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Project Based Voucher guidance and FAQs for potential developers responding to RI Housing's Barbara Jordan II Request for Proposals (RFP)

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What is PHA's connection to the Barbara Jordan II development?

For many years PHA administered a site based rental assistance (Mod Rehab) contract at Barbara Jordan II which at one time included as many as 74 units. When the project was foreclosed on by HUD, there were 33 tenant families still residing there under that contract. Those tenants received tenant protection vouchers, which effectively are regular mobile housing choice vouchers. The PHA is interested in returning to Barbara Jordan II, potentially through the award of Project Based Vouchers to a new project owner. Also, PHA is participating in the RI Housing developer RFP review committee for Barbara Jordan II.

Will the former BJII tenants have a "right to return" to the newly developer property?

As stated above, the tenants who remained at the property at the end now have mobile vouchers. Those vouchers do not give them a specific right to return to that property, though if allowable by HUD a developer could potentially include in its tenant selection plan a preference for any of those 33 families to return using their voucher. If PHA awarded Project Based Vouchers for the site, we would not have a requirement that priority be given to former BJII families – and we do not expect that many families would want to give up their mobile voucher for a project-based voucher. A new owner of the project may also admit housing choice voucher holders into non-PBV units.

What are project based vouchers?

The project-based voucher (PBV) program allows a Public Housing Authority that already administers a tenant-based voucher program under an annual contributions contract (ACC) with the Department of Housing and Urban Development (HUD) to take up to 30 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. Under the PBV program, a housing authority enters into a Housing Assistance Payments ("HAP") Contract with a

property owner to pay rental subsidy on behalf of eligible tenants (defined as households earning 50% of Area Median Income or lower). The subsidy is subject to all applicable HUD regulations. The HAP contract may cover either all or a portion of the units in a development and may be for a period of up to 20 years (and also may be renewed by agreement of both parties). As with tenant based rental assistance, the tenant household will pay 30 percent of its adjusted income, accounting for utilities, and the PHA pays the difference between the tenant payment and the contract rent.

How does a project owner/developer apply for Project Based Vouchers in Providence?

The Providence Housing Authority's Section 8 Administrative Plan provides for two methods by which the PHA may award PBVs. One is through a competitive request for proposals – PHA issued such an RFP last in October of 2018 and awarded 50 PBVs across five project owners as a result. However, the plan also allows the PHA to award PBVs to a project that was previously selected based on another competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals. The regulation that allows for this option does not allow any consideration that the project would receive PBVs. **The PHA is not able to make any commitment, provisional or otherwise, to any developer seeking PBVs at the Barbara Jordan II site prior to RI Housing's RFP process.**

How many PBVs may be awarded to a single project?

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project. [24 CFR 983.56] Another way to understand this is that the normal limit for PBVs is 25 units for any project of 100 units or less.

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if [Federal Register notice at 82 **FR** 5458]:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project (PHA has a definition of supportive services as they apply to PBVs in its Section 8 Administrative Plan)

In addition, if the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [Federal Register notice at 82 **FR** 32461].

What projects and units would be eligible for Project Based Vouchers?

- Newly constructed and existing structures of various types may be appropriate for attaching assistance to the units, including single-family and multi-family structures.
- A housing authority may not attach assistance to units in the following types of housing:
 - ✓ Housing for which the new construction is started before an Agreement to Enter into Housing Assistance Payments is executed;
 - ✓ Housing for which the rehabilitation is started before an Agreement to Enter into Housing Assistance Payments is executed;
 - ✓ Shared housing; nursing homes; and facilities providing continual psychiatric, medical, nursing services, board and care or intermediate care;
 - ✓ Units within the grounds of penal, reformatory, medical, mental and similar public or private institutions;
 - ✓ Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;
 - ✓ Manufactured homes;
 - ✓ Transitional housing; and
 - ✓ Units occupied by ineligible families.
- Assistance may not be attached to a unit that is occupied by an owner.
- In no event may any occupant of a unit with project-based assistance receive the benefit of any of the following:
 - ✓ Any other form of Section 8 assistance
 - ✓ Rent supplement
 - ✓ Section 23 housing assistance
 - ✓ Section 236 "deep subsidy" rental assistance payments.

In addition, the PHA may not enter into a HAP contract for any project unless it meets the HUD required Site and Neighborhood Standards for existing and

rehabilitated housing (24 CFR 983.57[d]) or for new construction (24 CFR 983.57[e]), depending on which standards apply to the project.

Does an award of Project Based Vouchers impact the construction process?

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates [24 CFR 983.154(b)].

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

How are rents determined for PBV units?

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis. Any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate and sufficient funding is available. For each unit type and size, the proposed contract rent must be provided as well as a breakdown of the utilities to be paid by the tenant and by the owner.

The rent to owner including utility allowances must not exceed the lowest of:

- 110% of the HUD Published Fair Market Rents (FMR);
- The reasonable rent (set by the PHA); or
- The rent requested by the owner.

What other regulations apply to the PBV program?

You may find links to HUD guidance and federal regulations impacting the PBV program at HUD's Project Based Vouchers website,

https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/project.

To understand the local regulations for the Providence Housing Authority as they relate to awarding of vouchers, the contract and rent setting process, rent increase requests, initial and ongoing inspections of the units, and our definition of supportive services, you may review the PHA's Section 8 Administrative Plan, available on PHA's website at <https://provhousing.org/about-pha/pha-plans-reports-policies/>. Project Based Vouchers are addressed in Section 15 of the plan.

Who may I contact with further questions?

Because the PHA is participating in the BJII Review Committee and because the decision of this committee may form the basis for a PHA award of project based vouchers in the future, PHA staff are unable to meet or speak by phone with any applicants or their partners or representatives at this time. Questions not addressed by this document may be submitted by email to Peter Asen, Director of Strategy and Development, at pasen@provhousing.org. If questions arise that are not addressed sufficiently by this document or RI Housing's RFP, PHA intends to add them to this document and post updates on our website in a timely fashion. Anyone submitting a question or otherwise sending by email a request to receive updates to this document will be notified when any updated version of the document is posted to PHA's website.