

## **The Section 8 Housing Choice Voucher Project Based Assistance Program**

### **A Primer**

*[NOTE: This paper was prepared in September of 2002 and represents TAC's current knowledge and thinking concerning the use of the Section 8 project based assistance program for the development of supportive housing. Legislation pending in Congress as well as anticipated HUD regulations may modify the policies and recommendations outlined below.]*

#### **Overview**

The creation of the new Section 8 Housing Choice Voucher Project Based Assistance Program (Section 8 PBA) by Congress presents an important opportunity to significantly expand the development of permanent supportive housing for homeless and at-risk households with special needs. Through this project based component of the Section 8 voucher program, Public Housing Agencies (PHAs) can enter into long-term contracts with owners of rental housing – including supportive housing. In exchange for this contract, which gives the owner a virtual guarantee of rental income, the owner agrees to accept tenants to live in the project based units who qualify for the Section 8 program. PHAs confront both challenges and opportunities in their decision-making to implement this optional component of the Section 8 voucher program. The Technical Assistance Collaborative (TAC) has prepared this paper to clarify the technical issues and bureaucratic requirements imposed on PHAs seeking to administer a Section 8 PBA program, identify both the challenges and opportunities that the program offers to PHAs, and provide practical suggestions for developing PHA partnerships to expand permanent supportive housing using Section 8 PBA resources. Please note that this program is just one component of HUD's Section 8 Tenant Based Housing Choice Voucher program. For a detailed review of the tenant-based component of the Section 8 program, see TAC's "Section 8 Made Simple" guidebook

#### **PHAs and "First" Section 8 Project Based Assistance – A Brief History**

The current Section 8 PBA program is not the first – but rather the second – attempt by the federal government to implement project based assistance through the Section 8 program. Section 8 PBA was first authorized by Congress in the late 1980s and was known as the Section 8 Project Based Certificate Program. In response to rising rental housing costs and problems with the utilization of Section 8 certificates (the pre-cursor to the Section 8 voucher program), Congress authorized that up to 15 percent of a PHA's Section 8 certificates could be attached to dwelling units for a length of time not to exceed the term of the PHAs Section 8 contract. Unlike today, when Section 8 contracts are renewed annually based on appropriations from Congress, in the late 1980s, many PHAs had Section 8 contracts of 5 or more years duration. This meant that a PHA could provide an owner with a long-term commitment of project based assistance.

Unfortunately, the first Section 8 PBA program was created at the same time that the federal government and Congress were also dealing with a Section 8 scandal at HUD – specifically, the illegal awarding of valuable 10 year Section 8 Moderate Rehabilitation program contracts to developers by HUD. This scandal was covered extensively by the national press, and eventually several people went to jail and/or were fined hundreds of thousands of dollars. It was in this politically charged environment that the “first” Section 8 PBA program rules were established.

The Section 8 PBA rules written at that time were extremely rigid. All projects selected had to be individually approved by HUD. The Request for Proposal (RFP) and project selection processes used by PHAs were also carefully overseen by HUD to ensure that no special favors were granted to developers. Each project’s rents were also calculated and approved by HUD, and were based on a review of the actual operating costs of the project as well as the Fair Market Rent limitation.

PHAs that attempted to use the “first” Section 8 PBA program soon learned that it was extremely labor intensive, fraught with HUD delays that were out of their control, and – because of the extremely restricted rents that resulted from HUD’s calculations – not financially feasible for most developers. Many innovative PHAs, along with their developer partners, learned these lessons the hard way – and have regretted the experience ever since. Some developers walked away from projects after putting in hundreds of hours of work, and investing thousands of dollars in pre-development fees. After an initial flurry of project based activity in the late 1980s and early 1990s, most PHA Section 8 PBA programs were discontinued.

PHA staff tend to keep their jobs a long time, so there are many PHA veterans who remember their Section 8 PBA experience, and don’t want to repeat it. It may be difficult for these staff to see the opportunities presented by the new Section 8 PBA program. Some PHAs are unaware that Congress has authorized a new and more flexible Section 8 PBA program that can help a PHA remedy other Section 8 problems.

### **The “New” Section 8 Project Based Assistance Program<sup>i</sup>**

Section 232 of Public Law 106-377, the Fiscal Year 2001 VA-HUD appropriations bill, revised the statutory authority for PHAs to project based Section 8 vouchers, creating the “new” Section 8 PBA program. On January 16, 2001, 4 months after the “new” program was created, HUD published Initial Guidance for the Section 8 PBA program in the form of a Notice in the Federal Register (This notice is attached as Appendix A and can also be found on HUD’s website [[hyperlink forthcoming](#)]). The Notice was published to enable PHAs to implement the new program quickly, even before the regulations were issued. [NOTE: HUD states that it expects to issue new regulations before the end of calendar year 2002].

The HUD Initial Guidance gives PHAs the basic information they need to know to begin Section 8 PBA activities. The Initial Guidance also states that HUD may waive certain provisions of the Section 8 regulations and directives in the January 2001 Notice for good

cause. However, HUD has no authority to waive statutory provisions of the Section 8 program – several of which are complicating the development of project based supportive housing. In September of 2002, legislation was pending in both the House of Representatives (H.R. 3995) and in the Senate (S.2721) which should address these barriers.

The basic requirements of the Section 8 PBA program as outlined in HUD’s Initial Guidance are highlighted below. The requirements currently causing the most concern with supportive housing developers and that may be remedied through legislation pending in Congress are indicated with an asterisk (\*):

Maximum percentage of funds that a PHA may use as Section 8 PBA – A PHA may project base up to 20 percent of its total Section 8 funding. HUD’s Initial Guidance permits PHAs to implement this provision by project basing up to 20 percent of the number of voucher units that they are authorized to administer. For example, if a PHA has an Annual Contributions Contract with HUD for 1,000 Section 8 vouchers, the PHA would theoretically be able to implement a 200 unit Section 8 project based program.

“Existing” housing vs. “newly constructed or rehabilitated housing” and the owner investment of funds – A PHA may project base vouchers without any requirement that the owner of the unit invest other funds in the property. This is a major change from the first project based program. As long as a unit requires *less* than \$1,000 of rehabilitation work (or, in fact, no work at all) to meet Section 8 housing quality inspection standards at the time a PHA selects the unit to receive project based voucher assistance, the unit is considered “existing” housing by HUD. Any unit that requires \$1,000 or more of rehabilitation work is considered under the HUD category of “newly constructed or rehabilitated housing.” This distinction is important because the project basing of vouchers in “existing” housing relieves PHAs of a number of obligations, including (1) the requirement to select units competitively; (2) the need to obtain HUD approval of the criteria for competition; and (3) the use of HUD site and neighborhood standards. [NOTE: These are not the same as the poverty deconcentration requirements discussed below, but are general siting standards intended to promote choice, accessibility to transportation and other services, as well as decent quality housing]

Income Mix – No more than 25 percent of the units in a building may receive project based assistance unless the assisted units are made available to elderly or disabled households or households receiving supportive services. HUD’s Initial Guidance says that the “supportive services” exception to this rule is not yet effective and will be implemented through the anticipated new regulations mentioned above. However, recently HUD has been issuing waivers to supportive housing projects that are planning to exceed this 25 percent limitation. The 25 percent limitation applies only to project based assistance and would not apply to tenants with Section 8 tenant based vouchers who decide to reside in the property.

Resident Choice and Continued Assistance – In a major change from previous federal housing policy, households occupying units with project based assistance have the right

to move after one year by obtaining a Section 8 tenant based voucher or its equivalent. If no voucher is available at the PHA, the PHA must give the household priority to receive the next available voucher. The household that moves out of the project based unit is replaced with a new household from the waiting list (see below for more information on waiting lists).

Contract Term and Extension – PHAs have the discretion to set the initial contract term for a project based voucher for any period of time up to ten years, subject to HUD appropriations. The initial contract term may also be extended by the PHA to achieve long-term affordability. Because virtually all Section 8 contracts are now one-year contracts renewed by HUD based on appropriations, the owner of a project based unit must have some confidence in the willingness of Congress to continue to renew all Section 8 obligations. [NOTE: According to the legislative history of the Section 8 program, Congress has never failed to renew Section 8 vouchers that are currently in use by eligible households.]

Rents – Rents in project based units may not exceed 110 percent of HUD’s Fair Market Rents for the area based on unit size, or any HUD approved “exception payment standard” currently in effect for the PHA. [NOTE: Rents for Section 8 PBA units in federal Low Income Housing Tax Credit projects outside a “qualified census tract”<sup>iii</sup> may actually be higher than 110 percent because they are permitted to be as high as the tax credit rent for a comparable unit that does not have rental assistance. Inside a “qualified census tract” the normal Section 8 PBA rules apply.] Rent increases can be granted by the PHA as long as they do not exceed these maximums and meet HUD’s “rent reasonableness” criteria. The family share of the rent is calculated in the same way as in the Section 8 tenant based voucher program.

\*Waiting Lists – Currently, PHAs are required to maintain the waiting list for project based voucher assistance. A PHA may use a project based list that is *separate* from the waiting list for tenant based assistance as long as applicants on the tenant based list are given the opportunity to place their names on the Section 8 PBA list. PHAs are permitted to use special preferences or criteria for selecting applicants to receive project based assistance (e.g. to be consistent with a supportive housing program). However, such preferences must be part of a PHA’s admission policy and be incorporated into the PHA Plan and the PHA’s Section 8 Administrative Plan. Current HUD policy *does not* permit these preferences to be “disability specific.” In other words, projects can not be reserved exclusively for people with mental illness, etc. However, special preferences can be developed so that people needing similar supportive services could receive preference to live in project based housing. For example, a PHA could have a preference on its project based list for applicants who indicate a need for supportive housing linked to psychosocial rehabilitative services. This type of preference would help identify people with mental illness interested in living in supportive housing. [IMPORTANT NOTE: Legislation currently pending in both House and Senate would permit separate waiting lists to be maintained by the owners of project based units. However, without this legislation, PHAs cannot permit owners to maintain separate lists.]

Income Targeting – Section 8 rules require that at least 75 percent of a PHA’s Section 8 funding be spent on households with incomes at or below 30 percent of the area median income. This requirement is “managed” by the PHA across all of its Section 8 activities (i.e. tenant based, project based, and homeownership) and not on a project by project basis. Supportive housing owners should be able to help PHAs meet this target since most projects will be serving households with incomes at or below 30 percent of area median income.

Vacancy Payments – Owners may be compensated for vacant units for up to 60 days, provided certain conditions are met. This payment should help compensate owners of supportive housing with complicated tenant selection requirements.

\*Location – The law states that PHAs may project base vouchers only if the contract with the owner is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. HUD’s Initial Guidance requires that all project based units must be in census tracts with a poverty rate of less than 20 percent. HUD may approve an exception to this requirement, HUD staff are currently approving exceptions only for projects located in a HUD defined Empowerment or Enterprise Zones, or for neighborhoods with a similar type of economic revitalization plan that can be clearly documented. Currently, these limitations on project siting are proving to be very difficult for PHAs and developers of supportive housing to overcome. As a result, legislation has been filed in Congress to loosen these restrictions.

Advertising and competitive bidding – HUD’s Initial Guidance indicates that the advertising and competitive bidding requirements vary based on the type of development. To project base vouchers in 25 percent or less of the units in “existing” housing (i.e. housing with less than \$1,000 of rehab per unit), the PHA is required only to advertise its intention in a general circulation newspaper weekly for three consecutive weeks. However, if a PHA wishes to use project based assistance for new construction or rehabilitation (\$1,000 per unit or more) *or* to project base vouchers in more than 25 percent of the units in existing housing that will serve the elderly or disabled or households receiving supportive services, the PHA must establish policies for public advertisement and competitive selection of units. These policies must be approved in advance by the HUD Field Office. It is not completely clear from HUD guidance whether these policies are submitted to HUD separately or as part of the PHA Plan (see below).

The policies which govern the “new” Section 8 PBA program are intended to create incentives and make it more feasible for PHAs to implement a project based rental assistance strategy. However, PHAs are not required to administer a project based assistance program, just as they are not required to offer the Section 8 homeownership option also recently authorized by Congress.

### **PHAs Discretion to Implement Section 8 Project Based Assistance**

The law provides that it is solely within the discretion of each PHA to determine whether or not it will elect to administer a Section 8 PBA program. Understanding the issues and outcomes of a PHA's previous experience with Section 8 PBA, as well as the current pressures confronting PHA Section 8 program administrators, can help assess both the opportunities and barriers which might affect a PHA's decision to proceed with a Section 8 PBA program.

Currently, there are over 2,600 PHAs that administer the Section 8 voucher program. PHAs are unique governmental entities, authorized by state law, but administrators of billions of dollars of federal funding. By law, PHAs are governed by a 5 member elected or appointed Board of Commissioners who must meet in public session to authorize all expenditures, applications for funding, and many establish PHA policies and procedures. In practice, particularly at larger PHAs, policy is made by the Executive Director and "rubber-stamped" by the Board. [NOTE: At several of the largest PHAs, Section 8 policies are made by the Section 8 Program Director, with minimal involvement from the Executive Director.]

A PHA's willingness to take on Section 8 PBA activities will depend on several key factors. If the PHA had a difficult experience with the "first" Section 8 PBA program, they will need to be convinced that the current program is a real improvement. The PHA's decision is also likely to be influenced by two other factors: (1) the PHA's current Section 8 program performance; and (2) the PHAs financial status.

### **(1) PHA Section 8 Performance Issues**

Until recently, very little attention was paid to PHAs' Section 8 program performance by either Congress or HUD. Instead, the focus was on the mushrooming Section 8 budget, which now amounts to over half the total HUD budget. The budget became a problem as PHA Section 8 contracts originally funded for 15 years began to expire and had to be renewed so that people would not lose their housing assistance. Given the magnitude of this budget problem it was inevitable that Congress would turn its attention to the actual utilization of the Section 8 voucher program – which it has now done.

PHAs are now in a "use them or lose them" situation with respect to their Section 8 voucher programs. Two years ago, nationally, only 92 percent of the 1.8 million Section 8 vouchers appropriated by Congress were actually being used in leased units – meaning that more than 140,000 vouchers were funded but not assisting any household. Some PHAs had utilization rates under 80 percent, and had hundreds of unused vouchers which could be providing assistance to low-income households. Utilization rates have improved during the past year.

Section 8 utilization policies dictate that PHAs must achieve a 97 percent "utilization" rate – meaning that they must either have: (1) 97 vouchers leased for every 100 vouchers they have been awarded; or (2) they must be spending 97 percent of their Section 8 funding. [NOTE: The second standard might apply to a PHA using exception rents higher than the Fair Market Rent.] There is some leeway provided to PHAs that have

recently been awarded new vouchers, but the basic message is clear – PHAs not fully utilizing their Section 8 voucher programs will have their vouchers recaptured by HUD and re-distributed to other PHAs that can use them quickly.

There are many reasons why vouchers go unused, including high rental housing costs, landlord resistance problems, and poor PHA program administration. However, Congress and HUD believe that they have given PHAs the flexibility they need to remedy the structural problems in the program – through the Public Housing Reform Act of 1998, in new HUD policies that make it easier to obtain higher exception rents, and by authorizing the new Section 8 PBA program. Unfortunately, in the HUD FY 2003 budget, Congress did not appropriate enough funding to ensure that all unused Section 8 vouchers could be leased. This budgetary issue may mean that some PHAs may not have sufficient funding on hand to lease all of their unused vouchers.

## **(2) PHA Financial Issues**

In addition to the possibility of recapture, Section 8 utilization problems result in serious financial difficulties for PHAs. The Section 8 program pays the PHA an administrative fee for each voucher equal to approximately 7 percent of the monthly Fair Market Rent. For example, if the Fair Market Rent for a one bedroom voucher is \$500, the PHA would receive \$35 per month from HUD as the administrative fee for that voucher. However, the fee is only paid if the voucher is actually being used by a household in a unit leased under the program. No fee is paid for a PHA to issue vouchers or for households with vouchers looking for housing – only once leased. Then the fee is paid each month as long as the voucher holder remains in a unit leased with Section 8 assistance.

Difficult rental housing market conditions and unwilling landlords mean that PHAs must often issue unused vouchers over and over again – to one household after another – in order to “lease up” the voucher. Generally, each household may get to keep the voucher for 60-120 days while they are searching for housing, and during that time, the PHA earns no fee. Thus, unused vouchers mean both financial problems and HUD recapture problems for PHAs.

## **Opportunities**

The policies and problems outlined above also create opportunities and real incentives for PHAs to look more closely at using a portion of their Section 8 vouchers for project based assistance. Project based vouchers solve a number of PHA problems. First, the PHA vouchers committed to projects will not “turnover” as tenant based vouchers do when a household leaves the program. Project based vouchers do not need to be “re-issued” if the household receiving the voucher does not find housing in the allotted time. Landlord acceptance is also not a problem, since landlords with project based vouchers make long-term commitments to the program. Project based vouchers can actually help stabilize a troubled Section 8 program, particularly if the problems are related to the rental housing market rather than poor PHA administration. Finally, project based vouchers provide PHA’s with a stable and reliable source of income from the Section 8

administrative fee because the voucher is committed to the unit, and thus remains leased for the term of the project based commitment.

PHAs are beginning to realize that using the project based component of the Section 8 program can help solve their Section 8 utilization problems. If that is true, then what is preventing more PHAs from initiating Section 8 PBA programs? In some cases, it may be that PHAs are actually unfamiliar with the new Section 8 PBA rules, and do not recognize that they are a significant improvement over the old program. PHAs are often more willing to consider implementing a new program if they can communicate with other PHAs that have been successful. TAC has more information on PHAs that have successfully implemented a Section 8 PBA program.

PHAs may also be concerned about issues related to both the start-up and the on-going administration of the Section 8 PBA program. The major issues and concerns of PHAs include the following;

- Amending their PHA Plan, the Section 8 Administrative Plan, and tenant selection issues;
- Carefully managing their Section 8 resources so that vouchers are fully utilized while at the same time ensuring that voucher funding is available when the Section 8 PBA projects “come on line;”
- Capacity to manage the RFP and project selection process;
- Poverty deconcentration requirements and project siting; and
- The potential demand for tenant based vouchers from residents of project based units seeking to move.

### **Amending the PHA Plan, Section 8 Administrative Plan and Tenant Selection Issues**

The PHA Plan was created by the Public Housing Reform Act of 1998 and covers all PHA policies and programs. It is modeled after the HUD Consolidated Plan and is intended to be a comprehensive document with a 5 year time frame. However, it includes an Annual Action Plan for the investment of PHA funds which must be submitted to HUD annually – approximately 45 days before the beginning of the PHA’s next fiscal year. The PHA Plan can also be amended *at any time*, provided proper procedures are followed.

HUD’s Initial Guidance for Section 8 project based assistance states the following with respect to the PHA Plan:

Until HUD issues further instructions, PHAs submitting PHA Plans that wish to use the project based voucher program must include – as a required attachment to the PHA Plan template – a statement of the projected number of project based units and general locations and how project basing would be consistent with their PHA Plan. If the PHA wishes to use the project based voucher program before the anticipated approval date of the PHA’s next PHA Plan, the PHA may do so by

adding the information as an amendment to the PHA Plan and following the regulations and notices for such PHA Plan amendments.

The requirements of the PHA Plan are fairly simple, but PHA's may still be concerned about how to address them for supportive housing projects. Justifying the appropriate use of Section 8 project based assistance can easily be done by referencing leasing problems in the Section 8 tenant based program as well as the desire to assist persons with special needs by developing permanent supportive housing. In this discussion, the PHA could mention that most private Section 8 landlords tend to screen out persons with special needs, thus identifying the need to develop supportive housing owned by non-profit organizations as a means of serving the most vulnerable low income households. A special emphasis on serving individuals who have been homeless for the long-term could also be made.

The number of units is self-explanatory. The location discussion is intended to ensure the broadest possible housing opportunity and to promote the de-concentration of poverty. However, specific locations of units/projects are not required. If it is likely that the supportive housing activity would occur in a "high poverty area" with a poverty rate of 20 percent or more, then the PHA Plan must discuss this fact and provide the "rationale" for using project based assistance in these neighborhoods. However, the PHA should be aware that HUD is providing waivers for projects in high poverty areas only if the project is within a HUD defined Empowerment or Enterprise Zone, or some other formally designated neighborhood revitalization area.

The PHA intending to implement project based assistance for the first time has two choices with respect to submitting the PHA Plan: (1) wait until the next PHA Plan is due at HUD or (2) amend the current PHA Plan. The date of the next PHA Plan submission is the critical factor in this decision. The entire PHA Plan amendment process, including waiting for HUD approval, could take 3-4 months or more and might not be worth the extra effort for a PHA whose next annual submission is only 6-7 months away. Should an amendment be appropriate, the PHA must consult with the PHA's Resident Advisory Board and also obtain public comment through a public hearing identical to the one held for the regular PHA Plan submission.

One more note on the PHA Plan process is warranted. PHAs planning to exceed the 25 percent rule on the number of units in a building which can be project based *must* get HUD approval of their public advertisement and competitive bidding policies. HUD guidance is unclear whether this information is submitted with the PHA Plan itself or is a separate requirement. This fact should be clarified with HUD Field Office and/or HUD Headquarters staff before the PHA Plan is finalized and submitted. Competitive bidding policies required for "newly constructed or rehabilitated" units and for projects with more than 25 percent of the units covered by Section 8 PBA must ensure that there is a fair and non-biased process for project selection that uses project scoring or a similar method to select projects based on objective criteria.

There is nothing in HUD's guidance that would prohibit a PHA from limiting its project based assistance program and RFP process to a solicitation of permanent supportive housing projects. Selection criteria could then be developed to address issues specific to supportive housing, including project financing and feasibility for both the housing and services components, capacity of the development team, etc.

### **The Section 8 Administrative Plan and Tenant Selection Issues**

In addition to the PHA Plan process, each PHA must have a Section 8 Administrative Plan which is also approved by HUD. This plan is really the governing document in terms of the PHA's Section 8 policies and operations. The Section 8 Administrative Plan is amended whenever a PHA desires to change actual Section 8 policies and procedures. For example, the Section 8 Administrative Plan is the document that must address any special tenant selection issues including the need to give priority for tenant based vouchers to residents of Section 8 project based units. For supportive housing initiatives, the tenant selection preferences in the Section 8 Administrative Plan must meet all of HUD's legal requirements but also facilitate the appropriate tenants to be referred to supportive housing projects without overburdening the PHA and the owners/property managers.

The tenant selection issue is probably the most difficult one facing permanent supportive housing developers desiring to use Section 8 PBA, particularly developers who have previously used the more flexible Shelter Plus Care program that permits the housing to be restricted to a single population (i.e. homeless people with co-occurring issues, homeless people with HIV/AIDS, etc). Tenant selection is also a very sensitive issue for PHAs, who can be extremely concerned about violating HUD rules. Those PHAs that have been serving people with special needs in their Section 8 programs for years will probably "work it out" without major problems. However, other PHAs may want to "go by the book," in which case crafting tenant selection preferences that work easily in supportive housing initiatives may be more difficult to develop. The latter case may be particularly true in a PHA that has not previously used Section 8 in collaboration with service providers or other disability organizations or a PHA with an extremely long or complicated waiting list.

It is important for PHAs to know that HUD does permit tenant selection preferences that are "service-related" – in other words, those that give preference to households who need or want access to certain types of services, such as those offered in supportive housing programs. It is up to each PHA and the supportive housing providers to "brainstorm" about how best this can be done, keeping in mind that PHAs are extremely accountable to HUD for their tenant selection policies. Legislation filed but not enacted by Congress in 2002 would have allowed Section 8 PBA owners to maintain their own project based waiting lists and would help resolve these tenant selection issues which arise directly from the Section 8 "first-come, first served" statutory principle. This legislation may be re-introduced during 2003.

### **Managing Section 8 Resources – Utilization, Turnover, and Overleasing**

High performing PHAs are likely to bring up Section 8 utilization requirements as a major concern when making a decision to implement Section 8 project based assistance. As mentioned earlier, PHAs are penalized by HUD if their Section 8 utilization rate drops below 97 percent. If a PHA with a high utilization rate “sets-aside” a certain number of vouchers for a project based supportive housing development initiative, these temporarily unused vouchers may result in the PHAs utilization rate dropping below 97 percent until the projects are ready for occupancy – something the PHA will not want to happen.

Some PHAs deal with this problem by carefully managing Section 8 “turnover” resources. Turnover vouchers are leased vouchers which are returned to the PHA for some reason (e.g. death, termination of assistance, etc.). Each year between 5 and 10 percent of the vouchers in the Section 8 program typically turnover. PHAs should know what their average voucher “turnover rate” is in the course of a year and thus can plan that a certain number of vouchers now leased will most likely be available at a specific time in the future. Of course, PHAs with large Section 8 programs will have more flexibility to manage turnover resources.

This turnover concept is important because even if a PHA’s Section 8 voucher program is 100 percent leased, the PHA may have turnover vouchers available within a reasonable period of time to commit to project based assistance. The key to successfully managing turnover while maintaining a 97 percent or better voucher utilization is for the PHA to predict when the project based voucher funding will actually be needed. Turnover vouchers do not need to be available at the time the PHA signs a Section 8 PBA contract with the owner, *unless* the units will be available immediately. If the project is not yet ready for occupancy (e.g. construction or rehabilitation work will be done prior to occupancy), the PHA is still permitted to sign a PBA contract committing vouchers to the project, as long as the PHA expects that turnover vouchers will be available when the project is complete.

Managing this turnover dynamic is not an exact science because it is impossible to predict: (1) how many households will leave the Section 8 program at a given time; and (2) how many households looking for housing with vouchers will be successful. Recognizing these difficulty, HUD does permit PHAs to “over-lease” their voucher program in order to meet existing commitments to voucher holders while also promoting 100 percent voucher utilization. Over-leasing simply means that the PHA has more vouchers leased than are funded in their HUD voucher contract.

Most PHAs do not intentionally “over-lease” because they cannot afford it. PHAs do not get any additional money from HUD to fund the additional subsidy obligations they incur when they over-lease. Instead, PHAs that over-lease must “recover” these costs by not re-issuing turnover vouchers. For developers of Section 8 PBA projects, the PHAs willingness to over-lease temporarily is a type of “insurance policy” in case turnover projections are not met.

## **PHA Capacity to Manage the Request for Proposal and Project Selection Process**

Some PHAs are concerned about the Section 8 project based program because they have never managed a competitive RFP and project selection process. This is a component of project based assistance that advocates can help the PHA to implement. There are very few specific Section 8 project based RFP requirements in the law and regulations. HUD is primarily interested in a fair and open process that is reflected in the advertising and competitive bidding process. Supportive housing advocates can help PHAs by obtaining sample RFPs and project selection criteria from other housing competitions which could be adapted for the PHA's Section 8 PBA program. For example, an RFP and selection criteria from a locality's HOME or Community Development Block Grant program, from a Housing Finance Agency program, or State Department of Community Affairs might be useful for this purpose. It might also be helpful to obtain another PHA's advertising and selection criteria. More PHAs are developing these documents every day as the project based program is implemented.

## **Poverty De-Concentration Requirements and Waivers**

Besides the tenant selection and waiting list problems noted above, the poverty de-concentration requirement of the Section 8 PBA program – which affects the siting of supportive housing developments in low-income neighborhoods – has been an extremely difficult one for PHAs and supportive housing advocates to overcome. The problem originates with the Section 8 statute that clearly states that one of the major goals of the Section 8 program is the de-concentration of poverty. This goal has become even more important during recent years as both Congress and HUD became concerned that PHAs were not doing all they could to foster mobility and help Section 8 recipients move out of poorer urban neighborhoods using the voucher program.

HUD's Section 8 PBA Initial Guidance clearly states that projects with rehabilitation costs of \$1,000 per unit or more must be located *outside* areas that have a poverty rate of 20 percent or more. [NOTE: Census data must be used to define these areas.] Unfortunately, this policy goal in its current form does not adequately balance the use of project based assistance as a major tool to revitalize inner city neighborhoods. HUD does have the authority to waive the poverty de-concentration requirements for Section 8 PBA, but currently is interpreting this waiver authority very narrowly. To obtain a waiver of these requirements, PHAs must submit specific evidence to HUD Headquarters Section 8 staff that the housing to be assisted is part of an official neighborhood revitalization plan, such as a plan developed for a HUD Empowerment Zone, Enterprise Zone, or similar government sponsored revitalization activity.

PHAs seeking to site Section 8 PBA projects in neighborhoods with these types of plans should have no difficulty obtaining waivers. However, HUD has indicated that it will be very difficult for projects in low-income neighborhoods *without* some type of formal revitalization designation to proceed. As a first step, developers and PHAs should check with their local HUD officials to assess their support for a waiver request which would be submitted through them to HUD Headquarters. Fortunately, legislation is pending in

Congress which would make it easier to use Section PBA in neighborhoods with higher rates of poverty. Until this or similar legislation is signed into law, the poverty de-concentration requirements may continue to be a stumbling block for the Section 8 PBA program.

### **The Potential Demand for Tenant Based Vouchers from Residents of Project Based Units**

One of the new features of the Section 8 PBA program is the ability of a Section 8 PBA resident to move from the unit after one year by requesting a Section 8 tenant based voucher from the PHA. Under the new rules, the PHA must treat this request as a priority and, if there is no unused voucher available, issue the next available voucher to the household making the request.

This feature is a major change in federal policy. Previously, residents of any Section 8 project based unit were required to place their name on the Section 8 tenant based voucher waiting list if they wanted to move out of the Section 8 PBA unit and still receive Section 8 assistance. Practically speaking, this meant that families had to wait years to move, and was often a disincentive for households to move into Section 8 PBA units in the first place.

Some PHAs are worried that the new rules and the possible “demand” for Section 8 tenant based vouchers from residents of Section 8 PBA units could overwhelm them administratively. PHAs are also worried that certain Section 8 PBA projects could become “revolving door projects” with tenants constantly moving out after their one year required tenure. This concern is understandable since the PHA needs to ensure that the Section 8 PBA unit has a new tenant and also provide a voucher for the family moving out. Supportive housing advocates can help address these concerns by having successful outreach, referral, and tenant selection strategies that will fill vacant units as quickly as possible. It will also help to document the stability and turnover rates in supportive housing projects, if these occupancy statistics help to prove that turnover should not be a problem. If Congress approves the Section 8 PBA owner waiting list option, it will help address PHA “turnover” concerns in some respects because it will be up to the owner – rather than the PHA – to refer new tenants to the project.

### **Engaging the PHA – Next Steps**

This article provides information on a number of aspects of the Section 8 PBA program that PHAs must consider as they decide whether or not to move forward with an actual Section 8 PBA program. In order to be effective in discussions with prospective PHAs, it is important for advocates to obtain as much information as possible about the PHA’s Section 8 program so that opportunities can be maximized and legitimate issues carefully considered and addressed.

Obtaining basic data on Section 8 utilization is crucial. While basic PHA data may be available from HUD’s website or from the local HUD office, it may not be up to date.

The best source of data on the Section 8 program issues highlighted below is the PHA itself:

- How many vouchers does the PHA have authorized under their ACC with HUD?
- How many are actually under lease?
- Has the PHA been notified by HUD that they may have vouchers recaptured at the end of the fiscal year?
- When does the PHAs fiscal year end? Would there be time to implement a project based program before that date, given all of the procedural requirements that must be met?
- What is the projected rate of Section 8 “turnover” for the coming year? Would there be sufficient “turnover” available to undertake a modest amount of supportive housing activity?
- Has the PHA been awarded special Section 8 vouchers for people with disabilities? How long ago? PHAs have at least two years from the date of a new award before vouchers can be recaptured. Could these vouchers be used for a supportive housing initiative?
- Is the PHA interested in applying for new vouchers for people with disabilities? Did the PHA apply this year? Awards of these FY 2002 vouchers will be made in the fall and HUD contracts amended shortly thereafter.

Some due diligence to identify a PHA’s past history and performance may be helpful to begin the discussion. Some key questions to ask the PHA might include the following:

- Did the PHA attempt to develop Section 8 project based housing under the first program? What was the outcome of these efforts?
- Does the PHA have any past history with administration of the Shelter Plus Care or other McKinney Homeless Assistance programs? Was this successful?
- Has the PHA established any partnerships with community based organizations, particularly service providers? Could these partnerships form the foundation for future supportive housing activities?
- What is the PHAs track record with respect to serving people with special needs? How willing and capable will they be to address some of the issues which inevitably arise in the development and management of supportive housing?
- If the PHA is reluctant to get involved in the supportive housing development process, would the PHA be willing to start with a small program that targets “existing” supportive housing? Are there supportive housing projects in operation that could use Section 8 project based assistance?

### **Starting the Process**

It is difficult to predict how each PHA will evaluate the possibility of implementing Section 8 project based assistance to expand supportive housing. A few PHAs around the country are already implementing Section 8 project based assistance programs exclusively to develop supportive housing. They are taking this approach in order to begin with a very narrow and clearly defined focus, which will develop their capacity to

administer the RFP and project selection process while not being overwhelmed with hundreds of proposals from developers. Others are clear that developing permanent supportive housing is not within their area of expertise and are reluctant to get involved in projects which require both housing as well as supportive services funding.

To be convincing, advocates also need to be clear about the outcomes that the PHA will be able to achieve from a Section 8 PBA program targeted to supportive housing. Improved leasing performance could be a primary objective. Providing higher quality rental housing owned by non-profit groups could be another key goal. Fostering competition among private landlords interested in Section 8 because of a “soft” rental market may also be important. Is the PHA trying to implement “elderly only” housing, and looking for ways to offer alternative housing options for people with disabilities with special needs? If so, developing project based supportive housing is ideal for this purpose. Does the PHA have problems identifying affordable and available barrier free units for Section 8 voucher holders? That problem can also easily be addressed with project based assistance.

Other community housing needs and goals, particularly those identified in the Consolidated Plan and the Continuum of Care, should also be closely examined when discussing project based assistance with a PHA. For example, the development of supportive housing with project based assistance could definitely improve outcomes within the locality’s Continuum of Care homeless system. It will also be needed to begin to address the permanent housing issues related to ending long-term homelessness – now a national policy objective.

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<sup>i</sup> Barbara Sard citation

<sup>ii</sup> A qualified census tract is an area where at least half of the households have incomes below 60 percent of median income or where the poverty rate is at least 25 percent.

**Appendix A**

HUD Initial Guidance on Section 8 Project Based Assistance  
January 16, 2001

[Forthcoming]

**Appendix B**

HUD Notice of Funding Availability for Reallocated Baseline Units and Annual Budget  
Authority  
November 1, 2001

[Forthcoming]