



OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention to:

Public Housing Agencies with HCV Programs
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional and Field Office Directors

Financial Management Center
State and Area Coordinators
Special Applications Center Director

PIH Notice 2023-15

Issued: June 29, 2023

Expires: This notice remains in effect until emended, superseded, or revoked. This notice supersedes PIH 2013-11.

Cross Reference: 48 Fed.Reg. 1443
(March 13, 2023)

SUBJECT: Process for Requesting Subsidy Layering Reviews for Project-Based Vouchers

1. Purpose

This notice provides instructions to Public Housing Agencies (PHAs) and Field Offices for submitting requests for Subsidy Layering Reviews (SLRs) to the Department of Housing and Urban Development (HUD) in circumstances where (i) the PHA has requested for HUD to perform the SLR, or (ii) there are no participating Housing Credit Agencies (HCAs) available to perform the SLR.

Adherence to the procedures listed on this Notice, as well as those listed in the Administrative Guidelines: Subsidy Layering Review for Project-Based Vouchers (Guidelines), published in the Federal Register (88 Fed. Reg. 15443) on March 13, 2023, will expedite the SLR review and improve the turnaround time of SLRs.

2. Background

Section 102(d) of the HUD Reform Act requires that housing projects receiving HUD assistance, combined with other Federal, State, or local agencies monies (other Government Assistance), undergo a review to ensure that the projects do not receive excessive compensation. Excessive compensation could occur when new or rehabilitated low-income housing projects combine Federal, State, and other government assistance. PHAs request a subsidy layering review when newly constructed or rehabilitated projects that will use other government assistance are selected according to 24 CFR part 983. The subsidy layering review must be approved before the PHA and the Owner sign the Agreement to Enter into a Housing Assistance Payment (AHAP) Contract.

The Guidelines establish the evaluation criteria for SLRs and expands the HCAs' delegation authority to include Project-Based Voucher (PBV) projects that may or may not contain Low-Income Housing Tax Credits (LIHTC.)

The HCAs' participation is voluntary; therefore, the HCAs will not always be available to perform SLRs, and others will only be willing to perform the SLRs for a reasonable fee. The PHA has the discretion whether to use its administrative fees for this purpose or not. Here is the list of participating HCAs: <http://www.hud.gov/offices/pih/programs/hcv/fmdhca.cfm>.

3. Procedures for Public Housing Agencies (PHAs):

PHA requests HUD to perform the SLR: Notwithstanding the extended delegation authority for HCAs to perform SLRs when PBV projects exclude LIHTCs, PHAs may request that HUD perform the SLR in any case, including if the project does or does not contain LIHTCs. PHAs must communicate to the Field Office **in writing** if they would like HUD instead of the HCA to perform the SLR for PBV projects that do not contain LIHTCs. This request can be stated as *"AB123 would like HUD HQ to perform the SLR."*

PHA requests participating HCA to perform the SLR: For cases that do not include LIHTC, the PHA will still follow steps in Section 4 of this notice, but the memo to the Field Office requesting the SLR will confirm the PHA agrees with the HCA performing the SLR, **if the HCA is available for the review**. This request can be stated as *"AB123 would like the participating HCA to perform the SLR."*

In cases where the project does include LIHTC and the participating HCA conducts the SLR, the PHA does not follow the steps in Section 4 but rather sends the SLR request directly to the HCA, but the PHA must still notify the Field Office that it has made such a request.

Upon SLR completion, the participating HCAs will provide a copy of the certification and summary documentation to the Financial Management Division (FMD) at PBVSLRs@hud.gov, and will copy the Field Office Public Housing representatives¹.

In circumstances where there is no participating HCA, the PHA has requested that HUD perform the SLR, or when the participating HCA is not available to perform the PBV SLR, the Field Office Public Housing representative will submit the required documentation to HUD HQ for the SLR.

4. PHAs steps for submitting the SLR request to HUD:

- PHAs and Field Offices must ensure the SLR submission includes all documents required in Appendix A to this notice before sending the SLR package to either their HUD Field Office, or to HUD Headquarters. Submissions missing significant financial information or that are incomplete will be returned to the Field Office.
- **SLR cases must include HUD Form 50156**². This form was originally created for Public Housing mixed-finance SLRs, and the proforma tab is set for 15 years, but it can

¹ For a listing of HUD's Local Offices Nationwide, please access hud.gov/local

² To download HUD's Form 50156 in excel format please access hud.gov/mixed_finance.

be expanded for 20-year PBV HAP contracts. HUD will revise this form in CY 2023. The revised 50156 will allow for PHAs/Developers to enter a maximum initial contract of 20 years. PHAs/Developers should match the number of years on the initial HAP contract to the number of years submitted on their form 50156 budget. (i.e., the current, initial term in the PBV program).

- **SLR cases must include HUD Form 2880³.** As part of the project selection process and application for PBVs, the project owner must disclose all HUD and/or other Federal, State, or local governmental assistance committed to the project, using HUD Form 2880 (even if no other governmental assistance is received or is anticipated).
- **Important:** If PBV is the only governmental assistance, an SLR is not required⁴.
- The PHA must confirm that no form of assistance renders the project ineligible for PBV assistance and does not violate 24 CFR 983.54.
- The PHA must alert the project owner that it must inform the PHA of any information that changes during or after the application process either by the addition or deletion of other governmental assistance or changes in the number of PBV units. The project owner must provide revised information to correct the earlier submissions to reflect the new information.
- If at any time during or after the application process, the owner receives supplemental HUD or new government assistance for the project that results in changes in project financing, or changes in the number of PBV units, the owner must submit such changes to the PHA and the PHA must notify HUD or the HCA.
- The PHA must submit the SLR package electronically to the Public Housing Director located in the HUD Field Office within the PHA's jurisdiction. PHAs must not submit hard copies and must not send SLR packages directly to HUD Headquarters. The PHA will maintain a project file with a complete set of the required documents.
- The PHA and/or developer will follow up with the Field Office point of contact within five business days, or reasonable timeframe, to ensure the package has been submitted to either the FMD (or HCA) for review. **Please account for 30 business days when the package has been submitted to the FMD for review completion.** The FMD processes SLRs on a rolling basis and cannot stop processing cases to complete cases that arrived later.
- When the SLR is completed by HUD, and the Field Office has forwarded the package to the FMD for review, the FMD analyst is responsible for the initial review and, when needed, will communicate findings to the point(s) of contact. Communication back to the FMD will include the Field Office point of contact. **The FMD analysts will require responses in 48 hours.** SLR reviews may be delayed until the applicable required documents are received. Moreover, the FMD analysts have discretion in returning cases that are not ready for review, where required documentation is missing, point of contacts are not responsive, and when they deem that the review cannot be performed with the information provided in the initial application package.
- When the SLR is completed by HUD, the HUD Field Office is responsible for notifying PHA of the SLR result.

³ To download HUD Form 2880 please access [hud.gov/program_offices/administration/hudclips/forms](https://www.hud.gov/program_offices/administration/hudclips/forms).

⁴ If the owner reports to the PHA the addition of any other government assistance before or during the AHAP contract when no SLR was initially required because the project had not received and did not anticipate receiving other government assistance, then an SLR is required to be requested by the PHA at the time of the owner's report.

5. Contact HUD For Questions or Concerns

For questions or concerns related to this Notice or to the Administrative Guidelines: SLRs for PBVs, Federal Register #FR-6359-N-01, published on March 13, 2023, please email HUD at PBVSLRs@HUD.gov.

Dated: 6-27-2023



Richard J. Monocchio
Principal Deputy Assistant Secretary
For Public and Indian Housing

Appendix A – Required Elements of an SLR Application

1. *Subsidy Layering Review request memorandum*: Clearly identify the PHA, the PHA number, the Field Office number, the project's name, the project's total number of units, and the number of PBV units requested. This memorandum is drafted by the Field Office after receipt of the SLR application package. For a sample memorandum see Appendix B of this Notice.
2. *Project Description*: Short narrative identifying ownership, type of activity (rehabilitation or new construction), location (including county), the project's total number of units, number of PBV units requested, PBV type (RAD, VASH, regular), utility allowances, bedroom distributions, supportive services (if applicable) and residential population (participants experiencing homelessness, veteran, elderly, low-income families). The narrative should also identify any exceptions applicable to the project (*e.g.*, number of PBV exceeding the Project Cap). The information on item 2 is collected for reporting purposes only.
3. *Accounting Statement of Sources and Uses of Funds*: Identifying each source and indicate type (loan, grant, syndication proceeds, contributed equity). Sources generally include only permanent financing and grants. If interim financing or a construction loan is proposed, provide details in the project description. Separately identify detailed uses, avoiding broad categories such as “soft costs.” Under acquisition costs, identify purchase price separately from related costs such as appraisal, survey, title, recording and legal fees. Include separate line items representing construction contract amount, builder's general requirements, builder's overhead, builder's profit, and total project costs. [Complete HUD Form 50156].
4. *Description of funding sources*: Loans including principal, interest rate, amortization, term, and any accrual, deferral, balloon, or forgiveness provisions. Describe any lender, grantor, or syndicator requirements for reserves or escrows requirements. Describe if a lender receives a portion of the net cash flow, either as additional debt service or in addition to debt service. Identify the amount of LIHTC and include IRS form 8609.
5. *Commitment Letters*: Lenders and other funding sources evidence their commitment to provide funding and disclose significant terms. Signed commitment letters, conditional commitment letters, loan agreements and grant agreements meet this requirement. However, proposal letters and letters of intent or interest do not meet this requirement.
6. *Developer's Commitment Letter*: Delineating any arrangements, contributions, donations, significant terms, or transfer of funds from the developer and/or participating partners such as deferred developer's fees, cash contributions, land donations and equity investments.
7. *HOME Commitment Letter*: (When applicable) Signed document clearly identifying requirements of the HOME designated units and intended rents.
8. *Supportive Service Commitment*: (When applicable) A signed Memorandum of Understanding that describes the type of services to be provided, frequency, terms of service and resident eligibility.

9. *Appraisal Report*: Based on the “as is” value of the property, before construction or rehabilitation, and without consideration of any financial implications of tax credits or project-based voucher assistance. An appraisal establishing value after the property is built or rehabilitated is not acceptable unless it also includes an “as is” valuation. The appraisal date must be within eighteen months of the SLR submission.

10. *Completed HUD Form 50156*: The form must include the Operating Pro Forma, construction and permanent budget, projected rental, commercial, and miscellaneous gross income, vacancy loss, operating expenses, debt service, operational reserves contributions, replacement reserve contributions, cash flow projections, debt service ratios; as well as income and expenses trended at a consistent percentage.

11. *Low-Income Housing Tax Credit Allocation Letter*: Issued by the authorized tax credit allocation agency, identifying the amount of LIHTCs reserved for the project.

12. *Historic Tax Credit Letter*: Issued by an authorized historic credit agency, disclosing the estimated historic tax credit amount awarded to a project located in a designated historical area.

13. *Equity Contribution Schedule*: If equity contributed to the project is paid in installments over time, provide a schedule showing the amount and timing of planned contributions.

14. *Bridge Loans*: Providing details if the financing plan includes a bridge loan where equity contributions proceeds planned over an extended time can be paid upfront.

15. Disclosure, perjury, and identity of interest statement (Form HUD-2880) completed by the owner.

16. *PBV award letter*: Identifying the housing authority's approval of project-based voucher assistance for the project by number of units and bedroom distribution.

17. *PHA rent certification letter*: Documenting proposed contract rents, utility allowances, and gross rental amounts for assisted units. Include rent reasonableness documentation or comparability analysis as evidence of rent determination and certification.

Appendix B - Field Office Memorandum to HUD HQ (or HCA)

Date

MEMORANDUM FOR: Miguel A. Fontanez Sanchez, Director, Housing Voucher Financial Management Division, PEVB

FROM: *[PH Director's Name]*, Director, Office of Public Housing, *[Field Office Number e.g., IAPH]*

SUBJECT: Project Based Assistance Subsidy Layering Review
[Name of the Project]
[City, State]

Attached is a request for a Subsidy Layering Review from the *[Housing Authority Name]* **[PHA Code]** for Project-Based Section 8 Vouchers. This project involves *[newly constructed or rehabilitated housing]* of *[total number]* units. *[Number of PBV units]* of these units will be PBV units. The project will **[not]** provide supportive services including *[Description of Supportive Services]*. The Housing Credit Agency (HCA) in the area does not participate in PBV SLRs or is not available to complete this review.

Pursuant to 24 CFR [Part 50 / Part 58] and PIH Notice [2016-22 or superseding notice], the Field Office hereby confirms that an Environmental Review is [in process / has been completed]. The project permanent sources of funding and the dollar amounts are as follows:

Permanent Sources of Funding Dollar Amounts

<i>[Name]</i>	<i>[xxx]</i>
<i>[Name]</i>	<i>[xxx]</i>
Total	<i>[xxxxx]</i>

The contract rent has been determined reasonable in compliance with 24 CFR §983.59 and §983.301 through §983.305. The **[PHA Code]** has proposed contract rents for this development as follows:

Project-Based Voucher Units

<u>Unit Size</u>	<u>Number</u>	<u>Contract Rent</u>	<u>Utility Allowance</u>	<u>Gross Rent</u>
0 BR, 1 BA	<i>[xxx]</i>	<i>[\$xxx.xx]</i>	<i>[\$xxx.xx]</i>	<i>[\$xxx.xx]</i>
1 BR, 1 BA	<i>[xxx]</i>	<i>[\$xxx.xx]</i>	<i>[\$xxx.xx]</i>	<i>[\$xxx.xx]</i>
2 BR, 1 BA	<i>[xxx]</i>	<i>[\$xxx.xx]</i>	<i>[\$xxx.xx]</i>	<i>[\$xxx.xx]</i>
Total	<i>[xxxxx]</i>			

Please review the application for subsidy layering requirements and advise us of your decision. We appreciate your assistance in this matter. If you have any questions, please contact *[Field Office Contact Name, Telephone Number and Email Address]*, as well as **[PHA Code]** point of contact *[Mr./Mrs. Name, Email Address and Telephone Number]* and Developer point of contact *[Mr./Mrs. Name, Email Address and Telephone Number]*.

Attachments