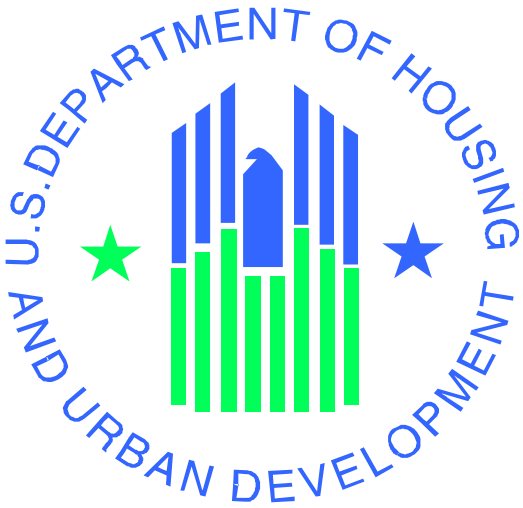

Rental Assistance Demonstration (RAD)

Quick Reference Guide for Public Housing Projects Converting to Project-Based Voucher (PBV) Assistance

Department of Housing and Urban Development (HUD)

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1 Introduction

1.1 Purpose of this Guide

This document provides guidance to owners (including public housing authorities (PHAs)) converting funding to project-based voucher (PBV) assistance, as authorized under the Rental Assistance Demonstration (RAD). The RAD program was implemented through Notice PIH 2012–32,[1] the RAD Notice.

The PBV program is codified at 42 U.S.C. 1437f(o)(13) and implemented at 24 CFR Part 983; however, RAD authorized HUD to waive statutory and regulatory provisions governing the PBV program, or to specify alternative requirements. The intent of this guide is to highlight PBV program requirements that pertain to RAD conversions. It is a complement to the RAD Notice and provides a brief summary of program requirements in addition to referencing materials such as the Notice, where more detailed information may be found.

PHAs should read the RAD Notice; PHAs that are new to the PBV program should in addition familiarize themselves with the governing statute (42 U.S.C. 1437f(o)(13)) and regulations (24 CFR Part 983). Notice PIH 2011–54 ("Guidance on the Project-Based Voucher Program") provides a detailed overview of the policies and procedures a PHA must establish prior to implementing a PBV program. Again, due to the broad waiver authority in RAD, some of the PBV program requirements as described in these materials are different for PBV conversions under RAD. A primary purpose of this guide is to make clear where the requirements specific to RAD PBV conversions differ from those that govern the project-basing of vouchers outside the RAD program.

1.2 Background

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012, which provided fiscal year 2012 appropriations for HUD.[2] No funds are authorized for RAD. Owners approved for RAD convert funding at current subsidy levels.

This guide pertains to public housing conversions under the first of RAD's two components. This component authorizes projects funded under the public housing program to convert from their current form of assistance to assistance under a long-term, renewable, project-based Section 8 rental assistance contract.[3] The

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[1] Rental Assistance Demonstration — Final Implementation, Revision 1 (Notice PIH–2012–32 (HA), REV-1), issued July 2, 2013.

[2] P.L. 112–55, enacted November 18, 2011.

[3] Section 8 Mod Rehab projects are also eligible for conversion under this component, but conversion of these projects is not addressed in this document. HUD is developing a separate document that will cover Section 8 Mod Rehab conversions under component one.

2012 Appropriations Act authorizes up to 60,000 units to convert assistance under this component, to be selected competitively.

Owners of these projects have the option to convert to assistance under a PBV Housing Assistance Payments (HAP) contract or a project-based rental assistance (PBRA) HAP contract. This guide applies only to conversions of public housing assistance to the PBV platform. A separate guide addresses conversions to PBRA.

2 RAD PBV HAP Contract and Use Agreement

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payment (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP[4] and the RAD Conversion Commitment, a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing.

Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. These conversions employ the PBV HAP Contract for New Construction or Rehabilitation, with a required RAD Rider,[5] even in cases where conversion will entail only modest repairs. All of these documents are available on the HUD Web site. The PBV HAP Contract for New Construction or Rehabilitation (HUD Form 52530A, Parts I and II) is available on HUDCLIPS; the required RAD Rider, HUD Form 52621, is available on the RAD Application and Closing Materials page.[6]

The RAD statute mandates and HUD requires that units assisted under a RAD PBV HAP contract be subject to long-term, renewable use and affordability restrictions. This requirement is effectuated by means of a RAD Use Agreement. Refer to Section 1.6.B.4 of the RAD Notice for detailed information about the RAD Use Agreement.[7]

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[4] The Commitment to Enter into a HAP (CHAP) is an award letter from HUD, indicating that the project has been selected for conversion. For PBV conversions, the CHAP describes milestones a PHA must meet prior to execution of the RAD PBV HAP contract.

[5] Throughout this document, the term "RAD PBV HAP contract" is used to refer to the PBV HAP Contract for New Construction or Rehabilitation, with the required RAD Rider.

[6] Http://portal.hud.gov/hudportal/HUD?src=/RAD/application-materials.

[7] The RAD Use Agreement can be accessed here: http://portal.hud.gov/hudportal/HUD?src=/RAD/application-materials

2.1 Units Identified Under a RAD PBV HAP Contract

All units under the PBV program must be identified in the RAD PBV HAP contract by unit number. The following types of units may be placed under the same RAD PBV HAP contract:

- Units within a single building; [8]
- Units within multiple contiguous buildings;
- Units within multiple buildings on contiguous parcels of land; or
- Multiple single-family buildings (i.e., scattered-site single family buildings).

Other types of units (i.e., units in buildings that are not contiguous or on contiguous parcels of land) are not considered "projects" and therefore must be placed under separate HAP contracts.

2.2 Income-Mixing Under a RAD PBV HAP Contract

For PBV conversions under RAD, HUD has established an alternative to the "income-mixing" requirement at 24 CFR 983.56(a), which caps at 25 percent the number of units in a project that may be assisted with PBVs. Specifically, under RAD, the cap is increased to 50 percent.

Under the PBV program, units are not counted against the cap if they are in a single-family building or if they are "excepted units" in a multifamily project. Excepted units are units occupied by "qualifying families," meaning elderly and/or disabled families or families receiving supportive services. For RAD, this means that an owner may attach PBV assistance to 100 percent of the units in a project as long as *at least 50 percent* of the units are occupied by qualifying families. The number of units designated for occupancy by qualifying families, and the number of families falling within each excepted category, must be identified in the RAD PBV HAP contract.

For public housing projects converting to PBV assistance under RAD, HUD has adopted a different definition of "families receiving support services" from that employed in the PBV program. Specifically, families residing in the public housing project at the time of conversion must be *offered* supportive services; they need not receive (i.e., *accept*) such services. Further, failure to receive such services shall not result in a loss of assistance to the unit, nor shall it result in the family's termination from the program. Once the initial family has moved from the unit, however, the alternative requirement ceases to apply. Any new family occupying the unit must comply with the supportive services requirement, in accordance with 24 CFR §983.56(b)(2)(ii)(B) ("Families receiving supportive services"). If the new family fails to fulfill its service obligation and its assistance

[8] In the PBV program, a single-family building is defined as "a building with no more than four dwelling units (assisted or unassisted)" (24 CFR §983.3).

is therefore terminated, the unit will remain under HAP as long as it is subsequently leased to a qualifying family.

2.3 Designated Housing

Under HUD's regulations at 24 CFR part 945, PHAs have the option to designate a public housing project or a portion of a project for exclusive occupancy by elderly families only, disabled families only, or a mix of elderly families and disabled families. While there is no equivalent designation in the PBV program, an owner converting to PBV assistance under RAD has the option of designating certain units for occupancy by elderly and/or disabled families. Such families would then be considered "qualifying families" in accordance with §983.56(b)(2)(ii)(A), which addresses units that qualify under the income-mixing exception described above.

If a PHA is taking designated housing through a RAD PBV conversion and intends to change the project's occupancy (e.g., family to elderly or elderly/disabled), then the PHA must make its intention clear in its FHEO Accessibility and Relocation Plan Checklist[9] and PHA Plan (or significant amendment to such plan).

2.4 Rent to Owner

Initial contract rents are determined based on a project's subsidy under the public housing program. See Attachment C of the RAD Notice for further detail. While the RAD Notice allows for some flexibility on initial rent setting (see 1.6(B)(5) of the RAD Notice) in general, the initial contract rent cannot exceed:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent for the unit bedroom size minus any utility allowance, unless an exception payment standard has been approved by the Secretary or a PHAs MTW Agreement explicitly allows for an alternative rent cap; or
- The reasonable rent as determined in accordance with 24 CFR 983.303.[10]

2.5 Contract Amendments to Substitute, Subtract, or Add Units

PHAs may amend the units covered under the RAD PBV HAP contract:

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[9] Notice H 2014–09/PIH 2014–17, "Relocation Requirements under the Rental Demonstration Program (RAD) Program, Public Housing in the First Component," references the FHEO Accessibility and Relocation Plan Checklist. The Checklist itself is available on the HUD Web site at portal.hud.gov/hudportal/documents/huddoc?id=RADFHEOChecklist.docx.

[10] In a limited number of situations where converting projects with Low Income Housing Tax Credits (LIHTCs) are located outside of a Qualified Census Tract, rents are determined in accordance with 24 CFR 983.301(c).

- Substitution. While PBV units in a property cannot "float," the PHA can amend the RAD PBV HAP contract to substitute contract units in accordance with 24 CFR §983.207(a).
- Subtraction. Units occupied by families where there has been no subsidy (due to an increase in a tenant's income) must be removed from the HAP contract 180 days after the last housing assistance payment on behalf of the family, pursuant 24 CFR 983.211, which addresses the removal of a unit from the HAP contract. The PHA must add the units back to the contract, however, when the family moves out of the unit. Generally, the number of units under contract may not be reduced without HUD approval.
- Addition. Amendment of a contract to add units, as discussed at 24 CFR §983.207(b), does not apply to RAD PBV HAP contracts, except that an owner may amend the contract to add units back that had been previously removed from a RAD PBV HAP contract, as long as the number of units under contract at no time exceeds the number of units initially selected for conversion in accordance with the requirements of the RAD Notice.

Any non-RAD PBV units subsequently attached to a RAD project are subject to all provisions at 24 CFR Part 983; none of the alternative requirements of the RAD program apply to such units.

2.6 Initial Contract Term

Covered projects shall have an initial HAP term of at least 15 years and may have an initial HAP term of up to 20 years upon request of the PHA and with approval by the agency administering the vouchers.

2.7 Mandatory Contract Renewal

The RAD statute requires the agency administering the RAD PBV HAP contract to offer, and the owner of the project to accept, renewal of the initial and each renewal RAD PBV HAP contract, subject to the availability of appropriations. HUD has therefore determined that neither 42 U.S.C. 1437f(o)(13)(E) nor 24 CFR §983.205(b) apply, since both address extension of the initial contract term.

2.8 Parties to the RAD PBV HAP Contract

The RAD PBV HAP contract will be signed by the owner of the project and the PHA administering the PBV assistance, acting as a contract administrator. See section 1.6.B(3) of the RAD Notice for requirements regarding ownership. While HUD is not a signatory to the RAD PBV HAP contract, HUD will review the prepared contract prior to closing.

Under the PBV program, the contract administrator and the owner cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself).

Where the PHA has an interest in the ownership of the property covered under the PBV contract, the PHA must hire an independent entity, approved by HUD, to

perform the housing quality standards (HQS) inspections and rent reasonableness determinations (24 CFR §983.59).

3 Contract Administration

3.1 Contract Administrator

The RAD PBV HAP contract will be administered by the PHA to which the vouchers are assigned (acting as a contract administrator). This PHA must be classified as a standard or high performer under the Section 8 Management Assessment Program (SEMAP). A PHA that is classified as troubled may administer a RAD PBV HAP contract only if it is making substantial progress under its Corrective Action Plan, and HUD has determined that the factors resulting in the PHA's troubled status will not affect its capacity to administer the RAD PBV HAP contract. Section 1.3.B and 1.3.C of the RAD Notice address this requirement.

The contract administrator must meet certain performance and administrative requirements, including (1) monitoring owner compliance with the RAD PBV HAP contract; (2) making assistance payments to the owner; and (3) reporting to HUD.

3.1.1 PHA-Owned Units

The contract administrator may be the same PHA that is converting its public housing to PBV assistance under RAD. If any dwelling unit covered by a RAD PBV HAP contract is "owned" by the PHA acting as contract administrator, then HUD requirements in 24 CFR §983.59 governing PHA ownership of PBV units will apply.

In accordance with 24 CFR §983.3, a unit is considered to be PHA-owned for purposes of the PBV program if the PHA or its officers, employees, or agents hold a direct or indirect interest in the building in which the unit is located, including an interest as:

- titleholder;
- lessee;
- lessee of the land;
- a stockholder;
- a general or limited member of a partnership;
- a member of a limited liability corporation;
- an entity that holds any direct or indirect interest in a limited partnership; or
- an entity that holds any direct or indirect interest in a limited liability company.

If a PHA, its officers, employees, or agents possess any interest in the building or land, the project or building is considered PHA-owned and must comply with all statutory, regulatory, and any other HUD requirements governing PHA-owned units.

3.1.2 Administration by a Third-Party PHA

A public housing–only agency that chooses to convert its public housing to PBV assistance under RAD must identify in its RAD Application the voucher agency that will administer its RAD PBV HAP contract. HUD will not assign vouchers to a PHA that does not have a Section 8 Annual Contributions Contract (ACC) with HUD. If the project is selected, then the applicant PHA will need to submit a signed letter from the voucher agency evidencing its willingness to administer the RAD PBV HAP contract. (The applicant PHA may contact the local HUD Office of Public Housing to identify a list of voucher agencies that have appropriate legal jurisdiction to perform this role.) If there is no voucher agency with overlapping legal jurisdiction that is willing to administer the RAP PBV HAP contract, then the applicant PHA may want to consider converting its public housing to project-based rental assistance (PBRA).

3.2 Voucher Annual Contributions Contract and Administrative Fees

Upon conversion, HUD will amend the administering agency's Section 8 Annual Contributions Contract (ACC) to reflect the addition of units converted from public housing to PBV. During the *calendar year* of conversion, however, funding for these additional units will not be provided through the ACC. Instead, the units will be funded with the applicant PHA's Operating and Capital fund allocations, and the ACC will serve primarily as the basis for requiring the administering PHA to comply with HUD requirements. Beginning on January 1 of the year following conversion, however, the units converted from public housing to PBV assistance will be funded through the administering agency's ACC.

During the calendar year of conversion, HUD cannot provide administrative fee funding to the administering agency for the additional units added to the agency's ACC pursuant to conversion. Funding appropriated for Section 8 administrative fees may not be used to cover the costs associated with administering units funded under the Operating and Capital fund programs. (See paragraph 3.5.1 for information about subsidy administration in the year of conversion.) The administering agency may, however, enter into a compensation arrangement with the agency converting assistance, under which a fee for administrative services delivered during the calendar year of conversion may be paid.

3.3 Cap on Project-Basing of Housing Choice Voucher (HCV) Assistance

For PBV conversions under RAD, HUD has waived 24 CFR §983.6, under which a PHA may project-base no more than 20 percent of the amount of HCV budget

authority allocated to the PHA by HUD. Projects converted to PBV under RAD do not count against this 20 percent cap.

3.4 Administrative Requirements of the Contract Administrator Prior to Conversion

3.4.1 Administrative Plan

The Administrative Plan of an agency that will be administering RAD PBV assistance must include:

- The resident procedural rights identified in Section 1.6.C.7 of the RAD Notice, including the grievance process.
- A description of the types of services offered to qualified families and the extent to which such services will be provided, if the PHA plans to exceed the RAD PBV income-mixing cap described in paragraph 2.2 for "families receiving supportive services" (see 24 CFR §983.56(b)(2)(B)). Specifically, the PHA must describe the form and frequency of monitoring the continued receipt of these services, as applicable, and take appropriate action regarding those families that fail without good cause to complete their supportive services requirements.
- A description of how the PHA will establish PBV waiting lists (see Section 1.6.D(4) of the RAD Notice), how applicants on the public housing waiting list will be transitioned to the PBV waiting list, and how applicants will be selected for admission.
- Any tenant screening policies that will apply to future admissions.
- The PHA's decision about whether and for what duration it will make vacancy payments to the owner of the project assisted under the RAD PBV HAP contract, consistent with 24 CFR §983.352. If the PHA decides that it will make vacancy payments, then this must also be stated in the RAD PBV HAP contract.
- A description of the PHA's right to return policies, which must address the treatment of tenants relocated as a result of conversion (see Section 1.6.C.2 of the RAD Notice).
- A description of the PHA's policies with respect to tenants in wrong-sized units (e.g., the PHA's policy on continued assistance, in accordance with §983.260(b)(2)).
- A description of the PHA's policies with respect to the phase-in of tenant rent increases.

In addition, PHAs should consider the treatment of RAD PBV HAP contracts in developing policies on the treatment of HAP contracts in the event of insufficient funding.

3.4.2 PHA Plan

The contract administrator must provide the projected number of RAD PBV units, their general locations, and how project-basing would be consistent with its PHA Plan in Section 7.0 of the PHA Plan Template (Form HUD–50075[11]).

3.4.3 Initial HQS Inspection

Under 24 CFR 983.204(a)(2), a PHA may not enter into a HAP contract for any unit until the PHA has determined that the unit complies with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless the units being inspected as PHA-owned, in which case the inspection must be performed by an independent entity, as required by 983.103(f)). The RAD Rider to the PBV HAP contract provides for some flexibility on this requirement, however, in order to accommodate the use of PBV assistance to finance needed repairs. Specifically, the RAD PBV HAP contract provides that an owner may certify that all units will meet HQS "no later than the date of completion of initial repairs."

For information on HQS, see 24 CFR 982.401.

3.4.4 Rent Reasonableness

The contract administrator must determine rent reasonableness in accordance with 24 CFR §983.303.

3.5 Subsidy Administration

3.5.1 Subsidy Administration in the Year of Conversion

From the effective date of the RAD PBV HAP contract through the balance of the calendar year of conversion, RAD PBV projects will continue to be funded through the public housing program accounts (the Operating Fund and the Capital Fund). Funding will be moved into two new RAD Budget Line Items in LOCCS that the PHA will use to make HAP payments to the property. PHAs cannot use Section 8 Net Restricted Assets (NRA) on RAD properties during this period.

During this period, payments to the property from the public housing LOCCS module should not be reported in the Voucher Management System (VMS) (see paragraph 3.5.2.2, below). The administering PHA will *not* receive an administrative fee for converting units during the calendar year of conversion.

3.5.2 Subsidy Administration Following the Year of Conversion

Assistance for the converted units will not flow through the voucher ACC until January 1 of the calendar year following the year of conversion, at which time the administering PHA shall become responsible for HAP payments to the owner.

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[11] http://portal.hud.gov/hudportal/documents/huddoc?id=phaplans.doc

HUD will add an increment of new funding to the PHA's voucher ACC prior to January 1.

HAP payments shall be made monthly and shall cover all units that are either occupied, subject to vacancy payments in accordance with 24 CFR §983.352 and the RAD PBV HAP, or eligible for RAD Rehab Assistance in accordance with Section 1.6.B.8 of the RAD Notice.

3.5.2.1 Administrative Fee

Payment of the administrative fee will begin January 1 of the calendar year following the year of conversion, when funding for the units begins to flow through the administering agency's ACC. PHAs receive an administrative fee, in accordance with 24 CFR §982.152.

3.5.2.2 VMS Report

No VMS reporting will occur until January 1 following the calendar year of conversion. Starting on January 1, coinciding with when HUD provides a new increment of HAP funding to the Section 8 ACC, PHAs administering vouchers will submit Form HUD-52681-B on a monthly basis through HUD's Voucher Management System (VMS). The form is used to report leasing and HAP expense data. VMS reporting will be used to reconcile PHAs' disbursements for all HAP funds received, including those received for RAD PBV contracts. In accordance with HUD Notice PIH 2011–67, HUD will compare the PHA's actual costs to funds disbursed for the quarter to determine if there is an over- or underpayment for the period under review. Administrative Fee disbursements will be reconciled in the same quarterly manner and will be based on PHAs' leasing reported in the VMS compared to administrative fee disbursements for the same time period.

3.5.3 Rent Adjustments

The administering PHA (or independent entity, if the project is owned by the administering PHA) will be responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing Operating Cost Adjustment Factors (OCAF).

At least 120 days before the contract anniversary date of the RAD PBV HAP, HUD recommends that the owner submit the OCAF Rent Adjustment Worksheet (Form HUD-9625), to the PHA administering the PBV assistance (or the independent entity processing the rent adjustment). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR §983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

3.5.4 Utility Allowance Schedule

The PHA must maintain a utility allowance schedule for all tenant-paid utilities in accordance with 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517. The utility allowances would become effective for each family at recertification. A PHA may request a waiver from HUD in order to establish a site-specific utility allowance schedule if a PHA can demonstrate good cause that the utility allowance schedule used in its voucher program would either:

- Create an undue cost on families because the utility allowance provided under the voucher program is too low; or
- Discourage conservation and efficient use of HAP funds because the utility allowance provided under the voucher program is excessive.

For HUD to consider such a waiver, the PHA must submit:

- an analysis of utility rates for the community and consumption data of project residents in comparison to community consumption rates; and
- a proposed alternative methodology for calculating utility allowances on an ongoing basis.

3.6 Wait List Administration

The procedures a PHA should follow to establish a waiting list depends on 1) whether the converting public housing property received applications through a project-specific or community-wide waiting list; 2) whether the PHA administering the PBV contract will refer applicants to the converting project from a project-specific, PBV-wide, or voucher-wide waiting list; and 3) whether the conversion involves a transfer of assistance to another neighborhood. See Section 1.6(D)(4) of the RAD Notice for further information on appropriate procedures. To summarize:

- PHAs must offer families on a public housing project–specific waiting list priority for occupancy at the converted site;
- PHAs must notify families on a community-wide waiting list of the opportunity to sign up for a new waiting list; and
- Where the PHA is transferring the assistance to another site, the PHA must notify applicants on the wait list of the transfer of assistance, and on how they can apply for residency at the new project site or other sites.

3.7 Oversight of Owner Compliance with RAD PBV HAP Contract

The PHA administering the contract shall be responsible for monitoring owner compliance with the RAD PBV HAP contract starting on the effective date of the contract. Owner responsibilities are spelled out in Section 6 of the contract and include such things as performing all management and rental functions for the

contract units, maintaining the units in accordance with HQS, and enforcing tenant obligations under the lease.

In the event the administering PHA determines that an owner has breached the RAD PBV HAP contract, the PHA must notify the owner in writing and require the owner to take corrective action. If the owner fails to do so, then the PHA may exercise any of the remedies available under the RAD PBV HAP contract, from abating assistance payments to termination of the contract. Section 15 of the RAD PBV HAP contract addresses owner defaults.

HUD retains the authority under Section 14 of the RAD PBV HAP contract to step in if HUD determines that the contract administrator has failed to take appropriate enforcement action against an owner.

In addition to the responsibilities that are typical of PBV contracts, there are additional requirements described in the RAD PBV HAP contract and RAD Notice, including:

- Owners must maintain at all times commercially available property and liability insurance.
- Owners must receive HUD approval for any refinancing or restructuring of permanent debt.

3.8 Ongoing Unit Inspections

In addition to conducting the initial HQS inspection described in paragraph 3.4.3 and inspecting units at turnover, the PHA that is administering the RAD PBV HAP contract must inspect a random sample of 20 percent of all units no less frequently than biennially during an assisted tenancy to assure that such units remain in compliance with HQS. (If the administering PHA also owns the units, then this inspection must be conducted by an independent entity, as required by 983.103(f).) The contract administrator may not make any payments under the RAD PBV HAP contract for a unit that fails to meet HQS, unless the owner corrects any cited deficiencies within the time period required by the PHA. (If the family is responsible for causing the cited deficiencies, then the PHA may terminate assistance to the family.)

For information on HQS, see 24 CFR §982.401.

3.9 Approval of Annual Operating Budget

The board of directors of the PHA (or property owner) must review and approve annually the operating budget for the RAD PBV project. Among other requirements, the budget must reflect that the project is making deposits to the Reserve Fund for Replacement, which must be held in a General Depository Agreement account, as required pursuant to financing and by HUD.

3.10 Annual Recertification of Income and Family Composition

The PHA administering the PBV assistance must conduct a reexamination of family income and composition at least annually. The regulation at 24 CFR §982.516 addresses the requirements specific to this task. Note that a family that was living in a unit converted from public housing to PBV assistance may retain its recertification date.

3.10.1 Form HUD-50058

PHAs are required to submit Form HUD-50058 at least annually for each household that participates in the Section 8 voucher program. The form is submitted through the PIC Module in the Inventory Management System.[12]

For each family residing in a unit undergoing a conversion of assistance under RAD, the administering PHA will have to submit a Form HUD-50058 reflecting the family's admission to the voucher program. The family's date of admission to the voucher program must be the same as the effective date of the RAD PBV HAP contract. The PHA will continue to use HUD Form 50058 for each household, but will consider the family a new admission and complete Section 11 (lines 11b through 11an, as applicable) instead of Section 10. The Form should include the same information previously found on the 50058, including the next annual reexamination date found on Line 2i. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For public housing conversions to PBV under RAD, code "RADPH" (Rental Assistance Demonstration/Public Housing) must be entered on line 2n of the 50058.

3.10.2 Phase-in of Tenant Rent Increases

Generally, tenant income must be determined and tenant rent must be calculated annually, in accordance with 24 CFR §5.609 and 24 CFR §983.353, respectively. However, for any tenant in place at the time of conversion whose monthly rent would increase by more than the greater of 10 percent or $25 purely as a result of conversion, PHAs have the option of phasing in the rent increase over a period of three or five years. To implement this provision, HUD is waiving section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) only to the extent necessary to allow for the phase-in of tenant rent increases.

To implement the phase-in, a PHA must establish a policy setting the length of the phase-in period at three years, five years, or a combination of the two, depending on the circumstances. For example, a PHA may create a policy that uses a three-year phase-in for smaller increases in rent and a five-year phase-in

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[12] Contact your "PIC Coach" for assistance using the system. A list of PIC Coaches is available on the HUD Web site at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/help.

for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

An example, below, explains the set percentage-based phase-in an owner must follow according to the phase-in period established. For purposes of this section "standard TTP" refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058. If a family in a project converting from Public Housing to PBV was paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1, below.

Three-Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the standard TTP.
- Year 2: Annual recertification and any interim recertification prior to Year 3 annual recertification – 66% of difference between most recently paid TTP and the standard TTP.
- Year 3: Year 3 annual recertification and all subsequent recertifications – Full standard TTP.

Five-Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the standard TTP.
- Year 2: Annual recertification and any interim recertification prior to Year 3 annual recertification – 40% of difference between most recently paid TTP and the standard TTP.
- Year 3: Annual recertification and any interim recertification prior to Year 4 AR – 60% of difference between most recently paid TTP and the standard TTP.
- Year 4: Annual recertification and any interim recertification prior to Year 5 annual recertification – 80% of difference between most recently paid TTP and the standard TTP.
- Year 5 annual recertification and all subsequent recertifications – Full standard TTP.

Please Note: In either the three-year phase-in or the five-year phase-in, once the tenant's TTP is calculated as equal to or less than the previous TTP (or flat rent, if in Year 1 of the phase-in), the phase-in ends and tenants will pay full TTP from that point forward. For example, if a tenant's previous TTP was $300 and their new (standard) TTP is reduced to $200 because of loss of income, the tenant's rent will no longer be phased-in.

At this time, PHAs and their vendors will receive a fatal error message if they enter a TTP amount that is less than the normal calculated amount. In the interim, PHAs and their vendors should not attempt to make any edits to TTP in the form. Instead, until provided further notice, PHAs and their vendors should allow the TTP calculation to be carried out by the system, but record the actual TTP charged in the PHA Use field 2u, with the standard statement "Actual TTP is $xxx.xx."

3.11 Mobility

After one year of living in a PBV unit, a family may exercise its right to move with tenant-based assistance by contacting the administering voucher agency, in accordance with 24 CFR §983.261. The agency must offer the family the opportunity for continued tenant-based rental assistance, either in the form of a Housing Choice Voucher or other comparable tenant-based assistance. If such assistance is available at the time of the request, then the family may terminate its lease and accept the assistance. If the administering PHA does not have such assistance available, then the PHA must give the family priority to receive the next available tenant-based assistance.

4 Resident Rights and Participation

Section 1.6.C of the RAD Notice addresses the participation and other resident rights applicable to families residing in projects undergoing a RAD conversion to PBV assistance. By signing the RAD PBV HAP contract, the owner agrees to comply with the grievance process requirements spelled out in Section 1.6.C.7.b of the RAD Notice and with the "PBV Resident Participation and Funding" provisions detailed in paragraph B of Attachment 1B.2 to the RAD Notice.

In addition, Notice PIH 2014–17 outlines relocation requirements under RAD's first component. RAD program rules prohibit the permanent involuntary relocation of residents as a result of conversion. The Notice outlines a process for resident engagement and consent if proposed plans for a project would preclude a resident from returning to the RAD project. The Notice also clarifies the relocation notices required and when relocation may begin for RAD conversions.

Attachment 1B.1 to the RAD Notice provides a summary of resident provisions that apply to conversions of assistance from public housing to both PBRA and PBV. A summary of some of the provisions that apply to RAD PBV conversions is provided below; for a full discussion of all such provisions, refer to Section 1.6.C of the RAD Notice.

4.1 No Rescreening of Tenants Upon Conversion

The RAD statute makes clear that conversion "shall not be the basis for rescreening or termination of assistance or eviction of any family in a property participating in [RAD]." In practical terms, this means that existing families shall not be rescreened, nor are they subject to eligibility determinations based on

income. In addition, while such families will be considered new admissions to the voucher program, they will not be treated as new admissions for income-targeting purposes. When a current tenant moves out of a property that has undergone a conversion of assistance, however, that unit must be rented to an eligible family.

4.2 Treatment of PH FSS and ROSS-SC Program Participants

So that families participating in the Public Housing Family Self-Sufficiency (PH FSS) or the Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS SC) programs may continue their participation beyond the effective date of the RAD PBV HAP contract, HUD has established requirements that owners of converted projects must meet. These requirements are spelled out in detail in Section 1.6.C.5 of the RAD Notice and are summarized below.

4.2.1 Current Public Housing (PH) FSS Participants

Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD. PHAs will be allowed to use any PH FSS funds granted previously, or pursuant to the FY 2013 PH FSS NOFA, to serve FSS participants who live in units converted to PBV assistance under RAD.

If a PHA has an HCV FSS program, then the PHA must transfer the PH FSS program participants at the RAD PBV project to their HCV FSS program.[13] In such transfers, the original beginning and ending dates of the FSS contract and the baseline annual income, earned income, and family rent from the original contract are retained. However, because the PH and HCV escrows will be funded from different sources, the PHA must set up separate PH and HCV escrow accounts for the transferring program participant. If the family fails to complete its FSS contract resulting in forfeiture of the FSS escrow accounts, the PH FSS escrow funds would revert to the PHA's operating fund. The forfeited HCV/FSS escrow funds would be credited to the PHA's HAP equity account.

If a PHA does *not* have an HCV FSS program, then the PHA must establish such a program and convert the PH FSS program participants at the covered project to their HCV FSS program. Future FSS Notices of Funding Availability will provide additional guidance.

All PHAs administering an FSS program will be required to comply with both the participants' contracts of participation and 24 CFR Part 984, with the exception of 24 CFR §984.303(b)(5)(iii) (consequences of noncompliance with the contract), which will not apply to FSS participants in converted properties. HUD is waiving this provision of the regulation so that residents who were converted from the PH FSS program to the HCV FSS program through RAD may *not* be terminated from

[13] Starting with program funding appropriated in FY14 , FSS funds may be used to serve PH and/or HCV residents. In other words, there is no need to "transfer" participants from one program to the other; there is essentially one program.

the HCV program or have HCV assistance withheld as a result of their failure to comply with the contract of participation.

4.2.2 Current ROSS-SC Grantees

Current ROSS-SC grantees will be able to finish out their ROSS-SC grants once their housing is converted under RAD. A converted property will not, however, be counted toward the unit count for any future public housing ROSS-SC grants, nor will its residents be eligible to be served by future public housing ROSS-SC grants.

4.3 Earned Income Disregard

Public housing tenants who are employed and receiving the earned income disregard (EID) at the time of conversion to PBV assistance will continue to receive the EID after conversion, in accordance with 24 CFR §5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to the rent phase-in, as described in Section 1.6.C.4 of the RAD Notice; instead, the rent will rise to the appropriate rent level based upon the tenant's income. See Section 1.6.C.8 of the RAD Notice for additional details about the EID.

4.4 Grievance Process

The regulations (at 24 CFR §982.555) governing the traditional PBV program define the circumstances under which a PHA is required and is *not* required to provide a tenant with an informal hearing. HUD has waived 24 CFR §982.555(b) (in part) and has opted instead to require that tenants be offered an informal hearing for actions that adversely affect the resident's rights, obligations, welfare, or status. Further guidance on the grievance process requirements is available in Section 1.6.C.7.b of the RAD Notice. PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

5 RAD PBV Lease

5.1 Pre-Lease Briefing

When a family accepts an offer of PBV assistance, the PHA must provide an oral briefing that meets the requirements of 24 CFR §983.252.

All tenants are required to sign Form HUD-52578b, Section 8 Project-Based Voucher Program Statement of Family Responsibility. This form must be signed by the family prior to occupancy of a PBV-assisted unit.

5.2 Security Deposits

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If tenants in-place at RAD conversion have not previously been required to provide a security deposit, then the owner may collect a security

deposit at the time of initial lease execution. The security deposit must be determined in accordance with the provisions of 24 CFR §983.259.

Generally, a security deposit for a PBV unit shall not be greater than amounts charged by the owner to unassisted tenants nor greater than private market practice in the locality in which the owner is operating.

5.3 Form of Lease

There is no model lease for the PBV program. The owner must provide a written lease that meets the requirements spelled out in 24 CFR §983.256. In addition to the names of the owner and tenant, the lease must include:

- The unit rented (address, apartment number, any other information needed to legally identify the unit);
- The term of the lease;
- The amount of tenant rent to owner (subject to change in accordance with HUD income verification and recertification requirements);
- Specification of any services, maintenance, equipment, and utilities to be provided by owner;
- The amount of any charges for food, furniture, or supportive services;
- A requirement that the owner renew the lease upon expiration, unless good cause exists for non-renewal (see below); and
- The resident procedural rights identified in Section 1.6.C.7 of the RAD Notice.

The initial lease term must be for at least one year. Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with — and must be signed on or before — the effective date of the RAD PBV HAP contract.

The lease must include the HUD-required tenancy addendum (Form HUD-52641-A), in accordance with 24 CFR §983.256(d). The tenancy addendum and many other HCV-related forms are available in languages other than English at HUD's Limited English Proficiency Web page (http://www.hud.gov/offices/fheo/promotingfh/lep.cfm).

5.4 Overhoused Tenants at Time of Conversion

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family.

5.5 Termination of Tenancy

Generally, §983.257 governs owner termination of tenancy and eviction for the PBV program. HUD incorporated additional termination notification requirements into the RAD Notice in order to comply with the RAD statute. In the event an owner has good cause to terminate a tenancy, the owner shall follow the notification procedures and requirements outlined in Section 1.6.C.7.a of the RAD Notice, including providing adequate written notice of termination.