Introductory Training on Section 8
PBRA, HCV, PBV and TPV

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Training Overview

• **Section 8’s Alphabet Soup**

  1. PBRA
  2. HCV
  3. PBV
  4. TPV
  5. AMI
  6. HAP
  7. RAD
  8. HOTMA
Training Overview

• Section 8’s Alphabet Soup
  1. **PBRA**: Project-Based Rental Assistance
  2. **HCV**: Housing Choice Vouchers
  3. **PBV**: Project-Based Vouchers
  4. **TPV**: Tenant Protection Vouchers
  5. **AMI**: Area Median Income
  6. **HAP**: Housing Assistance Payments Contract
  7. **RAD**: Rental Assistance Demonstration
  8. **HOTMA**: Housing Opportunity Through Modernization Act of 2016
1. What Do These Acronyms Mean?
2. Where Will We See Them?
3. What Challenges and Opportunities Do They Present?
Introduction to Section 8

• **What is “Section 8”?** Rental assistance program for low-income families

• **Why is it called “Section 8”?** Section 8 of the United States Housing Act of 1937

• **What programs make up Section 8?** Project-Based Rental Assistance; Housing Choice Voucher; Project-Based Voucher; Tenant Protection Voucher

• **How long have these programs been around?**
  - **PBRA:** 1974
  - **HCV predecessors:** 1983
  - **PBV and HCV:** 1998
Introduction to Section 8

• **Payment Assistance**
  - **How much do tenants pay?**
    - 30% of income
    - Takes into account whether tenant or owner pays utilities
  - **What do project owners receive?**
    - Subsidy from HUD covers the difference between what the tenant pays and the HUD-approved “contract rent”
    - Subject to annual appropriations from Congress
Introduction to Section 8

• **Tenant Eligibility**
  - **Area Median Income (AMI)**
    - 30% AMI (targeting)
    - 50% AMI
    - 80% AMI (certain circumstances)
  - **Immigration Status**
    - Household must have one member who is citizen or has eligible immigration status
    - Tenant payment pro-rated for immigration status
  - **Preferences**
## Introduction to Section 8

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Project-Based Rental Assistance

• **PBRA by the Numbers**
  - **17,700** PBRA properties
    - Mostly developed between **1976** and **1983**
    - Now seen again with RAD
  - **1.2 million** households
    - Average income < $12,000/year
    - 56% house someone with a disability or someone who is elderly
  - **$17 billion** in private financing and equity leveraged
Project-Based Rental Assistance

• **The Nuts and Bolts of PBRA**
  - Project Owner entered into Housing Assistance Payments ("HAP") contract with HUD/contract administrator
  - HUD (via contract admin) makes subsidy payments directly to the Owner
  - Rules regarding rents, reserve requirements, limitations on distributions, occupancy
    - Depends on when contract executed → look to original HAP contract
  - Term length ≤ 20 years (renewable with rent increases)
  - Scarce resource: **No new PBRA contracts since 1983** (except under RAD)
Housing Choice Vouchers

• **Nuts and Bolts of HCV**
  – PHAs receive funding for HCVs from HUD pursuant to their Annual Contribution Contract
  – Tenant-Based Process:
    
    Apply to PHA for HCV
    → If eligible, PHA waitlist
    → Receive voucher
    → Rent qualifying unit from Owner
    → Unit inspected by PHA
  – Income source discrimination
Project-Based Vouchers

• **Nuts and Bolts of PBV**
  
  – PHAs can *project-base* HCV units up to a cap
  
  – Project-Based Process:
    - PHA awards PBV contract to Owner ➔
    - Owner enters into HAP (new construction, enters into AHAP prior to start) ➔
    - PHA refers applicants to Owner from PHA waiting list ➔
    - Owner may screen ➔
    - PHA makes subsidy payments to Owner
Housing Opportunity Through Modernization Act of 2016

- Self-implementing vs. rule-making
  - HOTMA Implementation Notice
  - Regulatory Freeze Memo
- Updates/streamlines rental assistance programs
- Changes for PBVs, including:
  - Alters PBV program caps
  - New PHA competitive selection exception
- Future rule-making, including:
  - HAP post-construction start
  - PBV rent adjustments
  - Owner waiting lists
Project-Based Vouchers

• **Nuts and Bolts of PBV**
  
  **Project cap:**
  - Pre-HOTMA: < 25% of units in project unless exception
  - Post-HOTMA: < greater of 25% or 25 of units unless exception
  - Post-HOTMA Exceptions:
    - Units for elderly families
    - Units for families eligible for supportive services
    - Projects in census tract with poverty rate ≤ 20%
    - Projects previously federally rent-restricted or assisted

  **Adding units:**
  - Post-HOTMA, may add units to HAP without additional competition, subject to requirements
• **Nuts and Bolts of PBV**
  
  – **Contract term:**
    * Pre-HOTMA: 15 year initial and renewal terms
    * Post-HOTMA: 20 year initial and renewal terms
  
  – **Contract rents:**
    * PHA may set contract rents at **90-110%** of FMR, minus Utility Allowance, subject to “rent reasonableness” determination. “Exception Rent” would require HUD approval.
    * No provision for rent increase during term (requires future HOTMA implementation)
Tenant Protection Vouchers

• **Nuts and Bolts of TPV**
  – Prevents displacement of currently assisted households in “eligibility event”
    • PBRA Opt-out
    • HUD financing prepayment
    • HUD affordability restrictions expiration
  – **Annually authorized voucher**
    • Regular (HCV)
    • Enhanced Vouchers (same building, greater rent)
  – **Tenant-based**
    • Project-basing possible
PBRA Preservation

• **Context**
  – 1990s, PBRA contracts from 1970s began expiring
  – Potential loss of 100s of 1000s of affordable housing units (38,000 units lost from ‘96 to ’98)
  → Renewal legislation

• **Preservation Tools**
  – Multifamily Assisted Housing Reform and Affordability Act ("MAHRA")
  – Section 8(bb)
  – Section 212
• **PBRA Renewal under MAHRA:**
  - Renew most terms of original HAP contracts
    - Potential elimination of distribution limitations (Options 1 & 2)
    - Post-rehab rents under Chapter 15
  - **Option 1: Mark-Up-To-Market**
    - Renewing contracts must have rents < market
    - Increases rents to market
    - Re-adjusted to market every 5 years
  - **Option 2: Budget-based or OCAF increase**
    - For renewing contracts with rents ≤ market
    - OCAF: Operating Cost Adjustment Factor (HUD)
  - **Option 3: Mark (down)-to-Market**
    - Referral to Office of Recapitalization
    - Required for renewing contracts with FHA-insured mortgages and > market rents
• **PBRA Renewal under MAHRA:**
  – **Option 4:** Exception projects
    - e.g., properties with > market rents but no FHA-insured financing so not subject to M2M
    - OCAF for entire term (no 5-year adjustment)
  – **Option 5:** Renewal of Preservation and Demonstration Projects
    - Projects with special HUD use agreements
  – **Option 6:** Terminating PBRA and Opting Out
    - Owner must send notice to HUD, tenants and local government 1 year prior to contract expiration
    - Tenants generally eligible for TPV Enhanced Vouchers
• **PBRA Renewal under MAHRA:**
  - “Chapter 15” Renewal (new debt)
    - For capital improvements, pre-approval of post-rehab rents at renewal
      - For profit or non-profit controlled entity can Mark-Up-To-Market (Option 1 or 2)
      - Non-profit can Mark-Up-To- (post-rehab) Budget (capped at market rent) (Option 2)
    - Transfers to nonprofit (Option 2) or non-profit controlled entity (Option 1 or 2)
  - Early termination for renewal possible
    - Owner agrees to a 20 year renewal term
PBRA Preservation

• **PBRA Porting:**
  – Tools for off-site redevelopment and PBRA conservation
  – **Section 8(bb) (permanent):**
    • Transfer all or portion of existing budget authority from expiring or terminated PBRA to new project(s)
  – **Section 212 (appropriations):**
    • Transfer HAP contract, HUD debt and HUD use restrictions
Rental Assistance Demonstration (RAD)

– Authorized in 2012 Appropriations Act
– Process to convert public housing to long-term, project-based Section 8 contracts (Component 1)
  • Rehab or new construction
  • PBRA or PBV available
  • Congressional cap on total units
– Leverages private debt and equity
– Component 2 for pre-1974 “orphan” programs
LIHTC Deal Structuring

**Higher Rent Potential**
- Potential for Owner to collect rents higher than LIHTC rent for Section 8 tenants
- LIHTC rules allow Section 8 contract rents > LIHTC rent limits as long as tenant-paid portion < LIHTC limit

**Overhang = difference between Section 8 contract rent and LIHTC rent**
- Lenders will not underwrite tenant-based “overhang” (if tenant leaves Owner reverts to lower LIHTC rent)
- Lenders will often underwrite project-based “overhang”
LIHTC Deal Structuring

• **Contract Term**
  – Lenders and investors want the longest HAP term possible (up to 20 years)

• **Appropriations Risk**
  – Lenders and investors often require substantial reserves to protect against appropriations risk for project-based subsidy
Uncertain Times

• “Skinny” Budget
  – Funding shortfalls

• 2 for 1 Regulatory Replacement
  – HOTMA implementation
  – What stays and what goes?

• HUD Hiring Freeze/Attrition
  – Resources
Takeaways

• Tenant-based vs. Project-based
• PBRA vs. PBV
• PBRA preservation is key yet complicated
• Locate original HAP contract
• When in doubt or in need of additional resources → contact Emily and Jed

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