

BACKGROUND	3
PHA SECTION 3 PLAN OBJECTIVES.....	3
APPLICABILITY	4
NOTICE OF FUNDING AVAILABILITY (NOFA).....	5
CHANGES IN LAWS AND REGULATIONS.....	5
REQUIREMENTS.....	5
A. Employment and Training.....	5
B. Contracting.....	5
ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.....	6
A. Section 3 Worker.....	6
B. Targeted Section 3 Workers.....	7
C. Safe Harbor.....	7
REPORTING REQUIREMENTS.....	9
A. Reporting of Labor Hours	10
B. Qualitative Reporting.....	10
C. RAD Conversions.....	11
D. Reporting Frequency.....	11
E. Separate Reporting by Funding Source.....	12
CONTRACT PROVISIONS	12
FUNDING SOURCES, RECORDKEEPING, AND COMPLIANCE.....	13
A. Multiple Funding Sources	13
B. Recordkeeping	13
C. Compliance.....	15
DEFINITIONS.....	16

SECTION 3 PLAN

BACKGROUND

Section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing.

Section 3 recognizes that HUD funds are often one of the largest sources of Federal funds expended in low and very low-income communities and, where such funds are spent on activities such as construction and rehabilitation of housing and other public facilities, the expenditure results in economic opportunities.

By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the expenditure can have the dual benefit of creating new or rehabilitated housing and other facilities while providing opportunities for employment and training for the residents of these communities.

PHA SECTION 3 PLAN OBJECTIVES

The Housing Authority of Cook County (hereinafter referred to as PHA) has developed a Section 3 Plan (Plan) to identify the goals, objectives, and actions that the PHA will implement to ensure the awarding of contracts to contractors, vendors, and suppliers, create employment and business opportunities for residents of the PHA and other qualified low and very low-income persons residing in within the metropolitan area (or non-metropolitan county) in which the assistance is expended. The PHA's efforts to promote Section 3 objectives will be consistent with existing Federal, state, and local laws and regulations.

The PHA requires all contractors, vendors, and suppliers to provide equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, age, familiar status, marital status, actual or perceived sexual orientation, gender identity, or economic status and to take affirmative action to ensure that both existing employees and applicants are given fair and equal treatment.

The PHA has incorporated Section 3 requirements in its existing Procurement Policy and includes a copy of this Plan in all procurements generated for use with HUD funding. This Plan contains goal requirements for awarding contracts to Section 3 business concerns.

This Plan shall result in a reasonable level of recruitment, employment, and utilization of PHA residents and other eligible persons and business by PHA contractors working on contracts partially or wholly funded by Federal monies. The PHA shall examine and consider a contractor's, vendor's, or supplier's potential for success by providing employment and business opportunities to the PHA's residents prior to acting on any proposed contract award.

All contractors, vendors, suppliers seeking Section 3 preference must, before submitting bids/proposals to the PHA, be required to complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required. Such certifications shall be adequately supported with appropriate documentation as referenced in this Plan.

APPLICABILITY

Section 3 requirements apply to the public housing financial assistance and Section 3 projects as follows:

- Public Housing Financial Assistance:
 - Development assistance provided pursuant to Section 5 of the U.S. Housing Act of 1937;
 - Operations and management assistance provided pursuant Section 9(e) of the U.S. Housing Act of 1937 (Operating Fund);
 - Development, modernization, and management assistance provided pursuant Section 9(d) of the U.S. Housing Act of 1937 (Capital Fund); and
 - The entirety of mixed-finance development project regardless of whether the project is fully or partially assisted with public housing financial assistance.
- Housing and Community Development Section 3 Projects:
 - Housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000.
 - The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, the Lead-Based Paint Poisoning Prevention Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992.
 - The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.
 - The requirements apply to an entire Section 3 project regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.
- Other HUD Assistance and Other Federal Assistance
Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

NOTICE OF FUNDING AVAILABILITY (NOFA)

All NOFAs issued by HUD that announce the availability of funding that covers public housing financial assistance and Section 3 projects will include notice that Section 3 is applicable to funding and may include as appropriate for specific NOFAs points or bonus points for Section 3 Plans.

- Where Section 3 is applicable, the inclusion of specific requirements in the regulation regarding the NOFA does not change the PHA's obligation to have a compliant Section 3 implementation strategy.
- Similarly, where Section 3 is not applicable, the regulatory language would not apply.

CHANGES IN LAWS AND REGULATIONS

All issues not addressed in this Section 3 Plan related to the Section 3 program are governed by the Code of Federal Regulations, HUD handbooks and guidebooks, Federal Registers, memos, notices, guidelines, and other applicable law.

In the event an applicable HUD law or regulation is modified or eliminated, the revised law or regulation shall, to the extent inconsistent with this Section 3 Plan, automatically supersede this Section 3 Plan.

REQUIREMENTS

The PHA has established employment, training, and contracting requirements consistent with existing Federal, state, and local laws and regulations to meet and comply with Section 3 requirements.

A. Employment and Training

The PHA and its contractors or subcontractors will make their best efforts to provide employment and training opportunities to Section 3 workers in the following order of priority:

1. To residents of public housing projects for which the public housing financial assistance is expended;
2. To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
3. To participants in YouthBuild programs; and
4. To low and very low-income persons residing within the metropolitan area (or non-metropolitan county) in which the assistance is expended.

B. Contracting

1. The PHA and its contractors or subcontractors will make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers in the following order of priority:
 - a. To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;

- b. To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
 - c. To YouthBuild programs; and
 - d. To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or non-metropolitan county) in which the assistance is provided.
2. An executed "Section 3 Program Certification" form must be included with every bid or proposal. Bids or proposal without an executed Section 3 Program Certification form will be considered non-compliant with the Request for Bids or Request for Proposals.
 3. Within 15 calendar days of award of a contract by the PHA, the contractor shall publish a "Notice of Commitment" in a paper of daily distribution in the metropolitan or non-metropolitan county where the PHA is located listing potential training, employment, and contracting opportunities for low and very low-income persons. The Notice of Commitment must also be posted on the public bulletin board of the PHA and at each construction job site.

ECONOMIC OPPORTUNITIES FOR LOW AND VERY LOW-INCOME PERSONS

For public housing financial assistance, the Section 3 statute requires PHAs to prioritize their efforts to direct employment and economic opportunities, training, and contracting efforts to specific groups of low and very low-income individuals.

All employees of the PHA will complete an Employee Certification Form to be used by the PHA to determine its current Section 3 and Targeted Section 3 workers.

All applicants for employment with the PHA must complete an Applicant Certification form.

A. Section 3 Worker

1. Any worker who currently fits or when hired within the past five (5) years fits at least one of the following categories, as documented:
 - a. The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - b. The work is employed by a Section 3 business concern.
 - c. The worker is a YouthBuild participant.
2. The status of a Section 3 worker will not be negatively affected by a prior arrest or conviction.
3. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

B. Targeted Section 3 Workers

A Targeted Section 3 worker for public housing financial assistance is a Section 3 worker who is:

1. Employed by a Section 3 business concern, or
2. Currently fits or when hired will fit at least one (1) of the following categories, as documented within the past five (5) years:
 - a. A resident of public housing or Section 8-based assisted housing,
 - b. A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance, or
 - c. A YouthBuild participant.

C. Safe Harbor

The primary objective is to reflect and monitor the PHA's ability to direct job opportunities that are generated by HUD financial assistance to Section 3 and Targeted Section 3 workers.

The PHA will certify compliance with the statutory priorities and meet or exceed the outcome benchmarks annually within 60 days of its fiscal year end.

1. Establishment of Benchmarks

HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the Federal Register. The PHA will make every reasonable effort to comply with HUD established benchmarks as they may increase or decrease over time.

2. As allowed by HUD, the PHA will exclude professional services, which would be defined as non-construction services that require an advanced degree or professional licensing, from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported. Professional services to be excluded includes but are not limited to.
 - a. Contracts for legal services
 - b. Financial consulting
 - c. Accounting services
 - d. Environmental assessment
 - e. Architectural services
 - f. Civil engineering services
3. Section 3 benchmarks consist of the following 2 ratios:
 - a. Section 3 Workers:

Twenty-five percent (25%) or more of the total number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers funded by public housing financial assistance in the PHA's fiscal year.

Example

Assume the PHA employs 20 full-time staff including all senior/executive/salaried staff

$$20 \times 2,080 \text{ (40h/p/w} \times 52 \text{ weeks)} = 41,600 \text{ hours worked annually}$$

25% of the total work hours would be worked by Section 3 workers

$$41,600 \times 25\% = 10,400$$

Divide 10,400 hours by 2,080

$$10,400 \div 2,080 = 5$$

The PHA must have 5 Section 3 workers

b. Targeted Section 3 Workers:

Five percent (5%) or more of the total number of labor hours worked by Targeted Section 3 workers divided by the total number of labor hours worked by all workers funded by public housing financial assistance in the PHA's fiscal year.

Example

Assume the PHA employs 20 full-time staff including all senior/executive/salaried staff
 $20 \times 2,080$ (40 h/p/w x 52 weeks) = 41,600 hours worked annually

5% of the total work hours to be worked by Targeted Section 3 workers
 $41,600 \times 5\% = 2,080$

Divide 2,080 hours by 2,080
 $2,080 \div 2,080 = 1$.
The PHA must have 1 Targeted Section 3 workers

REPORTING REQUIREMENTS

The PHA will implement its Section 3 activities and comply with the reporting requirements of this Plan starting with the PHA's first full fiscal year that begins after July 1, 2021. The PHA will track and report labor hours to measure total actual employment and the proportion of the total employment performed by low and very low-income workers.

A. Reporting of Labor Hours

Labor hours means the number of paid hours worked by person on a Section 3 project or by persons employed with funds that include public housing financial assistance.

1. The PHA will track and report:
 - a. The total number of labor hours worked by all workers,
 - b. The total number of labor hours worked by Section 3 worker; and
 - c. The total number of labor hours worked by Targeted Section 3 workers.
2. The labor hours for Section 3 workers and Targeted Section 3 workers will be counted for five (5) years from when their status as a Section 3 worker or Targeted Section 3 worker was established.

The PHA will define workers as Section 3 workers for a five-year period at the time, or when the workers are first certified as meeting the Section 3 worker definition.

3. The labor hours reported will include the total number of labor hours worked and paid with public housing financial assistance in the fiscal year of the PHA, including labor hours worked by any contractors and subcontractors that the PHA is required or elects to report.
4. The PHA reporting, as well as contractors and subcontractors who report to the PHA, will report labor all hours by Section 3 workers and Targeted Section 3 workers from professional services without including labor hours from professional services in the total number of labor hours worked.
5. During the first fiscal year that begins after July 1, 2021, the PHA may report on the labor hours of a contractor or a subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting. This grace period is to allow contractors who do not utilize a time system to implement one. After that time, the PHA, its contractors and subcontractors must report on actual labor hours worked.

B. Qualitative Reporting

If the PHA reporting indicates that the PHA has not met the Section 3 benchmarks, the PHA will report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors.

Qualitative efforts may include but are not limited to the following:

1. Engaging in outreach efforts to generate job applicants who are Targeted Section 3 workers.
2. Providing direct on-the-job training or apprenticeship opportunities.

3. Providing technical assistance to help Section 3 workers compete for jobs (*e.g.*, resume assistance, coaching).
4. Providing or connecting Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
5. Holding one or more job fairs.
6. Providing or referring Section 3 workers to services supporting work readiness and retention (*e.g.*, work readiness activities, interview clothing, test fees, transportation, childcare).
7. Providing indirect training such as arranging for, contracting for, or paying tuition for, off-site training technical assistance to help Section 3 workers.
8. Providing assistance with applying for/or attending community college, a four-year educational institution, or vocational/technical training.
9. Assisting Section 3 workers to obtain financial literacy training and/or coaching.
10. Engaging in outreach efforts to identify and secure bids from Section 3 business concerns.
11. Providing technical assistance to help Section 3 business concerns understand and bid on contracts.
12. Dividing contracts into smaller jobs to facilitate participation by Section 3 business concerns.
13. Providing bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
14. Promoting use of business registries designed to create opportunities for disadvantaged and small businesses.
15. Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

C. RAD Conversions

HUD has defined Targeted Section 3 workers to include residents of public housing and Section 8 housing, which means that the PHA must report on hiring of these types of HUD-assisted tenants, which includes tenants of RAD-converted Section 8 properties.

D. Reporting Frequency

Unless otherwise provided, the PHA will report annually to HUD the labor hours, and where required, qualitative reporting, in a manner consistent with Section 3 reporting requirements.

1. Reporting is on an annual basis for ongoing endeavors such as PHA operations or multi-year infrastructure or disaster recovery efforts.
2. Discrete projects such as development of a singular multifamily apartment building, the reporting is on a project basis, and reported to HUD in the PHA's annual report corresponding to the year of the project's completion.

E. Separate Reporting by Funding Source

1. The PHA will be required to report by each separate funding source.
2. The Final Rule provided separate definitions for the types of funding and separate subparts relating to:
 - a. Public housing financial assistance, which covers:
 - 1) development assistance provided pursuant to Section 5 of the United States Housing Act of 1937 (the 1937 Act),
 - 2) operations and management assistance provided pursuant to Section 9(e) of the 1937 Act (Operating Fund), and
 - 3) development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act (Capital Fund).
 - b. Section 3 projects, which means housing rehabilitation, housing construction and other public construction projects assisted with HUD housing and community development assistance when the amount of the assistance to the project exceeds \$200,000, or \$100,000 where the assistance is from HUD's Lead Hazard Control and Healthy Homes programs.
3. Small PHAs with less than 250 public housing units will report qualitative efforts to meet Section 3 benchmarks.

CONTRACT PROVISIONS

1. Required language
 - a. The PHA will include language in any agreement or contract to apply Section 3 to contractors.
 - b. The PHA will also require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.
 - c. The PHA will also require all contractors and subcontractors to meet the requirements of employment, training, and contracting requirements, regardless of whether Section 3 language is included in contracts.
 - d. All unit and collective bargaining agreements must meet the requirements of employment, training, and contracting requirements.
 - e. The PHA will customize the contract language depending upon the contract. Such customization will include:
 - 1) The required percentage of hours to be worked by Section 3 and Targeted Section 3 workers;

- 2) Documentation and document retention requirements, reporting requirements; and
 - 3) Penalties for non-compliance with Section 3 requirements.
2. RAD Conversions
- a. Section 8 Project-Based Voucher (PBV) or Section 8 Project-Based Rental Assistance (PBRA) contracts are not covered by the statute.
 - b. HUD has administratively applied Section 3 during the RAD-related construction period even though not required by the RAD statute or the Section 3 statute. See RAD Notice Revision 4 and RAD program documents.

FUNDING SOURCES, RECORDKEEPING, AND COMPLIANCE

A. Multiple Funding Sources

If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 public housing financial assistance or a Section 3 project, the PHA must follow the additional provisions for the public housing financial assistance. For such a project, the following applies:

1. The PHA receiving housing financial assistance will report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients.
2. The PHA will report the following information:
 - a. The total number of labor hours worked on the project;
 - b. The total number of labor hours worked by Section 3 workers on the project; and
 - c. The total number of labor hours worked by Targeted Section 3 workers on the project.

B. Recordkeeping

The PHA shall make available to HUD access to all records, reports, and other documents or items that are maintained to demonstrate compliance with the requirements of Section 3 or that are maintained in accordance with the regulations governing the public housing financial assistance provided or otherwise made available to the PHA, subrecipient, contractor, or subcontractor.

1. The PHA will maintain documentation, and ensure that a subrecipient, contractor, or subcontractor that employs the worker to maintain documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:
 - a. For a worker to qualify as a Section 3 worker, one of the following must be maintained:

- 1) A worker's self-certification that their income is below the income limit from the prior calendar year;
 - 2) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
 - 3) Certification from the PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
 - 4) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
 - 5) An employer's certification that the worker is employed by a Section 3 business concern.
- b. For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:
- 1) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
 - 2) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
 - 3) An employer's certification that the worker is employed by a Section 3 business concern; or
 - 4) A worker's certification that the worker is a YouthBuild participant.
2. The PHA will maintain the documentation for the time period required for record retention in accordance with applicable program regulations or, in the absence of applicable program regulations, for at least three (3) years following audit of completed contracts in accordance with 2 CFR part 200.
3. The PHA will report on Section 3 workers and Targeted Section 3 workers for five (5) years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.
4. The PHA will maintain details of all qualitative efforts to meet Section 3 benchmarks including, but not limited to:
- a. Memorandums of Agreement with reciprocating agencies;
 - b. Meeting agendas and sign in sheets for meetings with program participants and low and very low-income residents of the metropolitan or non-metropolitan area;
 - c. Meeting agendas and sign in sheets for meetings with Section 3 business concerns;
 - d. Copies of all contracting and employment announcements including dates of publication, display, or distribution;

- e. Minutes of pre-bid conferences where Section 3 requirements are discussed;
- f. Documentation of outreach efforts to identify Section 3 businesses;
- g. Section 3 employment questionnaires completed by applicants and program participants;
- h. Section 3 employment questionnaires completed by current PHA employees between November 30, 2020 and end of first fiscal year in which reporting is required under the Final Section 3 Rule; and
- i. Notices of training and employment readiness opportunities provided to low and very low-income residents, public housing residents, and Section 8 program participants.

C. Compliance

The PHA will maintain adequate records demonstrating compliance with the Section 3 requirements consistent with other recordkeeping requirement in 2 CFR part 200.

1. Complaints

Complaints alleging failure of compliance with Section 3 requirements may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

2. Monitoring

- a. HUD will monitor the PHA's compliance with the requirements of Section 3.
- b. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance.
- c. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found.

DEFINITIONS

Business Concern

Means a business concern that meets at least one of the following criteria, documented within the last six-month period:

- It is at least 51% owned by low or very low-income persons
- Over 75% of the labor hours performed for the business are performed by low or very low-income persons
- It is a business at least 25% owned by current public housing resident or residents who currently live in Section 8-assisted housing

Contractor

Any entity entering into a contract with:

- A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- A subrecipient for work in connection with a Section 3 project.

Labor Hours

The number of paid hours worked by persons on Section 3 projects or by persons employed with funds that include public housing financial assistance.

Low-Income Person

An individual whose annual income does not exceed 80% of the median income for the area as determined by HUD.

Material Supply Contracts

Contracts for the purchase of products and material, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional Services

Non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public Housing Financial Assistance

- Development assistance provided pursuant to Section 5 of the U.S. Housing Act of 1937;
- Operations and management assistance provided pursuant Section 9(e) of the U.S. Housing Act of 1937 (Operating Fund);
- Development, modernization, and management assistance provided pursuant Section 9(d) of the U.S. Housing Act of 1937 (Capital Fund); and

- The entirety of mixed-finance development project regardless of whether the project is fully or partially assisted with public housing financial assistance.

Public Housing Project

Low-income housing, and all necessary appurtenances thereto, assisted under the 1937 Act, other than assistance under 42 U.S.C. 1437f of the 1937 Act (Section 8). The term “public housing” includes dwelling units in a mixed-finance project that are assisted by a public housing agency with public housing capital assistance or Operating Fund assistance. When used in reference to public housing, the term “project” means housing developed, acquired, or assisted by a PHA under the 1937 Act, and the improvement of any such housing.

Recipient

Any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3

The purpose of Section 3 is to ensure that, to the greatest extent feasible, employment, training, and business opportunities created by HUD financial assistance be directed to low and very low-income persons.

Section 3 Business Concern

A business concern meeting at least one of the following criteria, documented within the last six-month period:

- It is at least 51 percent owned and controlled by low or very low-income persons;
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract and demonstrating their ability to meet contract requirements.

Section 3 business concerns will be given the opportunity to complete a “Section 3 Business Concern Certification” form that will be made available to potential bidders and proposers and utilized by the PHA.

Section 3 Projects

- Housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000.
- The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, the Lead-Based Paint Poisoning Prevention Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992.
- The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

Section 3 Worker

Any worker who currently fits or when hired within the past five (5) years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

Section 8-Assisted Housing

Refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service Area or the Neighborhood of the Project

An area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Small PHA

A public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor

Any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient

An entity, usually, but not limited to, non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Targeted Section 3 Worker

A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:

- A worker employed by a Section 3 business concern; or
- A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five (5) years:
 - A resident of public housing or Section 8-assisted housing;
 - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
 - A YouthBuild participant.

Very Low-Income Person

An individual whose annual income does not exceed 50% of the median income for the area as determined by HUD.

Youthbuild Programs

Refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

(Insert Contractor Name)

SECTION 3 APPLICANT FOR EMPLOYMENT AND TRAINING OPPORTUNITIES

Name: _____

Current Legal Address: _____

Phone Number: _____ Email Address: _____

Check the box or boxes below applicable to you. Documents to support your status as an eligible Section 3 Worker or Targeted Section 3 Worker may be requested and required if not already available.

My total individual income for the prior year or annualized year is below 80% of Area Median Income (AMI):

2020 \$51,000.00 _____ 2021 \$52,200.00 _____

I reside within the metropolitan or non-metropolitan county where this PHA is located.

I am a resident of public housing

List PHA and project name _____

I am a Section 8 Voucher holder

List Section 8 Agency administering your voucher _____

I receive other housing assistance

List PHA that manages your housing assistance _____

I am a YouthBuild Participant

List YouthBuild Program name, address, telephone number, and contact person: _____

By my signature below, I certify that the information provided on this form is accurate.

Printed Name

Signature

Date

SELF-CERTIFICATION AND SKILLS FORM

Graduated High School or GED (month/year): Yes No

I Read and Speak English Fluently: Yes No

I Read and Speak Languages Other Than English Fluently: Yes No

If Yes, list language(s) _____

Attended a Trade or Technical School: Yes No Graduated? Yes No

If Yes, list type Trade or Technical Specialty Studied: _____

Attended College: Yes No Graduated? Yes No

If Yes, list degree or completed studies: _____

Check the Skills and/or Trades in which you have been employed or contracted to do work for others:

- | | |
|--|---|
| <input type="checkbox"/> Data Entry
<input type="checkbox"/> Receptionist
<input type="checkbox"/> Sales
<input type="checkbox"/> Telephone Customer Service
<input type="checkbox"/> Administrative
<input type="checkbox"/> Teaching/Training
<input type="checkbox"/> Drywall Hanging
<input type="checkbox"/> Drywall Finishing
<input type="checkbox"/> Interior Painting
<input type="checkbox"/> Framing
<input type="checkbox"/> HVAC
<input type="checkbox"/> Electrical
<input type="checkbox"/> Interior Plumbing
<input type="checkbox"/> Exterior Plumbing
<input type="checkbox"/> Siding
<input type="checkbox"/> Cabinet Hanging
<input type="checkbox"/> Door Replacement | <input type="checkbox"/> Trim/Carpentry
<input type="checkbox"/> Stucco
<input type="checkbox"/> Window/Door Replacement
<input type="checkbox"/> Construction Cleaning
<input type="checkbox"/> Exterior Framing
<input type="checkbox"/> Landscaping
<input type="checkbox"/> CDL License
<input type="checkbox"/> Roofing
<input type="checkbox"/> Concrete/Asphalt Work
<input type="checkbox"/> Heavy Equipment Operator
<input type="checkbox"/> Fencing
<input type="checkbox"/> Metal/Steel Work
<input type="checkbox"/> Welding
<input type="checkbox"/> Other <i>(list)</i>
<input type="checkbox"/> Other <i>(list)</i>
<input type="checkbox"/> Other <i>(list)</i>
<input type="checkbox"/> Other <i>(list)</i> |
|--|---|

I certify that all of the information given on this Self-Certification and Skills form is true and correct. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual which may be grounds for termination of training, employment, or contracts that resulted from this certification. I understand that proof of this statement may be requested in the future.

Printed Name Signature Date

SECTION 3 BUSINESS CONCERN CERTIFICATION

For those seeking preference in contracting

Name of Business: _____

Address of Business: _____

Phone Number: _____ Email Address: _____

Type of Business Sole Proprietorship Partnership Non-Profit
 Joint Venture Corporation Other: *List*

DEFINITIONS:

A Low- or Very Low-Income Person (Worker) is a person whose income in the previous or annualized calendar year is below 80% of Area Median Income established by HUD which is currently **\$52,200.00**.

A Section 3 Worker is any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (1) The worker's income for the previous or annualized calendar year is below the income limit listed above for a low- or very low-income person; or
- (2) The worker is employed by a Section 3 Business; or
- (3) The worker is a YouthBuild participant.

A Section 3 Business Concern must meet at least one of the three criteria listed below and found in 24 CFR 75, and be documented within the last six-month period.

Check the box or boxes below applicable to your business. Attach the applicable listed documents to support your status as a Section 3 Business Concern.

- At least 51 percent owned and controlled by low- or very low-income persons;
 - List of all current employees listing percentage of ownership and control interests of each
 - Articles of Incorporation or partnership agreement Federal Tax ID Number
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers;
 - List of all workers (salaried and hourly) and number of hours worked by each worker
 - List of all Section 3 workers (salaried and hourly) and number of hours worked by each worker
- It is a business at least 51 owned and controlled by current public housing residents or residents who currently live in Section 8 assisted housing.
 - List of all current employees listing percentage of ownership and control interests of each.
 - Copy of residential lease for each employee with ownership interests.
 - Articles of Incorporation or partnership agreement Federal Tax ID Number

By my (our) signatures below, I/we certify to being a Section 3 Business Concern and understand that I/we must demonstrate our ability to meet the terms of a contract before it can be awarded to us.

Owner's Printed Name Signature Date

Owner's Printed Name Signature Date

Housing Authority of Cook County
SECTION 3 EMPLOYEE CERTIFICATION

Employee Name _____

Current Address _____

Phone Number _____ Email Address _____

Date of Initial Employment: _____ Date Certification Form Completed: _____

Check the box or boxes below applicable to you. Documents to support your status as a Section 3 Worker or Targeted Section 3 Worker may be requested and required if not already available.

- My total individual income for the year prior to my initial employment was below 80% of Area Median Income (AMI) **or** my total individual income is currently below 80% AMI. Check applicable year. (\$ amounts to be inserted by PHA and updated annually):
- | | | |
|---|---|--|
| <input type="checkbox"/> 2017 \$ _____ | <input type="checkbox"/> 2018 \$ _____ | <input type="checkbox"/> 2019 \$ _____ |
| <input type="checkbox"/> 2020 \$ <u>51,000.00</u> | <input type="checkbox"/> 2021 \$ <u>52,200.00</u> | <input type="checkbox"/> 2022 \$ _____ |

I reside within the metropolitan or non-metropolitan county where this PHA is located.

I am currently employed by a Section 3 Business Concern
 List name, address, telephone number, and contact person of Section 3 Business Concern: _____

I am a resident of public housing or Section 8-assisted housing managed by this PHA
 List public housing project name or Section 8 landlord name and phone number: _____

I am a YouthBuild Participant
 List YouthBuild Program name, address, telephone number, and contact person: _____

By my signature below, I certify that the information provided on this form is accurate.

Employee's Printed Name

Signature

Date

(Insert Contractor Name)

Section 3 Notice of Commitment

To: Union Representatives, Labor Organization Representatives, Section 3 Business Concerns and Residents of the metropolitan or non-metropolitan county where work will be performed.

The following project named, _____ located at _____ is a Section 3 covered project pursuant to 24 CFR §75, of Section 3 of the Housing and Urban Development Act of 1968, which receives funding from the Housing Authority of Cook County.

This project may require the hiring of low-income residents (Section 3 Residents) or contracting with Section 3 Business Concerns.

The following economic opportunities are available:

Position	Training	Employment	Contracting

Please contact _____ regarding these opportunities by telephone at _____, or by email at _____.

The anticipated date the work shall begin is _____.

If you apply for one of the above opportunities as a Section 3 Resident or Section 3 Business Concern, you will be required to submit information verifying eligibility status. Qualified Section 3 Residents and Section 3 Business Concerns will receive hiring preferences on Section 3 covered projects.