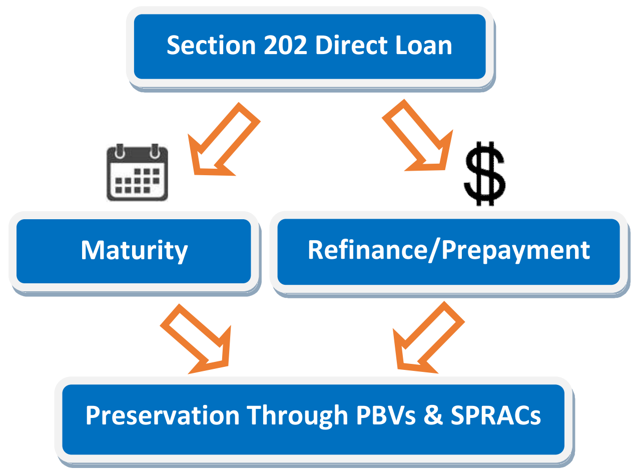
U.S. Department of Housing and Urban Development
Office of Multifamily Housing Programs

KEY CONCEPTS FOR PRESERVATION OF PRE-1974 SECTION 202 DIRECT LOAN PROPERTIES

There are Preservation Options Available for Pre-1974 Section 202 Direct Loan Properties!

If you own an “old law” Section 202 property (developed with a low-interest direct loan from HUD between 1959 and 1974, during the first phase of the Section 202 program), HUD has made new tools available for the property to receive project-based rental assistance through the Project-Based Voucher (PBV) program. PBV assistance can:

- Improve project revenue,
- Ensure ongoing affordability, and
- Allow owners to leverage debt and equity to recapitalize the property.



How Does It Work?

Generally, the maturity or prepayment of the pre-1974 Section 202 Direct Loan triggers issuance of Tenant Protection Vouchers (TPVs). These vouchers may be issued to residents as tenant-based vouchers or can be “project-based.” Under the PBV program, a local public housing authority (PHA) enters into a multi-year Housing Assistance Payment (HAP) contract with you, the owner, for a designated property. This long-term contract preserves the affordability of the property for residents, and allows the owner to access debt and equity financing to make property improvements. The local PHA administers the contract, including establishing the contract rents, administering the subsidy, certifying residents, and performing inspections. The subsidy for the new PBV contract comes from new funding that HUD provides to the housing authority following either of two triggering events:

1) At the Maturity of Your Pre-1974 Section 202 Direct Loan

When a pre-1974 Section 202 Direct Loan reaches maturity, you, as the owner, can request vouchers for any “at-risk” residents. “At-risk” are those who, because of the maturity of the loan, would have to pay over 30% of their income for rent without the voucher assistance and who have incomes that are below 80% of Area Median Income (AMI). With PHA approval, **the vouchers may be immediately project-based.** Eligibility and processing requirements for voucher funding at the maturity of a Section 202 Direct Loan are described in the most current TPV “set-aside” notice (see Notice PIH 2018-02 / H 2018-01 for FY 2017 funding, which remains in effect beyond FY 2017, subject to availability of funding). Please note that HUD currently only provides vouchers for occupied units. As a result, that is the maximum number of units for which HUD will provide funding to be project-based. However, the PHA may choose to add units under the contract funded from its voucher reserves (see FR-5976-C-06).

2) At the Prepayment and Refinance of Your Pre-1974 Section 202 Direct Loan

When you prepay or refinance a pre-1974 Section 202 Direct Loan in accordance with the Notice H 2013-17, **you may request vouchers for any resident who is eligible for the voucher program** (i.e., below 80% of AMI). Per Notice H 2018-02, with PHA approval, **the vouchers may be immediately project-based**.

HUD currently only provides vouchers for occupied units. As a result, that is the maximum number of units for which HUD will provide funding to be project-based. You, as the owner, have two options to cover any additional units not otherwise covered by a Section 8 contract:

a. The PHA may choose to add units under the contract funded from its voucher reserves (see FR-5976-C-06), which would place all of the property units under a single contract.
b. HUD will provide **Senior Preservation Rental Assistance Contracts (SPRACs)** on a first-come, first-serve basis for units that could not be covered by a PBV contract (see Notice H 2018-02 for SPRAC funding available under the FY 2017 Appropriations Act).

When refinancing the existing pre-1974 Section 202 Direct Loan and prepayment is not possible, you may also provide justification to request that HUD subordinate the loan, if needed to ensure the long-term feasibility of the property and as approved by HUD on a case by case basis. If HUD subordinates the loan, the owner must agree to execute and record a use agreement extending low-income affordability for at least 20 years from the date of the original mortgage maturity (or the date of full repayment of the fully amortized subordinated pre-1974 Section 202 Direct Loan, whichever is longer).

Guidance on Prepayment of a Pre-1974 Section 202 Direct Loan

See **Notice H 2013-17** for how to obtain HUD approval and processing of the prepayment and refinance of a Section 202 Direct Loan.

For guidance on when HUD may agree to subordinate a Section 202 Loan, see **Notice H 2010-26**.

See **Notice H 2018-02** for guidance regarding the issuance of TPVs or SPRACs following the refinancing of a Section 202 Direct Loan.

Questions about the maturity or refinancing of a Section 202 Loan? Contact the HUD account executive for the project.

Want More Information on Project-Based Vouchers?

Owners have successfully used PBV contracts to ensure ongoing rental assistance and to leverage financing to construct or rehabilitate housing. Project-based vouchers are part of a PHA's housing choice voucher program, in which a PHA can enter into a long-term HAP contract with an owner for some or all of the units in a property. If the assisted household leaves the property, the unit itself will remain under the contract and can be leased to a new, low-income applicant. The maximum term of a HAP contract is 20 years, though a PHA may, at any point in the contract, extend it for up to another 20 years. The regulations for the Project-Based Voucher (PBV) program are available at 24 CFR 983.

Unique Issues When Using PBVs to Preserve a Pre-1974 Section 202 Direct Loan Property:

- Per the annual TPV set-aside notice (see PIH 2018-02) and Notice H 2018-02, owner proposal selection procedures under 24 CFR § 983.51, which require the competitive selection of properties, do not apply and the assistance may be attached directly to the PBV unit without first offering it to the affected families in the form of tenant-based assistance.
- Per FR-5976-C-06, the PHA's program cap on the number of vouchers in their overall voucher program that can be project-based, as described in 24 CFR § 983.6, does not apply.
- Per FR-5976-C-06, the cap on the number of PBV units that can be covered in a property, as described in 24 CFR § 983.56, does not apply.