

HOTMA Voucher Final Rule: Effective and Compliance Dates

Housing Opportunity Through Modernization Act (HOTMA)

Notice PIH 2024-19

June 20, 2024

HOTMA Voucher Final Rule

- Housing Opportunity Through Modernization Act of 2016—
Housing Choice Voucher (HCV) and Project-Based Voucher (PBV)
Implementation; Additional Streamlining Changes
 - AKA: “HOTMA voucher final rule”
 - Published in the Federal Register on May 7, 2024: [89 FR 38224](#)
 - HOTMA voucher final rule:
 - Codifies HOTMA provisions already implemented via Federal Register
 - Implements remaining HOTMA Voucher provisions
 - Changes regulatory provisions unrelated to HOTMA
- Notice PIH 2024-19: HOTMA HCV and PBV Final Rule – Guidance
on Effective and Compliance Dates and PHA Implementation
Preparation

Effective Dates

- The HOTMA voucher final rule is effective June 6, 2024, except for certain provisions:
 - PHA-owned certification and PHA-owned agreement certification: 24 CFR 982.451(c), 24 CFR 983.154(h), and 24 CFR 983.204(e)
 - PBV Housing Assistance Payments (HAP) contract rider: 24 CFR 983.154(g) and 24 CFR 983.157

PHA-owned Certification and PHA-owned Agreement Certification

- 24 CFR 982.451(c); 24 CFR 983.154(h), and 24 CFR 983.204(e)
- Permits HUD-prescribed certifications for certain PHA-owned units in lieu of:
 - Housing Assistance Payments (HAP) contract (for HCV or PBV)
 - Agreement to enter into HAP contract (AHAP) (for PBV)
- HUD will publish the effective date of these regulations with the new certification forms
- PHAs must not begin to use this flexibility until these regulations become effective

PBV HAP Contract Rider

- 24 CFR 983.154(g) and 24 CFR 983.157
- Permits a PHA to execute a HAP contract, subject to a rider, for rehabilitated housing before the rehabilitation is complete
- HUD will publish the effective date of these regulations with the new rider form
- PHAs must not begin to use this flexibility until these regulations become effective

Compliance Dates

- Compliance date: the date by which the PHA must operate according to the new regulatory provisions
- Compliance is required on the effective date (June 6, 2024), except for specific provisions (discussed later in this presentation)
- For regulatory provisions that have a compliance date that differs from the effective date, the PHA may choose:
 - To begin to follow the new provision beginning as early as the effective date; or
 - To follow the regulatory provision that existed before the HOTMA voucher final rule provision became effective until the PHA is ready to follow the new provision (no later than the compliance date)

PBV Projects Underway

- No requirement to repeat any stage in the selection or development process which has already been completed for a PBV project prior to any applicable compliance date
- Examples:
 - A PHA has selected a site (under the prior site selection standards) before June 6, 2024. The PHA is not required to complete a new selection
 - A PHA and owner signed an AHAP before June 6, 2024. The parties do not need to amend the AHAP to incorporate changes required by the HOTMA voucher final rule, but can agree to do so
- Note: if a project is under an AHAP as of June 6, 2024, the parties to the AHAP cannot nullify the AHAP to proceed without an AHAP as may otherwise be allowed under the HOTMA voucher final rule

Compliance Dates for Certain Provisions

Compliance with all other provisions was required starting June 6, 2024

September 4, 2024 Compliance Dates

- 90 days after effective date (September 4, 2024)
 - Information when family is selected: 24 CFR 982.301 and 24 CFR 983.252
 - Payment standards: 24 CFR 982.503
 - Homeownership program: 24 CFR 982.625 to 982.641
 - PBV analysis of impact: 24 CFR 983.58(b)
 - Overcrowded, under-occupied, accessible PBV units: 24 CFR 983.260
 - Section Eight Management Assessment Program (SEMAP): 24 CFR 985.3

September 4, 2024 Compliance Dates: Example

- PBV analysis of impact: 24 CFR 983.58(b)
 - The HOTMA voucher final rule provides that a PHA must perform an analysis of the impact prior to selecting a project for PBV assistance, if the PHA is project-basing 50 percent or more of its vouchers
 - PHAs must comply with this provision no later than September 4, 2024
 - Example: a PHA is selecting a project for PBVs, which will result in 50 percent or more of the PHA's vouchers being PBVs. The PHA may select the project without first performing an analysis of impact if it does so by September 3, 2024. The PHA must have first performed the analysis of impact before selecting the project if selection will occur on or after September 4, 2024

September 4, 2024 Compliance Dates: Example

- Overcrowded, under-occupied, accessible PBV units: 24 CFR 983.260
 - The HOTMA voucher final rule updates the procedures for a family that is occupying a wrong-size unit or a unit with accessibility features that the family does not require that is needed by a family that requires the accessibility features
 - PHAs may delay compliance with this provision until September 4, 2024. PHAs must prepare to comply by completing procedural updates and family notifications well in advance of September 4, 2024
 - Example:
 - On June 1, 2024, a PHA offered a family that is in a wrong-size unit a different PBV unit and the family accepted
 - The HOTMA voucher final rule requires such a family to move to the new PBV unit within a reasonable time, not to exceed 90 days. Under the prior rule, the PHA policy would have given the family 120 days to move
 - The PHA may follow its prior policy until the compliance date, which allows the family to take more than 90 days to move in accordance with the prior PHA policy, but the family must move by September 4, 2024. The PHA must provide adequate notice of the change in the amount of time the family has to move

December 3, 2024 Compliance Date

- 180 days after effective date (December 3, 2024)
 - Payment standard changes: 24 CFR 982.505

June 6, 2025 Compliance Dates

- One year after the effective date (June 6, 2025)
 - Independent entities for PHA-owned units: 24 CFR 983.57 and 24 CFR 983.155(b)
 - Removal of families from PBV waiting list: 24 CFR 983.251(e)
 - Occupancy of PBV units under the increased program cap and project cap excepted units: 24 CFR 983.262
 - Administrative Plan (discussed later in this presentation)

June 6, 2025 Compliance Dates: Example

- Independent entities (IEs) for PHA-owned units: 24 CFR 983.57 and 24 CFR 983.155(b)
 - The HOTMA voucher final rule changes the IE functions for PHA-owned units. For example, the rule requires that an IE must approve substantial improvement to PBV units and confirm completion of PBV development activity
 - PHAs must comply with these provisions no later than June 6, 2025
 - Example:
 - A PHA has IE contracts covering functions required under the prior regulations governing PHA-owned units
 - The PHA must follow its procurement policy to select IEs to perform new functions required by the HOTMA voucher final rule, and the IEs must perform the functions, no later than June 6, 2025
 - The PHA may confirm completion of PBV development activity without an IE until June 6, 2025
 - If the PHA would like to undertake substantial improvement to PHA-owned PBV units earlier than June 6, 2025, the PHA must select the IE that will approve substantial improvement before beginning the improvements

June 6, 2025 Compliance Dates: Administrative Plans

- While HUD's regulations contain a centralized list of minimum voucher program-wide Administrative Plan policies (24 CFR 982.54) and a new list of PBV-specific Administrative Plan policies (24 CFR 983.10), details are located throughout 24 CFR parts 982 and 983
- By June 6, 2025, PHAs must update their Administrative Plans to comply with the HOTMA voucher final rule if their existing policies do not already comply with the HOTMA voucher final rule provisions
 - The delayed compliance date for revisions to existing Administrative Plan policies does not authorize delayed compliance with any other final rule provision
- PHAs must update their Administrative Plans to comply with the HOTMA voucher final rule before:
 - Implementing discretionary program flexibilities for the first time
 - Changing a policy in the PHA's existing Administrative Plan that is compliant with the HOTMA voucher final rule

Administrative Plan Examples

- A PHA wishes to implement the new program flexibility at 24 CFR 983.251(c)(7) of the HOTMA voucher final rule, in order to allow an owner to maintain a waiting list for a PBV project. The PHA must adopt required Administrative Plan policies related to this waiting list change before the PHA may implement the change, because this is a new program flexibility never before available and for which no PHAs previously had Administrative Plan policies
- A PHA's Administrative Plan policy with respect to PBV families' right to move is not compliant with the HOTMA voucher final rule requirements of 24 CFR 983.261(c) because the PHA's policy omits procedures for the family to contact the PHA. The PHA must update this Administrative Plan policy no later than June 6, 2025. However, the PHA must operate in a manner consistent with the HOTMA voucher final rule starting on the compliance date for 24 CFR 983.261 (June 6, 2024). This means the PHA must operate using procedures for the family to contact the PHA that are consistent with the HOTMA voucher final rule from June 6, 2024 forward, even if it does not update its Administrative Plan until June 6, 2025

Administrative Plan Examples

- A PHA wishes to operate a PBV program and has never adopted Administrative Plan policies regarding the PBV program. The PHA must adopt any needed Administrative Plan policies for operating a PBV program before the PHA may take any action with respect to PBVs, because this PHA will be using program flexibilities requiring adoption of new local policies not already present in the PHA's Administrative Plan
- A PHA's Administrative Plan policy with respect to a PHA's offer of continued assistance for PBV families moving from wrong-size units is not compliant with the HOTMA voucher final rule requirements of 24 CFR 983.260(b) because the PHA's policy provides for an offer of tenant-based assistance in a program that cannot be used in any other PHA's jurisdiction (therefore, the program does not meet the definition of "comparable tenant-based rental assistance" in 24 CFR 983.3(b) of the HOTMA voucher final rule). The PHA must update this Administrative Plan policy no later than June 6, 2025. However, the PHA must operate in a manner consistent with the HOTMA voucher final rule starting on the compliance date for 24 CFR 983.260 (September 4, 2024). This means the PHA must offer continued assistance using a form of assistance allowable under 24 CFR 983.260(b) and must not offer continued assistance using a program that is not comparable (the tenant-based assistance program that cannot be used in any other PHA's jurisdiction), from September 4, 2024 forward, even if it does not update its Administrative Plan until June 6, 2026

Enforcement of the Housing Quality Standards (HQS)

Enforcement of HQS

- Changes to provisions regarding enforcement of HQS apply only to HAP contracts executed, extended, or renewed after June 6, 2024
- Tenant-based HCV HAP contracts:
 - 24 CFR 982.404 appearing in the HOTMA voucher final rule applies to HAP contracts executed on or after or renewed after June 6, 2024. A HAP contract is “renewed” if the HAP contract continues beyond the initial term of the lease.
 - For all other HAP contracts, 24 CFR 982.404 as in effect on June 5, 2024 applies (until renewal)
- PBV HAP contracts:
 - 24 CFR 983.208 appearing in the HOTMA voucher final rule is applicable to HAP contracts executed on or after or extended on or after June 6, 2024. A HAP contract is “extended” the earlier of the effective date of the next extension period or the date the PHA and owner agree to the next extension
 - For all other HAP contracts, 24 CFR 983.208 as in effect on June 5, 2024 applies (until extension). However, the PHA and owner may agree to apply the revised 24 CFR 983.208 appearing in the HOTMA voucher final rule early

Notices, Guidebook Chapters, and Forms Impacted by the HOTMA Voucher Final Rule

Notices

- Notice PIH 2024-19 lists HUD notices that are outdated and will be updated
 - PHAs are responsible for compliance with the HOTMA voucher final rule
 - PHAs may continue to reference the notices but must not rely on any provisions of the notices that conflict with the HOTMA voucher final rule
- Waivers pursuant to PIH Notice 2023-29:
 - Exception payment standards approved through the notice waiver process remain in effect until the approved expiration date, which may not exceed December 31, 2024
 - Waivers to allow the PHA to apply an increase in the payment standard during the term of the HAP contract prior to the effective date of the family's first regular reexamination that have not yet expired will be superseded on the HOTMA voucher final rule compliance date for 24 CFR 982.505, which is December 3, 2024
- HUD will issue comprehensive HOTMA voucher final rule implementation notice(s)

Guidebook Chapters

- HUD will update the Housing Choice Voucher Program Guidebook Chapters impacted by the rule, which are:
 - Payment Standards
 - Reexaminations
 - Special Housing Types
 - Utility Allowances

Forms

- HUD will update existing program forms. PHAs must continue to use the existing program forms until updated forms are published, unless directed otherwise by HUD through written guidance
 - If form language is inconsistent with a provision in the HOTMA voucher final rule for which the effective and compliance dates have passed, the HOTMA voucher final rule controls
- PHA plans: the HCV Annual Plan Template and the 5-Year Plan Template do not contain spaces for PBV information required by HOTMA voucher final rule provisions that were effective June 6, 2024
 - PHAs that have no new PBV activity to report are not required to amend their submissions
 - Options for PHAs with new PBV activity to report:
 - Attach the PBV information with the PHA's regular submission using the template
 - Undertake an amendment to the PHA plan (see 24 CFR 903.21) prior to proceeding with the PBV activity

Resources

- HOTMA resources:
- https://www.hud.gov/program_offices/public_indian_housing/hotmaresources
- HOTMAVoucher@hud.gov