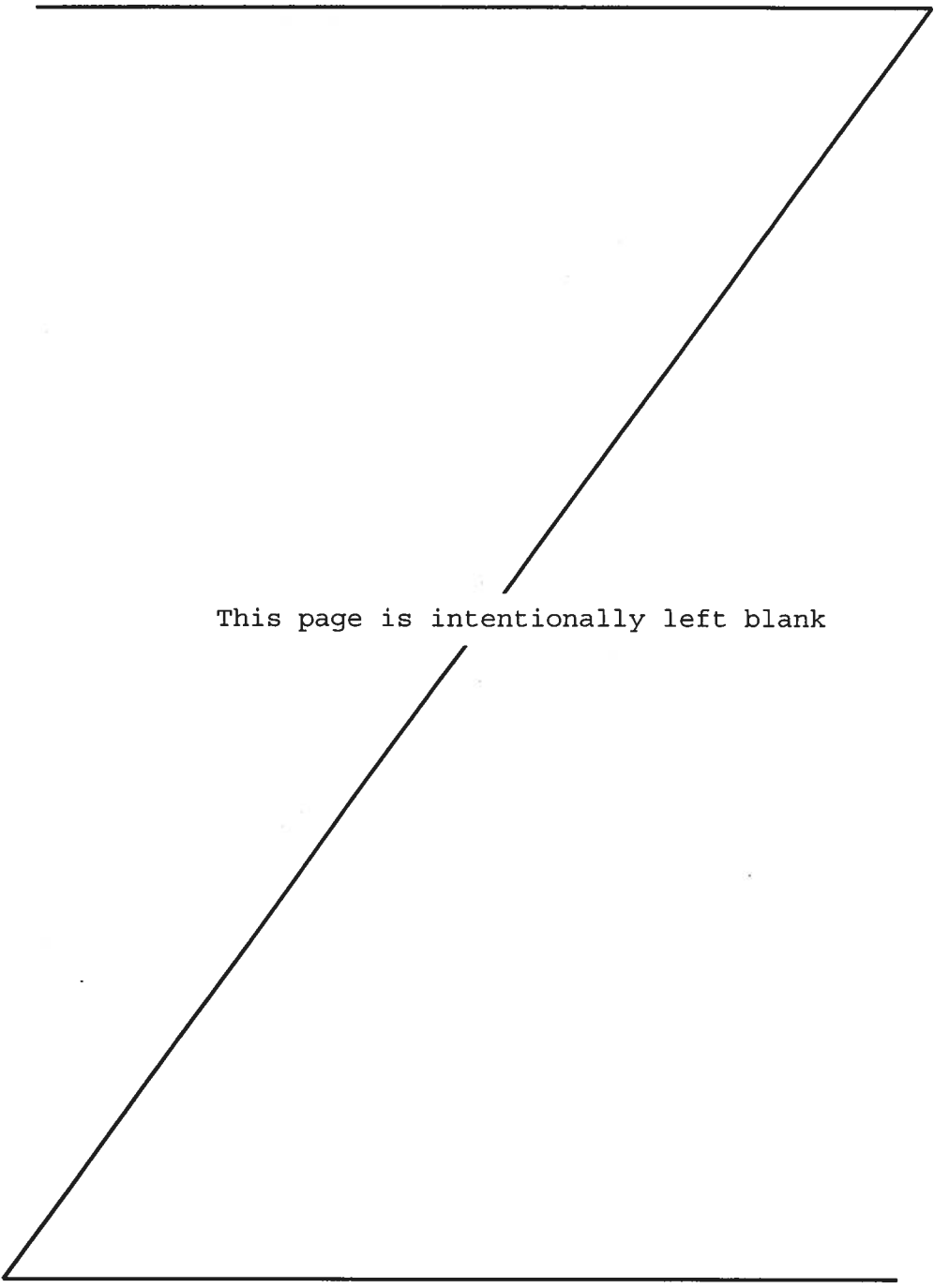


Amendment and Compilation of Chapter 8-13  
City and County of Honolulu  
Department of Community Services

Chapter 8-13, Hawaii Administrative Rules, entitled "Rules Relating to the Section 8 Project-Based Rental Assistance Program," is amended and compiled.



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TITLE 8

DEPARTMENT OF COMMUNITY SERVICES

CHAPTER 13

RULES RELATING TO THE SECTION 8 PROJECT-BASED RENTAL ASSISTANCE PROGRAM

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§8-13-1 General Applicability. These rules are adopted under the Hawaii Administrative Procedures Act, Chapter 91, Hawaii Revised Statutes, pursuant to Ordinance of the City and County of Honolulu, and are intended to set forth the essential elements to implement the City and County of Honolulu, Section 8 Project-Based Voucher Program, as established in Title 24 of the Code of Federal Regulations, specifically Part 983 as it existed

on December 1, 2020. Except as otherwise expressly modified or excluded by 24 C.F.R. Part 983, provisions of 24 C.F.R. Part 982, as they existed on December 1, 2020, and Chapter 8-10 shall apply to the Project-Based Voucher Program [Eff 5/28/04; am, ren and comp 12/10/12; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. Parts 982 and 983)

§8-13-2 Purpose and Objective. The purpose of Project-Based Assistance is to encourage property owners to construct, rehabilitate, and make available standard rental housing stock to lower income families at rents within the Section 8 Program's established limits; maximize housing choice, especially for low-income families who have traditionally been limited in the location of housing that they could afford; discourage the concentration of low-income households in any one area; and encourage the creation of additional housing resources for low-income households integrated throughout the community. Whenever feasible, the projects selected for the Project-Based Voucher Program will be in areas with lower concentrations of poverty. [Eff 5/28/04; am, ren and comp 12/10/12; comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.5)

§8-13-3 General Project-Based Voucher Program; Percentage Limitation (a) The Agency may, at its sole option, choose to provide Section 8 Project-Based Assistance with funds provided to the Agency for its Section 8 Housing Choice Voucher Program.

With Project-Based Assistance, the Agency enters into an assistance contract with the Owner to make Housing Assistance Payments for a specific unit(s) for a specified term provided the unit is occupied by an eligible family. To fill vacant project-based units, the owner shall lease the unit to eligible Families from the Agency's waiting list. Although the assistance is tied to the unit, a Family that moves from the unit may be eligible for continued assistance under the tenant-based Housing Choice Voucher Program.

HUD does not provide any separate funding for the Project-Based Voucher Program. Funding for the Program is part of the Annual Contributions Contract funding authority for the Agency's entire Section 8 Housing Choice Voucher Program.

(b) No more than twenty per cent of the authorized units for the Agency under the consolidated ACC for tenant-based assistance in the Agency's Housing Choice Voucher Program, may be used for project-based assistance excluding funding designated by HUD for other special purpose. Up to an additional ten per cent of the authorized units for the Agency may be used to provide project-based assistance for units in census tracts with a poverty rate of 20 per cent or less; or units that house families that meet the HUD definition of homeless and related guidance or families with veterans; units that provide supportive housing to persons with disabilities or elderly persons; or units located in areas where vouchers are difficult to use.

(c) Exceptions to this cap are permitted for Veterans Affairs Supportive Housing (VASH) PBV set aside units, rental assistance demonstration (RAD) units, and units previously under certain federal rent restrictions or long term housing subsidies.

(d) No more than twenty per cent of any new funding increments may also be designated for the Project-Based Voucher Program provided that the funding is not designated for any other special purpose under the Housing Choice Voucher Program. [Eff 5/28/04; am, ren and comp 12/10/12; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.5 and 983.6, 82 Fed. Reg. 5458 §5463-5466)

§8-13-4 Definitions. (a) The following definitions are found in Section 8-10-2: "Agency", "Annual Contributions Contract (ACC)", "CFR-Code of Federal Regulations", "Disabled Family", "Elderly Family", "Fair Market Rent (FMR)", "Family", "Family Rent to Owner", "Family Share", "Gross Rent", "Housing Assistance Payments (HAP)", "HUD", "Lease", "Owner", "Payment Standard", "Public Housing Agency (PHA)", "Reasonable Rent", "Rent to Owner", "Total Tenant Payment (TTP)", "Utility Allowance", and "Very Low-Income Family".

(b) In addition to the terms listed in subsection (a), the following definitions apply:

"Agreement to Enter into Housing Assistance Payments Contracts", "Agreement," or "AHAP" means a written agreement between the Owner and the Agency in a form prescribed by HUD that, upon satisfactory completion of the Newly Constructed Housing or the Rehabilitated Housing and occupancy by an eligible Family in accordance with requirements specified in the Agreement, the Agency will enter into a HAP Contract.

"Applicant" means an individual or Family that has submitted an application but is not yet a participant in the Section 8 Project-Based Voucher Program.

"Existing Housing" means housing units that already exist on the proposal selection date and that substantially comply with the HQS or successor standard on that date. The units must fully comply with the HQS or successor standard before execution of the HAP Contract.

"Housing Assistance Payments Contract" or "HAP Contract" means a written agreement between the Agency and an Owner for the purpose of providing Housing Assistance Payments under the Section 8 Housing Choice Voucher Program to the Owner on behalf of an eligible Family.

"Housing Quality Standards (HQS)" means the minimum quality standards for tenant-based programs to insure that the unit is safe, decent and sanitary.

"Independent Entity" means an entity that has no legal or financial connection that could cause any party to improperly be influenced by the other.

"Initial Rent" means the Gross Rent, including utilities, of the Project-Based Assisted unit as specified in the HAP Contract.

"Newly Constructed Housing" means 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.

"PHA-owned Unit" means a dwelling unit owned by the Agency that administers the voucher program. PHA-owned means that the Agency, an entity wholly controlled by the Agency, or a limited liability company or limited partnership in which the Agency or an entity wholly controlled by the Agency holds a controlling interest in the managing member or general partner.

"Project" means 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 Voucher (PBV) Program" or "Program" means a Section 8 Housing Choice Voucher Program administered by the Agency pursuant to 24 C.F.R. Part 983 which provides assistance attached to specific units for a specified period of time.

"Project-Based Assistance (PBA)" means a type of rental assistance under the Housing Choice Voucher Program.

"Rehabilitated Housing" means 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.

"Section 8 Housing Voucher Program (HCVP)" means a Section 8 Rental Assistance Program, also known as Voucher Program.

"Veteran" means a person who has served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable, and as may be further defined by HUD and related federal guidance.

[Eff 5/28/04; am, ren and comp 12/10/12; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.3, 42 U.S.C. §1437(f), 82 Fed. Reg. 5458 §5463 (1/18/17))

§8-13-5 Eligible, Ineligible and PHA-owned Units. (a) The Agency may make available PBA for Newly Constructed Housing, Rehabilitated Housing and Existing Housing projects or units that meet HUD and Agency requirements. Requirements include:

- (1) Physical condition standards and physical inspection requirements as set forth in 24 C.F.R. 983.101 to 983.103;
  - (2) Site and neighborhood standards as described in 24 C.F.R. 983.57 for Newly Constructed Housing, Existing Housing and Rehabilitated Housing;
  - (3) Federal requirements as described in 24 C.F.R. Part 983, Subpart D for Rehabilitated Housing and Newly Constructed Units; and
  - (4) Other Federal requirements as described in 24 C.F.R. Part 983.
- (b) Ineligible properties include the following:
- (1) Shared housing, nursing homes, and facilities providing continual psychiatric, medical, nursing services, board and care, or intermediate care;
  - (2) Units within the grounds of penal, reformatory, medical, mental and similar public or private institutions;
  - (3) Properties located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless, it is located in an area participating in the national Flood Insurance Program, in which case the Agency shall ensure that flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973;
  - (4) Units owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;

- (5) A manufactured home space rental;
  - (6) Cooperative housing;
  - (7) Transitional housing; or
  - (8) The homeownership option.
- (c) The Agency may not attach or pay PBA to units in any of the types of subsidized housing specified in 24 C.F.R. 983.54.
- (d) Assistance may not be attached to a unit that is occupied by an Owner.
- (e) A group home may include one or more group home units. A separate Lease is executed for each Elderly Family or Disabled Family who resides in a group home.
- (f) PHA-owned Units.
- (1) PHA-owned Units may only be assisted under the PBV Program if in accordance with 24 C.F.R. 983.51(e), the HUD field office or HUD-approved independent entity reviews and approves the selection process.
  - (2) A unit of local government or a HUD-approved independent entity must determine rent reasonableness; establish the initial and renewal HAP Contract term; establish initial and redetermined contract rents; and conduct HQS inspections.
- (g) Other federal requirements to determine eligibility of units include minimizing displacement, providing for relocation assistance, and complying with real property acquisition requirements as defined in 24 C.F.R. 983.7 and Uniform Federal Accessibility Standards (UFAS) as defined in 24 C.F.R. 8.23. [Eff 5/28/04; am, ren and comp 12/10/12; am and comp JAN 10 2021]  
 (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.7, 983.9(a)(2), 983.9(b), 983.51(e), 983.53 to 983.54, 983.57, 983.59, 983.101 to 983.103, 983.151 to 983.156)

§8-13-6 Partially Assisted Building Requirement. (a) Not more than the greater of twenty five dwelling units or twenty-five per cent of the dwelling units in any Project may receive PBA.

(b) The following types of housing are exempt from this cap:

- Single family dwellings, defined as a building having one up to four units;
- Units in a multifamily project made available specifically for Elderly Families; and
- Units in a multifamily project made available specifically for families eligible for supportive



services made available to the assisted residents of the project.

(c) Not more than the greater of twenty five dwelling units or forty per cent of the dwelling units in any Project may be assisted with PBA in areas where vouchers are difficult to use as determined by HUD or with respect to census tracts with a poverty rate of 20 per cent or less. Tenants of dwelling units qualifying for the twenty-five dwelling unit per Project exception shall be offered supportive services but participation in the services shall not be required as a condition of living in the excepted unit. Supportive services may include but are not limited to housekeeping or personal assistance; education or employment services; and case management and referral services. Services shall be available at varying frequency.

(d) Any units of PBA attached to units previously subject to federally required rent restrictions or receiving other HUD project based assistance shall not count toward the percentage limitation. [Eff 5/28/04; am, ren and comp 12/10/12; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.56, P.L.114-201, Sec 106)

§8-13-7 Public Notice and Invitation to Owners; Owner Application Requirements. (a) If the Agency will be selecting Owners under 24 C.F.R. 983.51(b)(1), the Agency shall publish a notice and accept applications for the PBV Program. The notice will be published at least twice in a newspaper of general circulation and will include the following:

- (1) The application deadline (at least thirty days after the date of the first publication);
- (2) The estimated number of units to be selected for assistance;
- (3) A statement that only applications submitted in response to the notice will be considered; and
- (4) The selection criteria to be used in awarding PBA. In addition, the Agency shall post a public notice on its electronic website.

(b) As an alternative to solicitation of applications under subsection (a), the Agency may select proposals for PBV assistance from proposals which have been competitively selected under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's

competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

(c) Owners responding to the notification of PBA funding must submit an application in the form prescribed by the Agency and by the application deadline date specified in the notice.

(d) For Newly Constructed Housing and/or Rehabilitated Housing Units, the Owner's application must include items as described in 24 C.F.R. Part 983, Subpart D. [Eff 5/28/04; am, ren and comp 12/10/12; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.51)

§8-13-8 Compliance with PBV Goals, Civil Rights Requirements and HQS Site Standards. (a) The Agency may not select a proposal for Existing Housing or Newly Constructed on a site or enter into an agreement to enter into a HAP Contract or HAP Contract for units on the site, unless the Agency has determined that PBV 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 C.F.R. Part 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the Agency must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 C.F.R. 982.401(1).

In complying with this goal the Agency will limit approval of sites for PBV housing in census tracts that have poverty concentrations of twenty per cent or less.

However, the Agency may grant exceptions to the twenty per cent standard where the Agency determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than twenty per cent, such as sites including but not limited to:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

(b) Existing and Rehabilitated Housing Site and Neighborhood Standards. The Agency may not enter into an agreement to enter into a HAP contract nor enter into a HAP Contract for Existing Housing or Rehabilitated Housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- (1) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- (2) Have adequate utilities and streets available to service the site;
- (3) Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- (4) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted standard housing of similar market rents; and
- (5) Be located so 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.

(c) New Construction Site and Neighborhood Standards. In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

The site must have adequate utilities and streets available to service the site;

The site must not be located in an area of minority concentration unless the Agency determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;

The site 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.

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

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

The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted standard housing of similar market rents; and

Except for housing designed for elderly persons, the housing must be located so 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. [Eff 5/28/04; am, ren, comp 12/10/2012; am and

comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.57)

§8-13-9 Evaluation, Ranking and Selection Criteria.

(a) For an application to be considered for selection to the PBV Program, the Agency shall determine that each application is responsive to and in compliance with the Agency's selection criteria and procedures, and is otherwise in conformity with Agency and HUD Program rules and requirements, including, but not limited to the following:

- (1) Property is an eligible unit as defined in Section 8-13-5;

- (2) Proposed initial gross rents do not exceed the lowest of:
  - (A) an amount determined by the Agency, not to exceed 110 per cent of the Fair Market Rent (or any exception payment standard approved by the HUD Secretary) for the unit bedroom size minus any Utility Allowance;
  - (B) the reasonable rent; or
  - (C) the rent requested by the Owner.
- (3) For a unit that (A) has been allocated a low income housing tax credit under Internal Revenue Code of 1986 at 26 U.S.C. 42, (B) is not located in a "qualified census tract", (C) is comparable to other tax credit units in the same building (and such other tax credit units do not have any form of rental assistance other than the tax credit, and (D) the tax credit rent exceeds the Fair Market Rent (or any exception payment standard) as determined in accordance with 24 C.F.R. 983.301(b), the Rent to Owner must not exceed the lowest of (X) the tax credit rent minus any Utility Allowance; (Y) the reasonable rent; or (Z) the rent requested by the Owner.
  - (b) The Agency shall rate and rank proposals for Rehabilitated Housing and Newly Constructed Housing, at a minimum, using the following criteria. The Agency may include any other criteria reflecting the Agency's priority at the time of RFP issuance:
    - Owner experience and capability to build or rehabilitate housing as identified in the RFP;
    - Extent to which the project furthers the Agency goal of deconcentrating poverty and expanding housing and economic opportunities;
    - If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
    - Projects requesting the lowest percentage of assisted units will receive the highest score.
  - (c) The Agency shall rate and rank proposals for Existing Housing, at a minimum, using the following criteria:
    - (1) Experience as an Owner and compliance with the Owner's obligations under the tenant-based program, or any experience with a similar subsidy program recognized by the Agency;
    - (2) Extent to which the project furthers the Agency goal of deconcentrating poverty and expanding housing and economic opportunities;

- (3) If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- (4) Extent to which units are occupied by families that are eligible to participate in the PBV program.
- (d) The Agency shall rate and rank proposals from Owners competitively selected under another federal, state, or local housing assistance program pursuant to Section 8-13-7(b) using the factors above and may also consider the following factors:
  - (1) Extent to which the project furthers the Agency goal of deconcentrating poverty and expanding housing and economic opportunities;
  - (2) Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
  - (3) Extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
  - (4) Experience as an Owner and compliance with Owner's obligations under the tenant based program or similar subsidy program recognized by the Agency.
- (e) A ranking list will be established according to the points awarded to each proposal and the highest ranked projects will undergo further review by the Agency. The Agency shall, at its discretion, select one or more or none of the proposals submitted [Eff 5/28/04; am, ren and comp 12/10/12; am and comp           ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.51(b))

§8-13-10 Rehabilitated and Newly Constructed Housing Requirements. (a) The Owner shall prepare work write-ups, construction specifications and plans upon request as determined appropriate by the Agency for Rehabilitated Housing and Newly Constructed Housing projects. In addition, Newly Constructed Housing projects require certification by a design architect that the proposed Newly Constructed Housing reflected in the working drawings and specifications complies with housing quality standards, local codes and ordinances and zoning requirements.

(b) For projects consisting of four Newly Constructed Housing or five Rehabilitated Housing or more units, the Agency shall determine any work items necessary to meet the

accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and, for Newly Constructed Housing only, the accessibility requirement of the Fair Housing Amendments Act of 1988.

(c) The Owner is responsible for selecting a responsible contractor who shall provide the Agency with a certification of non-debarment. Development of nine or more units requires compliance with the Davis-Bacon Act of 1931 and related acts.

(d) Initial rents; environmental clearance. Before executing an Agreement for PHA-owned Units, the Agency shall use a HUD-approved independent entity to establish the rents in accordance with 24 C.F.R. 983.301 or seek approval of proposed rents from HUD for any PHA-owned units or HUD insured or coinsured multifamily mortgage and obtain environmental clearance in accordance with 24 C.F.R. 983.58, and other requirements as described in 24 C.F.R. Part 983.

(e) Agreement to Enter into Housing Assistance Payments Contract. Upon satisfactory compliance with all required elements of the PBV Program, including the subsidy layering review and environmental review, the Agreement to Enter into Housing Assistance Payments Contract will be completed with the selected Owner.

(f) Timely Performance of Work. Upon execution of the Agreement, the construction period shall promptly commence. The construction period shall be determined in accordance with the approved application and deadlines included in the Agreement. In the event the work is not so commenced, diligently continued, or completed, the Agency may approve reasonable extensions of time, terminate the Agreement or take other appropriate action.

(g) Inspection and Changes. The Agency shall perform regular inspections during the construction period. Any changes from the work specified in the Agreement that would alter the design or the quality of the Newly Constructed Housing or Rehabilitated Housing must be approved by the Agency prior to making the changes.

(h) Notification of Vacancies. At least sixty days before the scheduled completion of the project, the Owner shall notify the Agency of any units expected to be vacant on the anticipated effective date of the HAP Contract.

(i) Completion of Construction. The Owner shall notify the Agency when the work is completed and provide the Agency with evidence of completion, including, but not limited to, a certificate of occupancy and other certifications as prescribed in 24 C.F.R. 983.155(b). The Agency shall perform a final inspection prior to acceptance of the units and notify the Owner of any deficiencies or defects that may exist. The Owner may be

allotted a time extension if warranted which may affect contract rents, or the Agency may reject any units that do not meet program requirements and the Owner notified with a statement of the reasons for nonacceptance. [Eff 5/28/04; am, ren and comp 12/10/2012; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.151 to 983.156)

§8-13-11 Housing Assistance Payments Contract (HAP Contract). (a) Unit Selection. The Agency shall not select a unit for PBA, if the unit is occupied by persons who are not eligible for participation in the PBV Program. In a project selected to receive PBA, the Agency may convert existing families with tenant-based vouchers to project based assistance without the need to apply for a waiting list.

(b) Review and Inspections. The Agency shall review and inspect all units to be assisted with PBA to determine that the units are in compliance with the HQS and other standards required by HUD or the Agency.

(c) HAP Contract. Upon acceptance of the Rehabilitated Housing, Newly Constructed Housing or Existing Housing units, the Agency shall execute a Housing Assistance Payments Contract for PBA under the Housing Choice Voucher Program with the Owner in the format prescribed by HUD. The Owner shall inform the Agency of any units that are vacant and shall lease all assisted vacant units to eligible Families of the appropriate size from the Agency's waitlist.

(d) Term of HAP Contract. The initial term of PBA HAP Contracts shall be for a period of not less than one year nor more than twenty years, or any other HUD approved term, subject to future funding availability under the ACC with HUD.

(e) Extension of HAP Contract. Upon expiration of the initial term of the HAP Contract, the Agency may extend the HAP Contract for such period as the Agency determines is necessary to continue to provide affordable housing for low income families or to expand housing opportunities, but in no case not more than twenty additional years subject to the future availability of appropriated funds from HUD.

(f) Initial Rent. Initial gross rents may not exceed the rent limits on the date the Agreement is executed, if applicable, or as described in Section 8-13-9(a)(2). For PHA-owned Units, either prior to executing the Agreement (for Newly Constructed Housing or Rehabilitated Housing Units) or prior to executing the HAP Contract (for Existing Housing), the Agency shall use a HUD



approved independent entity to determine reasonableness of the Initial Rent. The Agency may reduce the Initial Rent to Owner because of other governmental subsidies and rent limits as provided in 24 C.F.R. 983.304 and 983.305. Small Area Fair Market Rents shall not apply to PBV projects.

(g) Rent Adjustments. If required by HUD, at least annually, the Agency shall redetermine that the current Rent to Owner does not exceed the Reasonable Rent. The HAP Contract shall provide for rent adjustments and that the adjusted rent for any assisted unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market as described in 24 C.F.R. 983.303, and shall not exceed the maximum rent limits as described in Section 8-13-9(a)(2). The Owner shall provide information requested by the Agency on rents charged by the Owner for other units in the premises or elsewhere.

(h) Vacant Units. The Agency may provide vacancy payments under the PBA HAP Contract for up to sixty days after a unit becomes vacant, in an amount not to exceed the rent to Owner on the day the Family vacated. The Agency may only make such payments for a vacant unit if:

- (1) The vacancy was not the Owner's fault, and
- (2) The Owner has taken every reasonable action to minimize the likelihood and extent of vacancies.

(i) Reduction of Contract Units after Vacancy. If no eligible Family rents a vacant unit within one hundred twenty days (commencing on the first day of the month when the vacancy occurred), the Agency may terminate its commitment to make any additional HAP for the unit for the balance of the HAP Contract term.

(j) Addition of Contract Units. At any time during the term thereof without being subject to any additional competitive selection procedures, the Agency may consider adding contract units to the HAP Contract when the Agency determines that additional housing is needed to serve eligible low-income families, provided that the total number of units in a Project that will receive PBV assistance will not exceed twenty-five per cent of the units and twenty per cent of the Agency's authorized units. Circumstances may include, but are not limited to:

- (1) Local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- (2) Voucher holders are having difficulty finding units that meet program requirements.

(k) Substitution of contract units. The Agency may amend the HAP Contract to substitute a different unit with the same

number of bedrooms in the same Project for a previously covered contract unit.

(1) When a unit receiving PBA is overcrowded or underoccupied, the Family must move to an appropriately sized unit when an offer of such unit is made and the appropriately sized unit is substituted for the previously covered contract unit. [Eff 5/28/04; am, ren and comp 12/10/2012; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. 983.253, 983.254, 983.301 to 983.305; 82 Fed. Reg. 5458 §5468-5469 1/18/17)

§8-13-12 Tenant Selection. (a) If the unit selected for PBA is occupied by an eligible Family, the Family shall be afforded the opportunity to lease that unit or another appropriately sized, as defined in Section 8-10-12, PBA unit in the Project without requiring the Family to be placed on the waiting list.

(b) The Owner shall lease all vacant assisted units to eligible Families from the Agency's waiting list. In selecting Families from the waiting list, preference shall first go to a Family receiving a HUD special funded voucher the funding for which will end, and the specific preferences established for the project and then by position on the waiting list. For special funded PBV units, eligible families must meet the requirements for the special funded PBV.

(c) The Owner shall immediately notify the Agency of any vacancies. If there is an inadequate number of interested Applicants, within thirty days of the notification of the vacancy, the Owner may advertise and solicit applications from otherwise eligible Very Low-Income Families and refer these families to the Agency to determine HCVP eligibility.

(d) The Owner shall be responsible for the screening and selection of tenants in accordance with their written selection procedures approved as part of the original proposal for the PBV Program (see 24 C.F.R. 983.51). The Owner shall promptly provide written notification to the Agency and any rejected Family of the grounds for the rejection.

(e) If the Owner rejects an Applicant who believes that the rejection was the result of unlawful discrimination, the Agency may assist the Family, if requested, in resolving the issue or refer the Family to the local Fair Housing office or the HUD field office for assistance in filing a discrimination complaint or to exercise other rights provided by law. An Applicant who is rejected by an Owner of a PBA unit and is on the

tenant based waiting list, shall retain its place on that list.  
[Eff 5/28/04; am, ren and comp 12/10/2012; am and comp  
JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp:  
RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.51, 983.251, 983.253 to  
983.255)

8-13-12.1 Occupancy Standards. Guidelines on occupancy.

(a) The following guidelines from Section 8-10-12 are set forth solely for determining the bedroom size to be designated for the PBA unit. In determining the appropriate unit size, the Agency shall make the best use of available voucher funding. The Agency shall consider and apply the following criteria:

- (1) A Family shall be assigned the smallest unit size suitable for its needs. Each unit, therefore, will identify at least one bedroom for every two persons, consistent with Housing Quality Standards.
- (2) Every member of the Family, regardless of age, shall be considered in determining the Family's Voucher size and the Agency shall count:
  - (A) Children who are subject to a joint custody agreement but live in the unit at least 51 per cent of the time;
  - (B) Foster children and foster adults intending to reside in the unit for more than one hundred eighty days will not be required to share a bedroom with Family members and will be included in determining the bedroom size;
  - (C) A member of the family who is temporarily absent from the unit for less than one hundred eighty days, unless otherwise provided by HUD rules;

- (D) Minor children and college students who are away at school within the state but live with the Family during school recesses;
- (3) In situations of verified medical necessity, an additional bedroom may be provided for:
  - (A) A live-in aide;
  - (B) Medical equipment, which requires a separate bedroom, or
  - (C) A family member who must have a separate bedroom due to a documented serious medical condition.
- (4) A Family comprised solely of a pregnant woman shall be treated as a two-person family.
- (5) The Agency shall not count absent Family members who are on active military duty or are institutionalized for an indefinite period, permanent absent members or visitors.
- (6) In no event may a Single Person be issued a voucher size that is larger than a zero bedroom.
- (7) The living room shall not be counted as a bedroom for occupancy purposes.
- (8) The following ratios shall be used as an occupancy guide for the Family members per sleeping room:

<u>Number of Bedrooms</u>	<u>Minimum Persons</u>	<u>Maximum Persons</u>
0	1	2
1	2	4
2	2	6
3	3	8
4	6	10

(b) Visitors. Visitors of the Participant Family may reside with the Family no more than thirty days in one calendar year. Minors and college students who were part of the Family but who now live away from the home during the school year and are no longer on the Lease shall not be subject to this limitation. The Owner must be notified and approve of visitors in advance of their staying with the Participant. [Eff ; ren and comp ] (Auth: RCH§4-105.4,6-302,ROH§1-9.1) (Imp: RCH§6-302,ROH §6-23.3)

(c)

§8-13-13 Waiting List; Issuance of Voucher. (a) PBA will be offered to Applicants at the top of the waiting list as funding and units become available.

(b) Preference in selecting families. In selecting families from the waiting list, the Agency will provide selection preference in accordance with chapter 8-10. An Owner may refer families living in the PBA building but not living in a unit selected for PBA or families that apply directly to the project to be placed on the waiting list. [Eff 5/28/04; am, ren and comp 12/10/2012; am and comp JAN 10 2021]. (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.251(c))

§8-13-14 Family Briefing. (a) When a Family is selected to occupy a PBA unit, the Agency shall provide to the Family an oral briefing, including information concerning the Total Tenant Payment, Family Rent to Owner, and any applicable Utility Allowance. Additional information that shall be provided include:

- (1) Family obligations under the PBV Program.
- (2) Family and Owner responsibilities under the Lease and HAP Contract;
- (3) Significant aspects of federal, state and local equal opportunity laws and applicable fair housing information;
- (4) The fact that the subsidy is tied to the unit and that the Family must occupy a unit under the PBV Program;
- (5) The likelihood of the Family receiving continued assistance after the HAP Contract expires or if the Agency terminates the HAP Contract for the unit;
- (6) The Family's options under the PBV Program if the Family is required to move because of a change in Family size or composition; and
- (7) The Agency's procedure for conducting informal reviews for participants, including the circumstances in which the Agency shall provide the opportunity for an informal review and the procedures for requesting a review.

(b) The Family shall be required to participate in the briefing prior to receipt of PBA. Failure to participate shall be grounds for disqualification of the Family from the PBV Program.

(c) The Family must meet all of its obligations of the PBV Program and the Lease and comply with all of the rules of the Section 8 Housing Choice Voucher Program in Chapter 8-10 as

applicable to PBA. [Eff 5/28/04; am, ren and comp 12/10/2012; am and comp JAN 1 0 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.252)

§8-13-15 REPEALED. [Eff 5/28/04; am, ren and comp 12/10/2012; rep JAN 1 0 2021] (Auth: RCH §§4-105.4, 6-302, ROH 1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§982.514 to 982.515)

§8-13-16 Maintenance, Operation and Inspection. (a) The Owner shall provide all the services, maintenance and utilities as agreed under the HAP Contract, subject to abatement of HAP or other applicable remedies if the Owner fails to meet these obligations.

(b) Before and during the term of assistance, the Agency shall inspect a sample of units at least biennially and must meet or exceed HQS. [Eff 5/28/04; am, ren and comp 12/10/2012; am and comp JAN 1 0 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.103, §983.207)

§8-13-17 Assisted Tenancy and Termination of Tenancy

(a) Term of Lease. The term of a Lease must be for at least one year; or the remaining term of the HAP Contract if the remaining term is less than one year; or the remaining term of a special-funded voucher.

(b) Termination of Tenancy.

- (1) The Owner shall provide the Agency with a copy of any termination of tenancy notification.
- (2) The HAP Contract and the Lease shall contain a provision permitting the Family to terminate the Lease on proper notice as stated on the Lease after the first year of the term.
- (3) The Owner may offer the Family a new Lease after the first year of the term of the Lease in writing at least sixty days before the proposed commencement date of the new Lease term and must specify a reasonable time for acceptance by the Family.

(c) Move from Unit.

- (1) The Family shall notify the Agency and the Owner before moving out of the unit as required by program rules and the Landlord and Tenant Code.
- (2) The Family occupying a unit with PBA may move from the PBA unit after the first year and retain federal housing assistance. If no such assistance, or comparable assistance is not available at the time the Family moves, the Agency shall give the Family priority to receive the next available tenant based voucher.
- (3) The Family occupying a unit with PBA that is special funded after the first year may move and retain housing assistance under the same special funded program if funding is available. The agency shall not provide tenant based assistance.

(d) Overcrowded and Underoccupied Units. If the Agency determines that the assisted unit is overcrowded due to an increase in Family size or underoccupied under the Agency's occupancy standards, the Owner must offer the Family a suitable alternative unit if one is available and the Family shall be required to move. If the Owner does not have a suitable unit, the Agency (if it has sufficient funding) shall offer tenant based rental assistance to the Family or otherwise assist the Family in locating other standard housing within its jurisdiction and shall require the Family to move as soon as possible. HAP will continue to be issued while the Family remains in the unit unless the Family rejects, without good reason, the offer of a unit that the Agency judges to be acceptable.

(e) Termination Due to Insufficient Funding. If, after taking all cost-saving measures, the Agency determines that funding is insufficient to support continued assistance for Families in the Program, the Agency may terminate assistance by canceling or withdrawing vouchers prior to their expiration. The Agency will not terminate assistance in the PBV program unless so instructed by HUD. If termination is necessary, the family will be terminated by the most recent date of admission. Such termination of the HAP Contract for all or any of the contract units and notice to Owner shall be implemented in accordance with HUD instructions. Families whose assistance is terminated due to insufficient funding may reapply to the Program. Upon termination or expiration of the PBV contract without extension, each assisted family may elect to use its assistance to remain in the project if the unit complies with inspection and rent reasonableness requirements and pays the tenant's share of rent.

(f) Termination of Assistance Due to FSS or Supportive Services Noncompliance. If the Family resides in a project-based

voucher unit excepted from the twenty-five per cent per Project cap because of the Family's participation in a Family Self Sufficiency (FSS) or other supportive services program, and the Family fails without good cause to complete its FSS contract of participation or supportive service requirement, the Agency shall terminate assistance in accordance with HUD requirements. [Eff 5/28/04; am, ren and comp 12/10/2012; am and comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.56, 983.205(c), 983.256 to 983.257, 983.259 to 983.260)

§8-13-18 Operation and Administration of Program. The Agency shall administer the PBV Program in accordance with all provisions under the HCVP as described in Chapter 8-10, including the issuing of monthly HAP, determining eligibility of applicants; annual, interim and special reexamination of household income and family composition; maintaining the Utility Allowance schedule; and inspection of assisted units to ensure compliance with HQS. [Eff 12/10/2012; comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.5)

§8-13-19 Other Policies. All other policies in Chapter 8-10 related to eligibility and occupancy of the Section 8 tenant based program and the specific provisions relating to Sections 8-10-22 through 8-10-28 shall apply unless expressly provided for in this rule. [Eff 5/28/04; am, ren and comp 12/10/2012; comp JAN 10 2021] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.5)



**DEPARTMENT OF COMMUNITY SERVICES  
CITY AND COUNTY OF HONOLULU**

Amendments to Chapter 13, Section 8 Project Based Rental Assistance Program, were adopted on December 18, 2020, following a public hearing on December 17, 2020, after public notice was given on November 17, 2020, in the Honolulu Star-Advertiser.

These Rules shall take effect ten days after filing with the City Clerk of the City and County of Honolulu.



PAMELA A. WITTY-OAKLAND  
Director  
Department of Community Services

APPROVED:



KIRK CALDWELL  
Mayor  
City and County of Honolulu  
Date: 12-30-2020

FILED:



GLEN TAKAHASHI  
City Clerk  
Date: December 31, 2020

APPROVED AS TO FORM AND  
LEGALITY:



Deputy Corporation Counsel