



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

Special Attention:

Public Housing Agencies; Public Housing Directors Public Housing Agencies that Administer the Housing Choice Voucher Program

NOTICE: PIH-2015-05(HA)

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Cross References:

Notice PIH 2011-65(HA)

Notice PIH 2012-21 (HA)

CORRECTION TO NOTICE: Corrections have been made in SECTION III. Paragraph 2

Subject: Project-Based Voucher (PBV) Guidance

1. Timely Reporting Requirements of the Family Report (form HUD-50058 and form HUD-50058 MTW) into the Inventory Management System/Public and Indian Housing Information Center and timely Submissions into the Voucher Management System for Project-Based Vouchers
2. Calculation of the 20 Percent Limit under the Project-Based Voucher Program
3. Public Housing Agency -Owned Units

Purpose

The purpose of this Notice is to provide guidance in three areas of the Project-based Voucher (PBV) program that HUD believes would be beneficial to public housing agencies (PHAs) administering the program especially in light of the recent increased interest and activity in the PBV program. HUD intends to issue, in fiscal year 2015, a more in-depth guidebook related to the entire PBV program.

Section I of this Notice reminds PHAs of the established timeframes for timely reporting for the PBV program of the form HUD-50058 into the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) and timely Voucher Management System (VMS) submissions for the PBV program. The Department relies greatly on the accurate, complete and timely data submitted by the PHAs in IMS/PIC and VMS in order to administer, monitor and report on the management of the PBV program and to fully justify its budget requests to Congress.

Section II of this Notice clarifies requirements and provides guidance related to the calculation of the 20 percent limit on the amount of voucher funding that may be utilized under the PBV program. Section II also provides guidance on the submission requirements for proposed new

PBV units in accordance with 24 CFR §983.6.

Section III of this Notice clarifies requirements and provides guidance related to PHA-owned units under the PBV program. Section III is intended to address specific concerns that have come to the attention of the Department recently in light of the increased practice of PHA's attaching PBV assistance to units owned by the PHA, a subsidiary, non-profit or other ownership entity in which the PHA has an interest.

Applicability

This Notice applies to all PHAs administering the PBV program.

SECTION I: Timely Reporting Requirements of the Family Report (form HUD-50058 and form HUD- 50058 MTW) into the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) and Timely Submissions into the Voucher Management System (VMS) for Project-Based Vouchers

1. Background

During an audit of the PBV program, the Office of the Inspector General (OIG) found that the Office of Public and Indian Housing (PIH) did not have complete and accurate information about the PBV program because many PHAs did not comply with HUD's requirements and their administrative plans when reporting information regarding program participation.¹ Incorrect reporting not only results in inaccurate information about the program, but can result in the participant paying the wrong amount. Rent calculations are different for families participating in the PBV program and those differences are reflected in section 11 of the 50058 form.

2. Reporting PBV in IMS/PIC

To ensure that families occupying PBV units are recorded properly in IMS/PIC, PHAs must complete section 11 (Section 8: Project Based Certificates and Vouchers), lines 11b through 11an, as applicable, of the form HUD-50058. The remaining sections of the form HUD-50058 must be completed the same as for regular Housing Choice Voucher (HCV) participants with the following exceptions:

- a.** *Action Codes 10, Issuance of a Voucher and 11, Expiration of Voucher.* Action codes 10 and 11 do not apply to the PBV program. PHAs do not need to enter action code 10 or 11 on the form HUD-50058 for participants that will occupy PBV units.
- b.** *Payment Standards.* Payment standards do not apply to the PBV program.
- c.** *Portability.* Since portability does not apply to the PBV program, action codes 4 (portability move-in) and 5 (portability move-out) must not be used on line 2a. Also, lines 11d through 11f must be left blank.

MTW PHAs administering PBV must complete section 21, MTW Tenant-Based or Project-Based Assistance, of the form HUD-50058 MTW. The remaining sections of the

¹Audit Report Number 2011-CH-0001

<http://www.hudoi.gov/sites/default/files/documents/audit-reports/ig1150001.pdf>

form HUD-50058 MTW must be completed as normal *except* for 21m, Flat Subsidy Amount, which does not apply to the PBV program.

3. Correcting the Form HUD-50058 Report when Section 12 was Incorrectly Used

In cases where a PHA has reported a PBV participant in section 12, Housing Choice Vouchers: Tenant Based Vouchers, of the form HUD-50058 in error, the PHA must correct the record by entering the family data in section 11 no later than the family's next recertification. Section 11 must be used for families participating in the PBV program since under the PBV program, families never pay more than TTP (as reflected in section 11 of the 50058).

PHAs that correct an error must determine if the participant has been paying an incorrect rent amount. If so, the PHA must correct the errors starting from the time the incorrect reporting began and reimburse any amounts owed to the family.

4. Reporting Voucher Issuance

A family participating in the PBV program is eligible for tenant-based voucher assistance under the HCV program after the family's first year in occupancy in the PBV unit, if and when such assistance (or other comparable assistance) becomes available. When the PHA issues a family receiving PBV assistance a HCV, it must enter action code 10 on the form HUD-50058.

The PHA continues to record the participant as VO on line 1c of the form HUD-50058 and does not enter an End of Participation (EOP) entry for the participant.

5. Timely IMS/PIC Reporting

Through Notice PIH 2011-65, HUD established the requirement of timely submission of form HUD-50058 and form HUD-50058 MTW. The Department requires that form HUD-50058 must be submitted no later than **60 calendar days** from the effective date of **any** action recorded on line 2b. PHAs that do not submit as required are in non-compliance and subject to sanctions as described in Section I paragraph 7 below.

6. Timely VMS Submissions

Notice PIH 2012-21 is applicable to all PHAs administering the voucher program and establishes submission requirements for the VMS. The Department uses VMS data for budget formulation, cash management, monitoring, determining renewal funding levels, and funding-related factors under the Section Eight Management Assessment Program (SEMAP). Therefore, it is imperative that PHAs comply with VMS reporting requirements and timelines, ensuring that the information submitted is both timely and accurate. The data submitted in the VMS is subject to verification and review by the PIH Office of Housing Voucher Programs Quality Assurance Division. PHAs are required to submit leasing and cost data in the VMS on a monthly basis; each month's data is submitted during the subsequent month. The VMS is available for regular submissions from the 4th through the 22nd of each month. Adjustments to previous months' reported VMS data may be entered at any time by utilizing the Prior Month Correction (PMC)

module. Additional information such as how to use the system, prior month corrections, viewing data and generating reports is found in the VMS User's Manual².

VMS data reporting is time sensitive, and requests to extend submission deadlines will not be considered. However, PHAs that are not able to meet reporting deadlines due to circumstances beyond their control must notify the FMC at Financial_Management_Center@hud.gov. PHAs that do not submit the required data by the reporting deadline may be subject to a withholding or offset of administrative fees.

a. Reporting PBV Units under an Agreement to Enter into a Housing Assistance Payments Contract

VMS has a field for PHAs to report the number of vouchers that are under an Agreement to Enter into a Housing Assistance Payments Contract (AHAP) or under a HAP contract. This field is *not* included in the total vouchers leased calculated for each month; it is an information field only. Therefore, this field is not used in the calculation of a PHA's administrative fee eligibility or funding eligibility. PHAs should continue to use this field to report all vouchers under AHAP or HAP Contract each month, whether or not the units are leased. No additional reporting is needed at this time for vouchers under AHAP.

b. PBV Units under a Housing Assistance Payments Contract (HAP)

PHAs are required to report PBV units that are under HAP Contract in the following manner:

- i. The number of PBVs under HAP Contract and LEASED for the reporting month are to be reported in the normal VMS categories (All Other Vouchers, etc.), and their HAP costs are to be reported in the corresponding normal categories as well.
- ii. PBVs under HAP Contract and NOT LEASED for the reporting month, and for which the PHA is not paying HAP that month, are to be reported only in the Comments section for that month. The PHA only needs to enter a brief comment, such as: "10 PBVs unleased and unpaid.
- iii. The number of PBVs under HAP Contract and NOT LEASED for the reporting month, but for which the PHA made vacancy payments under the specific terms of the HAP contract with the owner, are to be reported in the normal VMS categories (All Other Vouchers. etc.), and their HAP costs are to be reported in the corresponding normal categories as well. They are reported as though leased, so the records reflect accurate HAP costs incurred by the PHA. (The PHA should include a comment in the Comments section when the PHA makes vacancy payments).

² The VMS User's Manual can be found at:
<http://www.hud.gov/offices/pih/programs/hcv/pubs/instructions.pdf>

- iv. The total number of PBVs entered in the normal categories as leased, or unleased but receiving HAP vacancy payments, plus the total number of PBVs entered in the Comments section as unleased should equal the total number of vouchers under HAP contract on the first day of the reporting month.
- v. If a PHA has been reporting its PBVs in any other manner, the PHA is advised to revise the reporting for each month in CY 2014 and CY 2015. These revisions should be completed by the deadline date for PHAs to enter the March 2015 data into VMS, which is on or about April 22, 2015.

Based on accurate reporting as described above, all PHA HAP costs for PBVs will be correctly included in the re-benchmarking formula, and administrative fees will be paid to the PHA for all PBV units under HAP Contract.

7. Non-Compliance

Pursuant to 24 C.F.R. § 982.152(d), HUD may reduce or offset any administrative fee to the PHA, in the amount determined by HUD, if the PHA fails to perform PHA administrative responsibilities correctly or adequately under the program (for example, not submitting form HUD-50058s or VMS non-submission).

If the PHA fails to comply with reporting requirements, HUD may reduce the PHA's administrative fees. The reduction will be calculated beginning the first day of the month following the submission closing due date. The monthly reduction will continue until such time as the PHA complies with the reporting requirements or a waiver is granted. The imposition of such reductions will be communicated under separate cover and may represent a permanent reduction in funding for administrative fees for the current calendar year that shall not be reversed. However, this will not impact the baseline administrative fee calculations.

SECTION II: Maximum Amount of PBV assistance (20 Percent Limit) in the PBV Program and PHA submission requirements under 24 CFR 983.6(d)

1. Overview

Section 8(o)(13)(B) of the United States Housing Act of 1937 (42 U.S. C § 1437f(o)(13)(B)) (the Act) provides that not more than 20 percent of the funding available for the PHA's HCV program may be used for project-based assistance. This statutory limitation applies to all PBV assistance except where Congress has explicitly waived or given HUD the discretion to waive the limitation. The program regulation that effectuates the above cited statute is 24 CFR §983.6.

a. Percentage of Voucher Budget Authority that is Project-based

To determine the percent of voucher budget authority (BA) that the PHA is project-basing for purposes of the 20 percent limit, the following calculation is used:

$\frac{\text{Amount of Project-Based Voucher BA}}{\text{Amount of Voucher BA}} = \% \text{ of PBV BA}$
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The percentage of BA that may be project-based may not exceed 20 percent. Detailed guidance on how to determine the amounts of BA used to calculate this percentage is provided later in this Notice.

b. Impact of RAD on the Percentage of PBV BA Calculation

In determining the amount of voucher BA that may be project-based, there is an exception for the BA attributable to voucher units that are project-based under the Rental Assistance Demonstration (RAD). RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011)³. RAD consists of two components. The first component allows projects under the public housing and Moderate Rehabilitation programs to convert their assistance to long-term, project-based Section 8 rental assistance contracts. The second component allows owners of projects funded under Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Moderate Rehabilitation contracts to convert tenant protection vouchers (TPVs), provided when those contracts end, to PBV assistance (see HUD Notice PIH 2012-32 for detailed information on RAD conversions).

Under RAD, HUD has waived the statutory and regulatory provisions regarding the 20 percent limitation for PBV. As a result, RAD PBV units are not subject to the 20 percent limitation on PBV BA. Furthermore, a PHA that is administering RAD PBV assistance does not take the BA attributable to the RAD PBV contracts into consideration when calculating the 20 percent limitation for any non-RAD PBV contracts. In other words, the BA committed to RAD PBV is excluded from both the numerator and the denominator when calculating the percent of available BA that may be project-based for non-RAD PBV assistance:

$\frac{\text{Amount of PBV BA minus RAD PBV BA}}{\text{Amount of Voucher BA minus RAD PBV BA}} = \% \text{ of non-RAD PBV BA}$
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The percentage of the PHA’s non-RAD PBV BA, as calculated above by removing the RAD PBV BA from both the numerator and the denominator, may not exceed 20 percent.

c. 24 CFR 983.6(d) Intent to Project-base

In order to improve oversight and monitoring of the statutory 20 percent limitation requirement, the Final Rule Implementing Changes Pursuant to the Housing and Economic Recovery Act (HERA) of 2008 79 Fed. Reg. 36146 (June 25, 2014) effective July 25, 2014, requires the PHA to provide advance

³ The second component of RAD received additional authorization by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014).

notice to the HUD field office of its intent to project-base vouchers. In addition to notifying the HUD field office of its intent, the PHA must submit some basic information to the HUD field office for review. The information is designed to demonstrate that the PHA has sufficient BA available to carry-out its planned project-basing activity while remaining in compliance with the 20 percent cap.

The PHA submits:

- The total amount of annual budget authority;
- The percentage of annual budget authority available to be project-based; and
- 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.

The information should be submitted to HUD no later than 14 calendar days prior to the date that the PHA intends to issue the Request for Proposals or make a selection based on a previous competition in accordance with 24 CFR §983.51(b). The PHA submits the required information electronically to the HUD field office by sending an email to: pbvsubmission@hud.gov. The PHA must also copy the relevant local HUD Office of Public Housing (PH) Director on its email submission. The relevant local HUD PH Director's email address can be found at the following location:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/about/focontacts#4CPH, and in the HUD Locator at <http://www5.hud.gov:63001/po/i/netlocator/>

The subject line of the e-mail must include the PHA number (e.g., PA195). The body of the email must clearly identify each of the three submission items. The email must also identify the PHA representative that the HUD field office should contact if HUD has any questions regarding the PHA submission, and the contact information for that PHA representative. A suggested format and example email is provided as *Attachment A* to this Notice. HUD will reply to the PHA's email promptly to notify the PHA if:

- HUD determines the PHA is unable to proceed with its plans to project-base because the 20 percent limitation will be exceeded;
- If there is a material error in the PHA's calculations;
- If there is a need for additional information or any other issue with the PHA's submission that must be addressed; or
- If the 20% limit is not exceeded (this acknowledgement does not imply any other HUD approval).

The information that the PHA is required to submit under 24 CFR §983.6(d) is a simplified calculation that uses the PHA's annual budget authority (ABA) to demonstrate the PHA has sufficient budget authority to fulfill its PBV plans and remain under the 20 percent limit. Paragraph 2 below provides guidance on the

information that must be provided to the HUD field office, as well as the calculations that the PHA uses to determine that information, under 24 CFR §983.6(d). Paragraph 3 explains how exceptions for RAD PBV assistance modifies the calculation of the percentage of voucher ABA that is available for project-basing and the information that is provided to HUD in accordance with 24 CFR §983.6(d).

d. Calculation of Percentage of PBV BA based on all available BA (including PHA HAP reserves)

In cases where the PHA has already project-based a significant percentage of voucher BA, the streamlined methodology pursuant to 24 CFR §983.6(d) may not be sufficient for the PHA to demonstrate that it has necessary BA available to proceed with its project-based plans. In those instances, or in any other instance where the PHA wishes to determine the exact maximum amount of BA that is available for PBV assistance, the PHA HAP reserves (both HUD-held and PHA-held) are also taken into account in determining available BA. Paragraph 4 explains how available BA is calculated to determine the percentage of PBV BA when PHA HAP reserves are included.

e. Moving to Work agencies

Many HCV program statutory and regulatory requirements, including requirements that apply to PBV, may not apply to PHAs participating in the Moving to Work Demonstration (MTW). If a MTW agency has received approval from HUD in its Annual MTW Plan to waive or implement alternative requirements under the PBV program for any requirements covered under this Section of this Notice, the MTW Agency shall follow its approved Annual MTW plan.

2. PBV Submission Requirements under 24 CFR §983.6

This subsection covers the three submission requirements for PHAs that are not administering RAD PBV. Please refer to paragraph 3 for information on the impact RAD PBV has on the 20 percent limit calculation, and how the exception for RAD PBV impacts the submission calculations and requirements under 24 CFR §983.6(d) for future non-RAD PBV actions.

a. Total Amount of ABA.

In determining the amount of voucher BA that may be project-based, the first step is to calculate the amount of the PHA's available BA. Under the streamlined, simplified methodology, the PHA's ABA is used as a proxy for available BA. The PHA must provide the total amount of ABA to the HUD field office in accordance with 24 CFR §983.6(d)(1).

ABA is the amount of the PHA's renewal funding for the calendar year (CY) and any non-renewal funding (such as funding increments for tenant protection vouchers and HUD-VASH vouchers) that is available for the CY. Enclosure A of the PHA's renewal notification letter provides the amount of renewal funding, as

well as any non-renewal funding that, as of the date of the Enclosure A, is available for the CY. (See *Attachment B* of this notice for an example of where this information is listed (summary line 2 on the Enclosure A)). If the PHA has received any new voucher funding increments (e.g., HUD-VASH, tenant protection vouchers) following the date of the PHA's most recent renewal notification letter and Enclosure A, the PHA adds the funding from that new increment that is attributable to the CY to the amount listed on summary line 2 on the Enclosure A to calculate its ABA. To determine the amount of the new funding increment that is part of the ABA, the total funding in the increment is divided by the number of months in the term to determine a monthly amount. That monthly amount is multiplied by the number of months the increment is funded for the CY in question. If the PHA is uncertain if a new increment is included in the CY Non-Renewal Funding to Date line on the most recent Enclosure A, the PHA should contact their financial analyst in the Financial Management Center (FMC) for assistance.

Example:

The PHA is calculating its ABA and has the following new increment that is ***not*** included in the Enclosure A information:

HUD-VASH Voucher Funding Increment, effective 7/1/14

Initial Term: ***12 months***

Budget Authority: ***\$2.4 million***

Monthly Amount: ***\$200,000 (\$2.4 million divided by 12)***

Months attributable to CY 2014: ***6 (July – December 2014)***

BA included in CY 2014 Annual Budget Authority: ***\$1.2 million (\$200,000 x 6 months)***

The calculation for the amount of ABA that the PHA will submit to the HUD field office is as follows:

CY HCV Renewal Funding (from Enclosure A)

+ *CY Non-Renewal Funding to Date (from Enclosure A)*

+ *CY Non-Renewal Funding from Increments not included on Enclosure A*

= *Annual Budget Authority*

Illustration:

Enclosure A CY 2014 HCV Renewal Funding = \$19 million

Enclosure A for CY 2014 Non-renewal Funding to Date = \$800,000.

CY 2014 Non-Renewal Funding not included on Enclosure A = \$1,200,000.

ABA = \$21 million (\$19 million + \$800,000 + \$1,200,000).

PHA reports \$21 million as its ABA to the HUD field office under 24 CFR §983.6(d)(1).

b. Percentage of ABA Available to be Project-Based.

The next item the PHA needs to determine for the submission to the HUD field office is the percentage of ABA that is available to be project-based. The PHA uses the following information to calculate this submission item:

- The amount of ABA that is currently committed to PBV and the percentage of ABA that amount represents.
- The percentage of ABA that is still available for additional project-basing.

Step 1: Determine the amount of ABA that is currently committed to PBV.

In order to complete this step, the PHA calculates the current monthly HAP expenses for PBV units currently under PBV HAP contract. The PHA would include any vacancy payments it is making as part of the current monthly HAP expenses.

For any units that are under HAP contract but for which the PHA did not make a HAP payment or vacancy payment for the month in question, the PHA may use the average HAP payment for the PBV contract to estimate the BA committed for that particular unit.

In addition, the PHA must add the anticipated monthly HAP costs for any project-based units not yet under HAP but for which the PHA:

(1) has issued a notice of proposal selection or

(2) are currently under an Agreement to Enter into a HAP Contract (AHAP).

If the PHA does not know the actual per unit cost (PUC) for the units that are not yet under a PBV HAP contract, in order to calculate the monthly HAP expenses the PHA estimates the PUC for those units by using the rent to owner (as determined in accordance with 24 CFR§ 983.301) minus the average TTP for the PHA program until the actual cost is known. The PHA then annualizes the total monthly PBV HAP that is currently committed to PBV by multiplying by 12. *(see sidebar for step 1 example)

Step 1 Example:

PHA's monthly actual PBV HAP expenses = \$68,750

Anticipated PBV HAP for any units under PBV HAP for which there was no HAP or vacancy payment= \$1250

**(In this example the PHA has 2 units under PBV HAP contract for which neither a HAP payment nor a vacancy payment was made for the most recent month. The PHA determines that the average HAP payment under the PBV HAP contract is \$625. The PHA multiplies \$625 x 2 to determine the anticipated PBV HAP cost of those two units.)*

PHA's monthly PBV HAP expenses for units under HAP is \$68,750+\$1250 = \$70,000

Anticipated PBV monthly HAP expenses for units not yet under HAP is the number of PBV units not yet under HAP multiplied by the PUC.

**(If PUC unknown, substitute Maximum PBV rent to owner minus HCV program average TTP)*

Number of units = 40 units
Estimated PUC =\$750

40 units x \$750 PUC =\$30,000

Anticipated monthly HAP expenses plus actual monthly PBV HAP expenses = Total monthly PBV HAP expenses.

\$30,000 + \$70,000 =\$100,000

Total monthly HAP expenses annualized represents ABA currently committed to PBV

\$100,000 x 12 months = \$1.2 million

Step 2: Determine the percentage of ABA that is currently committed to PBV.

The ABA currently committed to PBV (step 1) is divided by ABA to determine the percentage of ABA currently committed to PBV.

$$\frac{\text{Amount of Project-Based BA}}{\text{Amount of BA}} = \% \text{ of PBV BA}$$
$$\frac{\$1,200,000}{\$20,000,000} = 6\%$$

Step 3: Determine the percentage of annual budget authority available to be project-based.

To complete this step, the PHA simply subtracts the percentage of ABA currently committed to PBV from 20 percent.

Example:
Maximum % of ABA that may be project-based = 20%
Percentage of ABA currently committed to PBV = 6%
20% minus 6% = **14%**

c. **Total Amount of ABA the PHA is Planning to Project-Base Pursuant to the Selection and the Number of Units that such Budget Authority will Support.**

The last item the PHA includes in its submission to the HUD field office is the amount of ABA the PHA is planning to project-base and the number of units the budget authority will support. If this amount of ABA the PHA is planning to project-base is less than the amount of ABA that is still available for project-basing (as determined in paragraph 3(b) above), then the PHA submission demonstrates that the PHA has the necessary budget authority available to proceed with its project-basing plans.

Example: PHA Submission

The PHA intends to issue a request for proposals for project-based vouchers. The PHA is planning to make up to \$750,000 in ABA available for this purpose to support approximately 100 vouchers.

PHA submits to HUD:

Total amount of ABA is \$20,000,000

Percentage of ABA available to project-base is 14%

Total amount of ABA PHA is planning to project-base is \$750,000

Vouchers ABA will support is 100 vouchers

$$\frac{\$750,000}{\$20,000,000} = 3.75\% \text{ (represents less than percentage of ABA available to project-base – PHA submission demonstrates available ABA to proceed)}$$

3. RAD PBV Adjustments to the Percentage of BA that is Project-based Calculation and PHA Submission Requirements under 24 CFR §983.6(d)

As noted above, HUD waived the 20 percent limitation at section 8(o)(13)(B) of the United States Housing Act of 1937 as well as 24 CFR §983.6 for PBV units under the RAD demonstration. Consequently, a PHA does not submit the information required under 24 CFR §983.6(d) to HUD when project-basing vouchers under RAD (unless subsequent guidance issued for the RAD modifies this policy).

In addition, neither the HAP costs for RAD PBV units nor the BA used to cover those HAP expenses are taken into consideration in determining the amount of BA the PHA may use to project-base non-RAD voucher units. As noted earlier, the PHA would exclude the RAD PBV BA from both the numerator and the denominator in determining the percentage of BA that is currently being used for PBV.

Example:

Total ABA - \$20,000,000

ABA committed to PBV - \$3,000,000

RAD PBV - \$1,000,000

To determine where the PHA is in relation to the 20% limitation on PBV, the RAD PBV ABA is subtracted from the PBV ABA (numerator) and the total ABA(denominator) to calculate the percentage of ABA that is being used for project-based assistance.

$$\frac{\text{Total PBV ABA (RAD \& non-RAD)} - \text{RAD PBV ABA}}{\text{Total ABA} - \text{RAD PBV ABA}} = \% \text{ of ABA attributable to PBV exclusive of RAD}$$

Illustration

$$\frac{\$2 \text{ million } (\$3 \text{ million} - \$1 \text{ million})}{\$19 \text{ million } (\$20 \text{ million} - \$1 \text{ million})} = 10.5\%$$

**For a PHA that is administering RAD PBV, the ABA committed to RAD PBV is not counted in any of the calculations to determine whether the PHA has budget authority to project-base vouchers outside of RAD, nor is it included in any of the calculations the PHA completes to submit the required information to the HUD field office under 24 CFR §983.6(d). An example is provided in Attachment C of this Notice of how a PHA administering RAD PBV would calculate the submission items under 24 CFR §983.6(d) for a new non-RAD PBV proposal.

4. Calculating the Percentage of PBV BA using all available BA

As noted above, the required submissions to HUD are based on a simplified, streamlined approach. In most cases it is sufficient to demonstrate the PHA has the necessary budget authority available to implement its planned project-based activities. However, if a PHA has already project-based a significant percentage of voucher budget authority, the streamlined methodology required by 24 CFR §983.6 may not be

sufficient for the PHA to demonstrate that it has available budget authority to fulfill its future project-basing plans. The PHA may also wish to determine the exact maximum amount of budget authority that is available at a given time for planning purposes. Available budget authority includes the PHA HAP reserves (both HUD-held and PHA-held) which are also taken into account in determining the PHA's authority to project-base vouchers. In addition to ABA, as determined in paragraphs 2 and 3 above, the current reserve balances (both HUD-held and PHA-held) are added to determine the total amount of budget authority that is available for purposes of calculating the 20% limit and the percentage of total budget authority that is still available for project-basing.

The calculation for the ABA that the PHA submits to the HUD field office in such instance is as follows:

CY HCV Renewal Funding (from Enclosure A)
+ CY Non-Renewal Funding to Date (from Enclosure A)
+ CY Non-Renewal Funding from Increments not included on Enclosure A
+ Current Amount of HUD-held Reserves
+ <u>Current Amount of PHA-held Reserves (NRA)</u>
Total Budget Authority

The PHA may not use the estimated HUD-held Program Reserves and Net Restricted Asset (NRA) amounts from the Enclosure A. The PHA must use the current reserve balances. If the PHA has questions or needs assistance regarding the current HUD-held reserve balance and/or PHA NRA, the PHA should contact their financial analyst in the FMC.

To assist in the calculations described in this section of this Notice, a sample worksheet is attached to this Notice as *Attachment D*.

SECTION III: PHA-Owned Units under the PBV Program

1. Background

Section 8(f) of the Act (42 U.S. Code § 1437f(f)) defines owner for purposes of the Section 8 program to include a public housing agency having the legal right to lease or sublease dwelling units. Sections 8(o)(11) and 8(o)(13)(F) of the Act impose certain statutory requirements and limitations on leasing of PHA-owned units under the PBV program. Those requirements are discussed in more detail in the paragraphs that follow.

NOTE: PHAs participating in the Moving to Work Demonstration (MTW) can waive many statutory and regulatory provisions pertaining to the housing choice voucher program (including the PBV program). If a MTW agency has received approval from HUD in its Annual MTW Plan to waive or implement alternative requirements under the PBV program for any requirements covered under this Section of this Notice, the MTW Agency shall follow their approved Annual MTW plan.

2. PHA-Owned Units - Ownership

In accordance with 24 CFR §983.3, PHA-owned, for purposes of the PBV program, means that the PHA or its officers, employees, or agents or in an entity that holds any such direct or indirect interest in the building, including, but not limited to an interest as:

- titleholder
- lessee
- a stockholder
- a member, or general or limited partner,
- a member of a limited liability corporation.

If a PHA, its officers, employees or agents possess any interest in the building, the PBV project or building is considered PHA-owned and must comply with all statutory, regulatory, and any other HUD requirements governing PHA-owned units.

3. Independent Entity

Section 8(o)(11) of the Act requires that the unit of general local government or a HUD-approved independent entity perform certain functions for PHA-owned units. Those functions include performance of housing quality standard (HQS) inspections, and determining rent reasonableness for PHA-owned units. Section 8(o)(13)(F) of the Act also requires that the PHA and the unit of general local government or HUD-approved independent entity agree to the term of any HAP contract.

If the PHA itself is the unit of general local government or an agency of such government, the independent entity must be a HUD-approved public or private entity.

The entity and PHA must possess an autonomous relationship. Therefore, the parties must not be connected legally, financially (except with regard to compensation for services performed for PHA-owned units), or in any other manner that could cause either party to be improperly influenced by the other. The independent entity must perform its responsibilities in an unbiased manner, and the PHA must not take any action that could prevent the independent entity from making unbiased determinations related to its responsibilities. The PHA must submit to the HUD field office documentation that demonstrates or supports the independent nature of the parties' relationship.

a. HUD Approval

PHAs planning to attach PBVs to PHA-owned units, must identify, in writing, the proposed independent entity and submit it to the local HUD Office of Public Housing prior to entering into the AHAP for new construction and rehabilitation or prior to selection for existing housing. If the PHA plans to utilize an independent entity to review selection of the PHA's proposal for PBV assistance, the PHA must submit the request for approval of the proposed independent entity to the local HUD Office of Public Housing at the same time the PHA notifies HUD of its intent to project-base units in accordance with program regulations at 24 CFR §983.6. If the PHA plans to use different independent entities to perform

different functions, the PHA must submit for approval each independent entity it plans to use and identify the function the entity will perform. Once an independent entity has been approved, if the PHA will use the same HUD-approved independent entity to perform the same function for which it was previously approved, the PHA simply must certify in writing that it will use the previously HUD-approved independent entity for the particular function. The PHA must submit the certification to HUD prior to AHAP or when it notifies HUD of its intent to project-base as described above.

b. Payment for Program Services

The Act requires that expenses associated with services of the independent entity are the responsibility of the PHA. The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve (i.e. Unrestricted Net Assets)). The PHA may not use other program receipts to compensate the independent entity for its services.

The PHA, and the independent entity, may not charge any family that occupies or will occupy a PBV PHA-owned unit any fee for the services provided by the independent entity.

4. Selection of PHA-owned Units

A PHA may submit a proposal for PBV assistance in connection with PHA-owned units. If the PHA selects a proposal for PHA-owned units, such units shall only be assisted under the PBV program if the HUD field office or a HUD-approved independent entity reviews the PHA's selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA's administrative plan. The PHA may either choose to hire an independent entity to review the PHA's selection process or request the local HUD Office of Public Housing's review. If the PHA chooses to hire an independent entity, the PHA must submit the name of the independent entity to HUD for approval in accordance with Section III paragraph 3.a. above.

a. PHA Selection Procedures

The PHA's selection procedures must apply to all PBV proposals and must be designed in a manner that does not effectively eliminate the submission of proposals for non-PHA-owned units nor gives undue preferential treatment (e.g., additional points) to PHA-owned units.

b. Submission Requirements

If PHA-owned units are selected for the attachment of PBV assistance to dwelling units the PHA must submit the following to the HUD Field Office or HUD-approved independent entity:

- i. all proposals submitted for PBV assistance in connection with the particular selection including proposals submitted for selection in

- accordance with 983.51(b)(2);
- ii. a copy of the PHA's administrative plan;
- iii. if the proposal was selected pursuant to a request for proposals in accordance with 983.51(b)(1), a copy of the solicitation; and
- iv. if the proposal was selected pursuant to a qualifying previous competition in accordance with 983.51(b)(2), a copy of the proposal for the previous competition, and any award letter provided in connection with the previous competition.

5. Contract Requirements for PHA-owned Unit

a. Parties

- i. Under the PBV program, the contract administrator and the owner cannot be the same legal entity (i.e., the PHA acting as contract administrator cannot execute a contract with itself as the owner of the PBV units). The PHA must establish a separate legal entity to serve as the owner. Such entity may be one of the following:
 - 1. a non-profit affiliate or instrumentality of the PHA;
 - 2. a limited liability corporation;
 - 3. a limited partnership;
 - 4. a corporation; or
 - 5. any other legally acceptable entity recognized under State law.

b. 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 unit of general local government or the independent entity approved by HUD. Any costs associated with implementing this requirement must be paid for by the PHA.

6. Inspection of PHA owned Units

In the case of PHA-owned units, the inspections required under the PBV program must be performed by a HUD-approved independent entity, rather than by the PHA. Subpart I of 24 CFR Part 982 governs inspections under the Housing Choice Voucher program and are made applicable to the PBV program by 24 CFR §983.2 with certain exceptions (see §983.2(c)(4)). PBV-specific inspection requirements can be found at 24 CFR Part 983, Subpart C. In the case of PHA-owned housing, all PHA responsibilities applicable to the PBV program related to HQS under subpart I of Part 982 must be performed by the independent entity.

a. Initial – Pre-HAP

For PHA-owned units, the independent entity must perform all initial inspections under the PBV program including:

- i. **Pre-selection inspection**—Inspection of site. For all housing types, the independent entity must examine the proposed site before the proposal selection date.

- ii. **Inspection of existing units** – If the units to be assisted already exist, the independent entity must inspect **all** the units before the proposal selection date, and must determine whether the units substantially comply with the HQS. All units to be assisted under the PBV program must be inspected and must substantially comply with HQS in order to be selected as existing under the PBV program.
- iii. **Pre-HAP contract inspections** - The independent entity 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.

b. Subsequent - Post-HAP

For PHA-owned units, the independent entity must perform all subsequent inspections under the PBV program including:

- i. **Turnover inspections** - Before providing assistance to a new family in a contract unit, the independent entity must inspect the unit. The PHA may not provide assistance on behalf of the family until the independent entity determines and notifies the PHA that the unit fully complies with the HQS.
- ii. **Biennial inspections** - At least biennially during the term of the HAP contract, the independent entity 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 discussed in subparagraph i. of this paragraph are not counted toward meeting this biennial inspection requirement.

If more than 20 percent of the biennial sample of inspected contract units in a building fails the initial inspection, the independent entity must re-inspect 100 percent of the contract units in the building.

7. Other inspections

The independent entity must inspect contract units whenever needed to determine that the contract units comply with the HQS and that the PHA-owner is providing maintenance, utilities, and other services in accordance with the HAP contract.

At the family oral briefing (see 24 CFR §983.252), the PHA must provide families with up to date contact information for the independent entity and request that families contact the independent entity concerning HQS tenant complaints. If families contact the PHA directly, the PHA must receive the complaint, inform the independent entity of the complaint and once again provide the family with contact information for the independent entity. The independent entity must take into account tenant complaints and any other information coming to its attention in scheduling inspections.

8. Follow-up inspections

The independent entity must conduct follow-up inspections needed to determine if the PHA-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 PHA-owner or family violation of the HQS in accordance with program regulations. (Family HQS obligations are specified in 24 CFR §982.404(b).)

9. Notification

The independent entity must immediately notify the PHA of HQS deficiencies that are the responsibility of the PHA-owner by fax or email. A signed report outlining deficiencies must also be sent to the PHA the same day the PHA is notified by email or fax. For deficiencies identified that require immediate attention because they pose a risk to life, health or safety (see 24 CFR §982.404(a)(3)), the independent entity must communicate to the PHA-owner immediately via telephone or email. The independent entity must confirm receipt of communication.

a. Reporting

The independent entity must report findings for all inspections performed and furnish a copy of each inspection report to the PHA and to the local HUD Office of Public Housing where the project is located.

b. PHA and Field Office Action

The PHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner. If the independent entity has attempted to resolve all outstanding HQS deficiencies with the PHA-owner but the PHA-owner has not taken the necessary actions, the independent entity must contact the relevant local HUD Office of Public Housing Director. The local HUD Office of Public Housing staff will intervene and attempt to resolve the matter. If the PHA continues to fail to take the necessary actions as identified by the independent entity, after HUD intervention, the local HUD Office of Public Housing Director shall notify the Housing Voucher Management and Operations Division (HVMOD) in Headquarters with all relevant facts. HVMOD will determine the appropriate enforcement action that may be taken against the PHA-owner in accordance with the Consolidated Annual Contributions Contract, HAP contract, program regulations and directives. The PHA-owner will be notified in writing of the enforcement action.

10. Rent Determinations for PHA-owned Units

Rent to owner for PHA-owned units is determined pursuant to 24 CFR §983.301 through §983.305 in accordance with the same requirements as for other units except that the independent entity is responsible for determining the initial rent to owner, re-determined rent to owner and the reasonable rent.

a. Initial

The independent entity approved by HUD must establish the initial contract rents

using the method prescribed by PBV program requirements. The PHA must use the rent to owner established by the independent entity.

b. Subsequent

The independent entity must re-determine rent to owner in accordance with 24 CFR §983.303 when any of the following occur:

- i. Annual anniversary- If the owner requests a rent increase at the annual anniversary date of the HAP contract, the HUD-approved independent entity must perform the annual redetermination of rent to owner in accordance with program regulations.
- ii. Five percent decrease - 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;
- iii. Change in utility allocation - Whenever the PHA approves a change in the allocation of responsibility for utilities between the PHA-owner and family;
- iv. Substitution of Contract Unit - Whenever the HAP contract is amended to substitute a different contract unit in the same building or project; and
- v. Changes - Whenever there is any other change that may substantially affect the reasonable rent.

c. Notice of rent redetermination

Rent to a PHA-owner is re-determined by written notice from the independent entity to the PHA-owner specifying the amount of the re-determined rent (as determined in accordance with 24 CFR §§983.301 and 983.302). The notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The amendment should be documented by a signed exhibit to the HAP contract.

d. Rent Reasonableness

For PHA-owned units, the amount of the reasonable rent must be determined by the HUD-approved independent entity, rather than by the PHA.

i. Reporting

The independent entity must furnish a copy of the determination of reasonable rent (initial and subsequent redeterminations) for PHA-owned units to the PHA and to the local HUD Office of Public Housing where the project is located.

SECTION IV Paperwork Reduction Act

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2577-0169 and 2577-0083. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person

is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

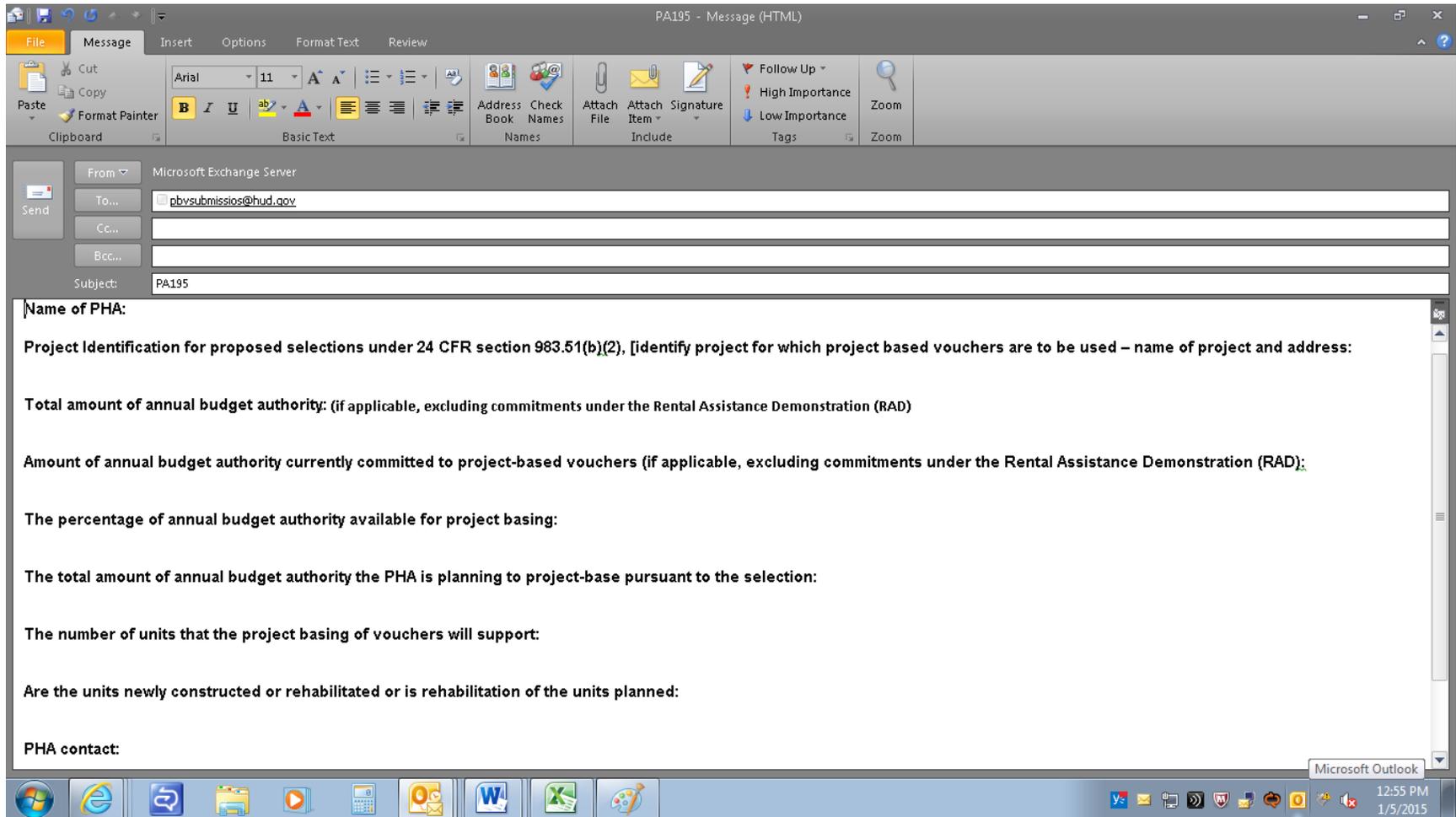
SECTION V Further Information

For inquiries concerning PIC requirements under Section I of the Notice, please contact the Housing Voucher Management and Operations Division, at (202) 708-0477, or you may also contact your local PIC Coach. For inquiries regarding VMS, please contact the Financial Management Division at (202) 708-2934. Inquiries concerning Sections II and III of this Notice should be directed to the PHA's local HUD Office of Public Housing or Diane Thompson-Bouknight in HUD Headquarters, Office of Public Housing and Voucher Programs, Housing Voucher Management and Operations Division, via email at diane.a.thompson@hud.gov.

/s/

Jemine A. Bryon
Acting Assistant Secretary for
Public and Indian Housing

Attachment A



Attachment B

Calculation of Calendar Year 2014 Renewal Funding Housing Choice Voucher Program					
1	HA Number:	PH002			
2	HA Name:	ANYTOWN HSG AUTHORITY			
FUNDS AVAILABLE TO THE PHA FOR CY 2014					
	CY 2014 HCV Renewal Funding (from line 26 below)	\$9,424,581			
	CY 2014 Non-Renewal Funding (TPVs, VASH, etc.), as of 5/22/14	\$0			
	12/31/2013 HUD-Held Funds	\$703,598			
	12/31/2013 PHA-Reported Net Restricted Assets	\$0			
	Total Estimated Funds Available for CY 2014				\$10,128,179
ELIGIBILITY					
3	Total Unit Months Leased per VMS - CY 2013	24,014			
4	Total Unit Months Available - CY 2013	40,332			
5	Capping Percentage (see Notes)	100.00%			
6	Total CY 2013 HAP Expenses per VMS	\$9,452,940			
7	Total CY 2013 Capped HAP Expenses (Line 5 x Line 6)	\$9,452,940			
8	Renewal Funding Inflation Factor	1			
9	Inflated Eligibility Sub-Total (Line 7 x Line 8)	\$9,452,940			
10	First Time Renewals	\$0			
11	Transfers In or Out	\$0			
12	Total DHAP Eligibility	\$0			
13	Total Renewal Eligibility (Line 9 + Line 10 + Line 11 + Line 12)	\$9,452,940			
14	Proration Factor			0.997	
15	Prorated Eligibility (Line 13 x Line 14)				\$9,424,581
OFFSET					
16	Minimum NRA Balance, 12/31/2013				\$0
17	Estimated HUD-Held Funds, 12/31/2013				\$703,598
18	Total Estimated Excess Funds (Line 16 + Line 17)				\$703,598
19	Excess Funds Not Subject to Offset:				
20	Funds Required to Maintain December 2013 Leasing	\$0			
21	Funds Required to Fully Lease VASH Vouchers in 2014	\$0			
22	CY 2013 Portion of Incremental Funding	\$0			
23	10% of CY 2014 Renewal Eligibility	\$942,458			
24	Total Excess Funds Not Subject to Offset (Line 20 + Line 21 + Line 22+ Line 23)				\$942,458
25	Excess Funds to Offset (Line 18 - Line 24)				\$0
FUNDING					
26	Total CY 2014 Prorated Renewal Funding, After Offset (Line 15 - Line 25)				9424581
27	Comments				
	<p>The purpose of this revised Enclosure A for CY 2014 renewal funding is to revise the HUD-Held Funds final value reported in the FUNDS AVAILABLE FOR THE PHAS IN CY 2014 section, at the top of the document. This document should replace the 2014 Renewal Enclosure that your PHA received on March 18, 2014. The original value was to represent funds available after reconciliation of CY 2013 expenses. The value reported herein represents undisbursed funds as of the end of CY 2013, since reconciling disbursements and offsets were not made. This value corresponds to the 12/31/2013 HUD-Held Funds value reported to the PHA in the NRA validation documents recently provided for PHA review, and in the HAP disbursement announcements for the months of June and July, 2014. IMPORTANT: The Department decided not to increase the NRA offset and thereby reduce the 2014 funding eligibility for PHAs for whom the HUD-Held Funds increased under the revised definition; therefore, this revised document does not change values in the ELIGIBILITY, OFFSET or FUNDING sections. This means that the values reported on Lines 16 and 17 of the Offset calculation are not the same values reported in FUNDS AVAILABLE FOR THE PHAS IN CY 2014 section.</p>				
	<p>New Increments Renewed in CY 2014: Listed below are funding increments for which the PHA is receiving an additional inflation factor in CY 2014 to support increased costs since the increments were initially funded, or is receiving funding to complete the initial 12 months of new increments previously funded for a shorter term.</p>				
PHA Number	Funding Increment Number	Expiration Date	Number of Units	Inflation Funding	Funding for Short Term Increments

**Example of PHA Submission Requirement Calculations for a PHA
Administering RAD PBV**

To illustrate how RAD impacts the PHA's submission items to HUD under §983.6(d), the example below assumes the above PHA intends to issue a Request for Proposals for up to \$750,000 for non-RAD PBV.

The PHA's total ABA = \$20 million (See paragraph 2(a) of Section II of this Notice on how to calculate ABA)

The PHA's total ABA currently committed to PBV = \$3 million (See paragraph 2(b) of Section II of this Notice for information on how to calculate ABA committed to PBV)

Of the \$3 million ABA currently committed to PBV, the amount committed to RAD PBV = \$1 million

- a. ***The total amount of annual budget authority the PHA reports to HUD under 983.6(d)(1)***

ABA = Total ABA minus RAD PBV ABA

ABA = \$20 million - \$1 million

ABA = \$19 million

*ABA reported to HUD in accordance with 983.6(d) = **\$19 million***

- b. ***Percentage of ABA available to be project-based the PHA reports to HUD under 983.6(d)(2).***

Step 1: Determine the amount and percentage of non-RAD ABA that is currently committed to non-RAD PBV.

*In our example, the amount of non-RAD ABA that is currently committed to non-RAD PBV is **\$2 million**. The percentage of non-RAD ABA that is currently committed to non-RAD PBV is 10.5%.*

\$2 million (\$3 million - \$1 million)

*\$19 million (\$20 million - \$1 million) = **10.5%***

Step 2: Determine the percentage of ABA available to be project-based.

The PHA simply subtracts the percentage of ABA currently committed to PBV from the 20 percent of ABA.

Maximum % of non-RAD PBV ABA = 20%

Percentage of non-RAD ABA currently committed to PBV = 10.5%

Maximum % PBV ABA minus % ABA currently committed to PBV = % ABA available for PBV

20% - 10.5% = 9.5%

- c. 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 reported to HUD under 983.6(d)(3).***

Assume this PHA is planning to make up to \$750,000 in ABA available for this purpose to support approximately 100 vouchers.

PHA Submission

In this example, the PHA would submit the following information to HUD:

*The total amount of non-RAD annual budget authority = **\$19 million***

*The percentage of non-RAD annual budget authority available to be project-based= **9.5%***

*The total amount of non-RAD 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 = **\$750,000 (100 vouchers)***

Conclusion: \$750,000 is equal to 3.9% of non-RAD ABA (\$750,000 divided by \$19 million), which is less than the percentage of non-RAD ABA available to be project-based. The PHA has demonstrated it has sufficient BA available to proceed with its PBV plans.