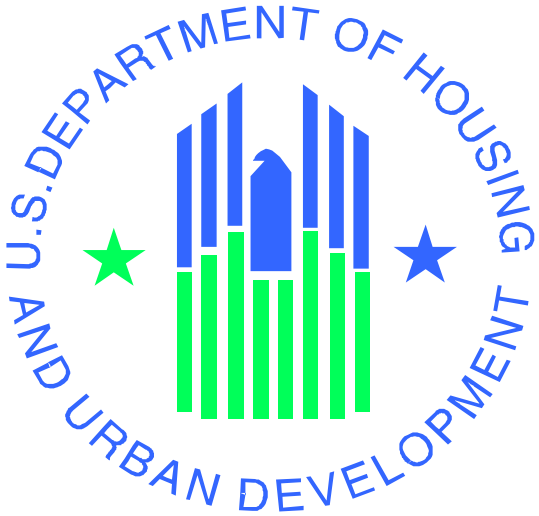

Rental Assistance Demonstration (RAD)

Quick Reference Guide
to
Multifamily Housing Requirements

Department of Housing and Urban Development (HUD)

February 2014 (updated)

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1 Introduction

1.1 Purpose of this Guide

This guide provides instruction to owners (including Public Housing Authorities) converting their projects to project-based rental assistance (PBRA) authorized under the Rental Assistance Demonstration (RAD). The purpose of this guide is not to be all-inclusive or overly descriptive of HUD Multifamily Housing requirements but rather to highlight certain requirements owners converting under RAD should be aware of. The guide is a starting point for owners converting under RAD to become familiar with HUD Multifamily Housing requirements. This guide applies only to conversions of public housing and Section 8 Moderate Rehabilitation (Mod Rehab) assistance to PBRA. It does not apply to RAD conversions of assistance to Project Based Voucher (PBV) assistance.

1.2 Background

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), which provided fiscal year 2012 appropriations for HUD (2012 Appropriations Act).

The first component of RAD allows projects funded under the public housing and Mod Rehab programs to convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, public housing agencies (PHAs) and Mod Rehab owners may choose between two forms of Section 8 Housing Assistance Payment (HAP) contracts: PBVs or PBRA. No incremental funds are authorized for this component. PHAs and Mod Rehab owners will convert their assistance at current subsidy levels. The 2012 Appropriations Act authorizes up to 60,000 units to convert assistance under this component, to be selected competitively.

Additional program history along with instructions for RAD, including eligibility and selection criteria, can be found in the joint Office of Public and Indian Housing and Office of Housing Notice PIH 2012-32 (HA), REV-1. Rather than describe program requirements in complete detail, this guide is a complement to PIH 2012-32 (HA), REV-1, and will identify the requirements using a brief summary and reference the location to where the detailed requirements are found.

For purposes of this guide, PHAs and Mod Rehab owners converting assistance to PBRA HAP contracts are referred to as owners.

2 Use of Multifamily Housing Systems

The Department utilizes several systems to track and monitor properties with PBRA HAP contracts. As part of the conversion from public housing and Mod Rehab assistance to a PBRA HAP, owners are required to conform with system requirements and guidelines as outlined below and in all existing and subsequent Department guidance. Questions relating to HUD Multifamily Housing systems should be addressed to the Multifamily Housing Helpdesk at 1-800-767-7588.

2.1 Obtaining a WASS ID from REAC TAC

Individuals must obtain a Web Access Secure System (WASS) ID in order to access Multifamily Housing Systems. For further guidance and information on applying for a WASS ID, contact the Real Estate Assessment Center (REAC) Technical Assistance Center (TAC) team at 1-888-245-4860.

2.2 Previous Participation Certification (Form HUD-2530) and Active Partners Performance System

In accordance with 24 CFR 200, Subpart H, Section 200.210-200.245, it is the Department's policy that participants in its housing programs be responsible individuals and organizations that will honor their legal, financial, and contractual obligations. The regulation establishes uniform standards for approval, disapproval, or withholding of action on principals in projects based upon their past performance as well as other aspects of their records. In order for individuals or corporate entities to participate or play a role in a Multifamily Housing property, they must obtain HUD's approval. Applicants may request HUD's approval by submitting a HUD-2530 (Previous Participation Certification) form to the RAD Transaction Manager overseeing the conversion request. This approval is required prior to the RAD conversion and execution of the PBRA HAP Contract. Approvals that may be necessary after conversion, such as changes in ownership entity, will be processed by the HUD Project Manager in the appropriate Multifamily field office.

Effective on July 1, 2006, the Active Partner Performance System (APPS) was fully implemented and the use of this system by all participants is strongly recommended. The system provides a method for participants to store and manage all data pertaining to their participation in HUD Multifamily Programs and then to submit future APPS Previous Participation Certificates (APPC) online, in HUD's secure web based environment. Please refer to the APPS Industry User Guide for more information via the following link:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/apps/appsindustryug.

If a participant is notified that approval is conditional or being withheld or disapproved, the participant may request reconsideration by the Multifamily Participation Review

Committee (MPRC) or the participant may request an administrative hearing before a Departmental Officer. To make a request for reconsideration, the request must be submitted in writing within 30 calendar days of the receipt of the notice. If the MPRC does not act favorably when reconsidering the request, the participant can request an administrative hearing.

2.3 Tenant Rental Assistance Certification System (TRACS)

Owners of properties converting to PBRA under RAD are responsible for processing tenant certifications, tenant recertifications, and subsidy billings using automated software that conforms to HUD specifications. Owners are responsible for electronically transmitting required data either directly or through a service provider to HUD. RAD projects will be serviced by HUD until further notice.

TRACS compliant software used to produce certifications and subsidy billings must be obtained from a vendor who certifies that the software is compliant with HUD requirements. As HUD requirements are updated to reflect changes or revisions in legislation, regulations, handbooks, notices, or HUD format electronic data transmission requirements, owners are responsible for ensuring that the software they use to complete, review, and transmit data is updated accordingly.

2.4 Enterprise Income Verification (EIV) System

Use of HUD's Enterprise Income Verification System is required as a third party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income and to reduce administrative and subsidy payment errors. Multifamily Housing's EIV system is different from the EIV system used by Public and Indian Housing. Owners must follow all EIV requirements as identified in HUD Handbook 4350.3, REV-1.

Owners of properties converting to PBRA under RAD must:

1. Remove PIH EIV access effective at the contract execution date by contacting the EIV Coordinator at the local HUD field office, and
2. Obtain access to Multifamily Housing's EIV system within 90 days from the date the HAP Contract is signed.

2.5 Financial Statement Requirements (FASS)

The owner must comply with HUD's Uniform Financial Reporting Standards codified in 24 CFR Part 5 Subpart H. Owner entities will be required to submit financial information to HUD on an annual basis in the form and substance prescribed by HUD through the internet to the Financial Assessment Subsystem—Multifamily Housing (FASSMF) or in such non-electronic format as HUD may allow. FASSMF automates the submission of annual financial data for properties with HUD subsidies, grants, and/or FHA-insured mortgages. FASSMF also facilitates management and prioritization of the multifamily housing portfolio by performing automated assessments of the financial data,

highlighting projects for which compliance deficiencies are identified. Please see the Financial Assessment Subsystem—Multifamily Housing Industry User Guide (http://portal.hud.gov/hudportal/documents/huddoc?id=chp01-introduction.pdf) for further information on FASSMF financial statement submission.

Where a Public Housing Authority (PHA) is the owner of multifamily project(s), PHAs are required to submit consolidated financial statements to PIH-REAC via FASS-PHA. However, the PHAs must submit separate unaudited information for each multifamily project via FASSMF. This only applies in instances where the PHA owns the multifamily project(s) and the multifamily project(s) have the same tax identification number as the PHA. If the owner of the property converting to PBRA assistance under the RAD program has a different tax identification number from the PHA, the owner must submit an audited or owner-certified financial statement based on the requirements of HUD's Uniform Financial Reporting Standards codified in 24 CFR Part 5 Subpart H. Please see the Financial Assessment Subsystem—Multifamily Housing Industry User Guide (http://portal.hud.gov/hudportal/documents/huddoc?id=chp01-introduction.pdf) for further information on FASSMF financial statement submission.

3 Monitoring

As part of the conversion to PBRA, the owner will be subject to certain Multifamily Housing monitoring and oversight protocol. Information on monitoring is outlined below and changes or clarifications can be found in existing or subsequent Departmental policy and guidance.

3.1 Management and Occupancy Reviews (MORs)

In accordance with 24 CFR Part 880.612, a management and occupancy review (MOR) must be conducted at the project to determine whether the owner is in compliance with the PBRA RAD Contract and the assisted units are in decent, safe, sanitary condition, and good repair. In accordance with existing Multifamily guidance, a full MOR should be conducted within six months of the effective date of the RAD contract, subject to available funding. If funding is not available, the Multifamily Hub/Program Center field office will conduct a limited MOR (commonly termed a "desk review"). For additional guidance on what the MOR entails, please see HUD Handbook 4350.1, Chapter 6 Project Monitoring and Appendix 2 of this chapter, Management and Occupancy Review (MOR) Frequently Asked Questions.

3.2 Physical Inspections

In accordance with 24 CFR Part 5, Subpart G, HUD housing must be maintained in decent, safe, sanitary condition, and in good repair. Any housing receiving HUD assistance must be maintained in a manner that meets the physical condition standards set forth in the regulation 24 CFR Part 5 Subpart G, Section 5.703.

A physical inspection will take place as soon as possible after closing. If rehabilitation is

occurring at the project and the project has FHA insurance, the first inspection will not occur until the rehabilitation is complete. If rehabilitation is being done and the project does not have FHA financing, the owner can submit a formal written request to the local multifamily field office to postpone the initial inspection until rehabilitation is complete. After the initial inspection, the schedule of subsequent physical inspections will be determined by 24 CFR Part 200 Subpart P.

If during the initial or subsequent physical inspections the owner receives a REAC inspection score below 60, the policies outlined in Notice H 2011-04 will apply. For more information on how to prepare for a REAC inspection, see "Preparing for REAC Inspections" at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_17204.pdf.

4 Owner Preparation for Contract Related Items

There are several contract-related items an owner will need to be familiar with prior to closing. However, because they are detailed in the joint Office of Public and Indian Housing and Office of Housing Notice PIH-2012-32 (HA), REV-1, they are not elaborated on in this guide. Please see the joint notice for specific instructions on each of the below:

- Term of Contract
- Mandatory HAP Contract Renewal (only for Conversions from Public Housing)
- Ownership or Control
- RAD Use Agreement
- Initial Contract Rent Setting
- Method of Adjusting Contract Rents
- Distributions
- Transfer of Assistance
- RAD Rehab Assistance
- DUNS Numbers

5 Owner Preparation for Funding

To prepare for a seamless transition and to minimize burden, Multifamily Housing recommends that owners use their site software to prepare the form HUD-50059 and 50059 A for all tenants in the period between executing the RAD Conversion Commitment (RCC) and the HAP Contract effective date. This will ensure any discrepancies with TRACS transmissions will be addressed prior to actual 50059 submissions to TRACS and prior to vouchers being paid from the PBRA LOCCS account. Tenants can maintain their existing date for their annual reexamination of family income and composition.

Owners must begin submitting the form HUD-50059 and 50059 A to TRACS beginning on the HAP Contract effective date. Owners should note December 15th is the cutoff date for voucher submission in order to receive PBRA funding for January.

6 Owner Preparation for Occupancy Related Items

6.1 Waiting List

Prior to RAD conversion, and if a site-based waiting list does not exist, owners must create a site-specific waiting list to be used to select tenants after conversion. The creation of the waiting list is to be done using existing PIH rules including any posting or notification requirements and may be done using the lottery system. For more information on creating a site-specific waiting list see 24 CFR 903.7(b)(2)(ii)-(iv). After conversion, the site-specific waiting list must conform to the requirements outlined in HUD Handbook 4350.3 REV-1, Chapter 3, Section 3.

6.2 Affirmative Fair Housing Marketing Plan

Each owner converting under RAD must develop and provide a description of the Affirmative Fair Housing Marketing Plan (AFHMP) for the property to comply with the requirements of Subpart M of 24 CFR, part 200. The AFHMP must be attached to the RAD PBRA HAP Contract as Exhibit 3 to both the RAD PBRA HAP Contract for conversions from Public Housing and the RAD PBRA HAP Contract for conversions from Moderate Rehabilitation. The AFHMP is to be completed using Form HUD-935.2A. If the AFHMP has been submitted for approval but not yet approved, the owner must include the following language on Exhibit 3 of the HAP Contract:

> The Affirmative Fair Housing Marketing Plan (AFHMP) has been submitted to FHEO for approval on (dd,mm,yyyy). Once approved, the plan will be attached to the HAP Contract and a copy placed in the project file.

The Fair Housing Act requires HUD to administer all programs and activities relating to HUD in a manner that affirmatively furthers fair housing. See HUD Handbook 4350.3 REV-1, paragraph 2-9 for a discussion of Civil Rights Related Program Requirements which implement this obligation as well as paragraph 4-12 and 4-29. Additionally, Subpart M of 24 CFR, part 200, sets forth HUD's equal opportunity regulations for affirmative fair housing marketing under FHA subsidized and unsubsidized housing programs.

6.3 Management Agent Certification Requirements

The project owner is responsible for seeking out and selecting a management agent, which is subject to the approval of HUD. HUD reviews management agent performance, experience, and capabilities to protect the public and its own interests. HUD does not disapprove agents to penalize program participants who have had past performance problems.

There are different types of management agents:

1. Owner/Manager—the owner and the management agent are the same business entity;

2. Identity of Interest Management Agent—an individual or entity that provides management services to the project has a relationship with the project owner that is such that selection of the management agent and determination of the management fee will not be determined through an arms-length transaction;
3. Independent Fee Management Agent—a management company or individual that has no IOI relationship with the owner and no financial interest or involvement in the project, other than earning a fee for providing management services; and
4. Project Administrator—an individual who directs the day-to-day activities of a project designed for elderly, handicapped, or disabled residents, and who reports to the Board of Directors.

All types of management agents must be approved by the applicable HUD Field Office (Form HUD-9839-A, -B, or -C and Form HUD-9832). The HUD Field Office will also conduct all Previous Participation Clearance (Form HUD-2530) reviews for projects prior to execution of the PBRA HAP contract.

Please refer to HUD Handbook 4381.5, The Management Agent Handbook, Chapter 2: Approval of Management Agents for detailed instructions. The management fee is an eligible property expense and will pertain to the management agent of the specific property.

6.4 Reserve Fund for Replacement

The owner is required to establish and maintain a Reserve Fund for Replacement in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The owner is required to commence deposits to the Reserve Fund for Replacement upon the effective date of the contract. The amount of the deposit will be adjusted each year by the amount of the OCAF Rent Increase Factor. Funds will be held by the mortgagee and may be drawn from the Reserve Fund for Replacement and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD. In the event the project is not subject to any financing, funds will be held by the owner, and may be drawn from the reserve account in accordance with HUD guidelines and with the approval of, or as directed by, HUD. Please consult HUD Handbook 4350.1, Chapter 4 Reserve Fund for Replacements, for additional guidance.

6.5 Lease Requirements for Existing Tenants

All properties converting under RAD must use form HUD 90105-A *Model Lease for Subsidized Programs* which is available on HUDCLIPS. Leases for existing tenants must have a lease effective date equal to the HAP Contract effective date. The lease must be signed by both the owner and the tenant on or before the HAP Contract effective date. Tenants must also be provided with all attachments listed in paragraph 27 of the lease, including form HUD-50059 and 50059 A and the property's house rules, at the time the lease is signed.

6.6 House Rules

Owners of properties converting under RAD are required to include the resident rights and participation requirements identified in Section 1.7 of PIH 2012-32(HA), REV-1 and Attachment 3 of this guide. If owners develop additional house rules for a property beyond these resident rights, the rules must be consistent with HUD requirements for operating HUD subsidized projects, must be reasonable, and must not infringe on tenants' civil rights.

The decision about whether to develop house rules beyond the resident rights requirements for a property rests solely with the owner, and HUD or the Contract Administrator's review or approval is not required. Owners, however, must be careful not to develop restrictive rules that limit the freedom of tenants.

Developing a set of house rules is a prudent practice. By identifying both allowable and prohibited activities in housing units and common areas, owners provide a structure for treating tenants equitably and for making sure that tenants treat each other with consideration. House rules are also beneficial in keeping the properties safe and clean and making them more appealing and livable for the tenants.

House rules are an attachment to the lease but do not replace the lease. House rules must not create a disparate impact on tenants based on race, color, national origin, religion, sex, disability, or familial status.

6.7 Pets

Existing pets must be grandfathered into the property at RAD conversion. Owners have the ability, however, to restrict pets to households which were not part of the RAD conversion.

Owners must develop Pet Rules using the requirements found in 24 CFR Part 5, Subpart C, HUD Handbook 4350.1, and HUD Handbook 4350.3 REV-1, Chapter 6.

Requirements covering lease provisions for pets can be found in Section 9.4 below.

6.8 Tenant Selection Plan

Owners must develop and make public written tenant selection policies and procedures that include descriptions of the eligibility requirements and income limits for admission. Figure 4-2 in HUD Handbook 4350.3 REV-1 provides guidance for a tenant selection plan (TSP). The TSP must include any preferences in place including any elderly restriction or preferences in the admission of tenants. The restriction or preference must cite the supporting documentation to ensure nondiscrimination in the selection of tenants. The contents of the TSP must also be consistent with the purpose of improving housing

opportunities and be reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease.

Paragraph 4-4 and Figure 4-2 of HUD Handbook 4350.3 REV-1 identify all required topics as well as the recommended topics for the TSP.

6.9 Utility Allowances

Owners of properties converting under RAD that currently receive a utility allowance will continue to use their PIH-approved utility allowance for the first contract year after conversion. Existing Multifamily Housing policies, which can be obtained from the property's local HUD office, must be followed to adjust the property's utility allowance at the first contract anniversary date after the RAD conversion. Currently, data modeling used by PIH and certifications made by owners are not considered acceptable methodologies when determining utility allowances in Multifamily Housing.

Owners should be aware of the notification requirements located at 24 CFR 245.405(a) and 245.410 and leave sufficient time to satisfy these requirements when beginning a utility analysis.

If an owner fails to submit a utility analysis with a rent adjustment submission, the owner's rent adjustment will be withheld until a utility analysis is provided to HUD. Once the required documents are received, HUD will retroactively implement the rent adjustment.

7 Resident Rights and Participation

Owners must be aware of the resident rights and participation requirements identified in Section 1.7 of PIH 2012-32 (HA), REV-1 and Attachment 3 of this guide. These rights must be included in the house rules portion of the lease for properties converting under RAD.

8 Existing Tenant Household Provisions

Multifamily Housing recommends that owners develop a means of identifying existing households as having been housed during the RAD conversion. This document will be especially helpful for future audits the property may undergo and will easily identify those households subject to slightly different requirements than future households coming into the property.

Some occupancy related policies for RAD properties are identified in this section. All requirements found in HUD Handbook 4350.3 REV-1 must also be adhered to.

8.1 Eligibility

Program eligibility determines whether applicants are eligible for assistance. Project eligibility establishes whether applicants are eligible to reside in the specific project to which they have applied.

All in-place tenants at the time of conversion are eligible to remain in the unit and receive assistance according to the rent formula and/or the rent phase-in formula specific to RAD. In-place tenants will not have their program eligibility redetermined at conversion. Requirements such as Social Security number disclosure and verification must be followed.

Owners do, however, have the ability to rescreen tenants at the time of a tenant's annual or interim recertification in accordance with their screening/eviction procedures found in their policies. See HUD Handbook 4350.3 REV-1, Chapter 8.

In-place tenants will not have their project eligibility redetermined at conversion, however, requirements such as the property's occupancy standards must be followed.

If, at conversion, households are over/underhoused, these households must be transferred to appropriately sized units when an appropriate sized unit becomes available.

8.2 PIH Provisions Continuing After Conversion

8.2.1 Family Self-Sufficiency (FSS)

Current Family Self-Sufficiency (FSS) participants will continue to be eligible for FSS once their housing is converted under RAD. All owners will be required to administer the FSS program in accordance with the participants' contracts of participation and future guidance published by HUD.

Once the property is converted, residents not then enrolled in FSS will not be eligible to participate in the program. PHAs will be allowed to use any funds already granted for FSS coordinator salaries until such funds are expended. All PHAs will be required to provide both service coordinators and payments to escrow until the end of the Contract of Participation. Please see future FSS Notices of Funding Availability and other guidance for additional details, including FSS coordinator funding eligibility under a RAD conversion. As the FSS grant is the source of funding for FSS, program compliance will continue to be monitored by the Office of Public and Indian Housing.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS-SC grants nor will its residents be eligible to be served by future public housing ROSS-SC grants.

8.2.2 Earned Income Disregard

Tenants who are employed and are currently receiving the Earned Income Disregard (EID) exclusion at the time of conversion will continue to receive the EID exclusion after conversion, in accordance with regulations at 24 CFR 960.255. After conversion, no other tenants will be eligible to receive the EID. If a tenant receiving the EID exclusion undergoes a break in employment, ceases to use the EID exclusion, or the EID exclusion expires in accordance with 24 CFR 960.255, the tenant will no longer receive the EID exclusion and the owner will no longer be subject to the provisions of 24 CFR 960.255. Furthermore, tenants whose EID ceases or expires after conversion shall not be subject to the rent phase-in provision, as described in Section 1.7.B.3; instead, the rent will automatically be adjusted to the appropriate rent level based upon tenant income at that time.

8.3 Determining Income and Calculating Rent

All in-place tenants at the time of conversion are eligible to remain in the unit and receive assistance according to the rent formula or the rent phase-in formula specific to RAD. For tenants not subject to rent phase-in, income must be determined and tenant rent must be calculated according to 24 CFR 5.609 and HUD Handbook 4350.3 REV-1, Chapter 5 unless they are active participants in one of the programs identified in subparagraph B above.

8.4 Rent Phase-in

If a resident's monthly rent increases by more than the greater of 10 percent or $25 purely as a result of conversion, the rent increase will be phased in over three years, which an owner may extend to five years. Owners must develop a written policy that determines the length of the phase-in period: three years, five years or a combination depending on circumstances (for example, an owner may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion).

Rent increase methodology is explained in detail in Attachment 2.

8.5 Security Deposits

Owners are permitted to continue recognizing 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, the owner cannot require a security deposit to be collected.

9 Program Requirements for RAD Properties – Tenants after Conversion

9.1 Program Eligibility

Properties converting under RAD are to be treated as Pre-1981 Contracts meaning owners may admit families up to the low-income limit (80 percent of median income). For more information on how to determine and apply income limits, see HUD Handbook 4350.3 REV-1, paragraph 3-6.

9.1.1 Social Security Numbers

All applicants and tenants who do not meet one of the exemption criteria are required by the regulation at 24 CFR 5.216 to disclose and provide verification of their complete and accurate Social Security numbers.

9.1.2 Eligibility of Students

Note: This section applies to individuals applying for assistance after RAD Conversion.

1. Owners must determine a student's eligibility for Section 8 assistance at move-in, annual recertification, initial certification (when an in-place tenant begins receiving Section 8), and at the time of an interim recertification if one of the family composition changes reported is that a household member is enrolled as a student.
2. Section 8 assistance shall not be provided to any individual who:
   a. Is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential; and
   b. Is under the age of 24; and
   c. Is not married; and
   d. Is not a veteran of the United States Military; and
   e. Does not have a dependent child; and
   f. Is not a person with disabilities, as such term is defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 USC 1437a(b)(3)(E)) and was not receiving section 8 assistance as of November 30, 2005. (See Definition E in HUD Handbook 4350.3 REV-1, Figure 3-6); and
   g. Is not living with his or her parents who are receiving Section 8 assistance; and
   h. Is not individually eligible to receive Section 8 assistance or has parents (the parents individually or jointly) who are not income eligible to receive Section 8 assistance. See paragraph 3-33 of HUD Handbook 4350.3 REV-1 for verifying parent's eligibility.
3. For a student to be eligible independent of his or her parents (where the income of the parents is not relevant), the student must demonstrate the

absence of, or his or her independence from, parents. While owners may use additional criteria for determining the student's independence from parents, owners must use, and the student must meet, at a minimum all of the following criteria to be eligible for Section 8 assistance. The student must:

a. Be of legal contract age under state law;
b. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, or, meet the U.S. Department of Education's definition of an independent student;
c. Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and
d. Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.

See HUD Handbook 4350.3 REV-1, Chapter 3 for more information on student eligibility and calculating income for students.

9.2 Project Eligibility

9.2.1 Specific Population

Properties converting under RAD fall under 880 regulations and can be considered Section 8 New Construction properties. Because of this, they will follow the following definitions in HUD Handbook 4350.3, REV-1, Figure 3-6. Specifically, Definition A - Elderly Family, Definition D – Disabled Family, and Definition E - Person with Disabilities.

9.2.2 Occupancy Standards

Occupancy standards serve to prevent the over- or underutilization of units that can result in an inefficient use of housing assistance. Occupancy standards also ensure that tenants are treated fairly and consistently and receive adequate housing space.

Owners must develop and follow occupancy standards that take into account the size and number of bedrooms needed based on the number of people in the family. Additionally, owners must establish guidelines for over/under housed households. These guidelines must be included in their tenant selection plan. More information can be found in HUD Handbook 4350.3 REV-1, paragraph 3-23.

9.3 Lease Requirements

9.3.1 HUD Model Lease and Lease Term

All properties that have converted under RAD must use form HUD 90105-A *Model Lease for Subsidized Programs* with an initial lease term of one year. This minimum

term may be less than one year if the Section 8 HAP contract will expire in less than 12 months from the effective date of the lease (i.e., for leases entered into during the nineteenth year of the initial twenty-year term). The renewal term must be a minimum of 30 days. See Figure 6-3 of HUD Handbook 4350.3 REV-1.

9.3.2 Required Addendums and Attachments

The following addendums or attachments must be included with the HUD Model Lease: Form HUD-50059, Form HUD-50059-A, House Rules, Lead Based Paint Disclosure, Pet Requirements (if applicable), Violence Against Women Addendum, Move-in Inspection, Live-in Aide (if applicable), Police or Security Personnel (if applicable).

9.3.3 Modifying the HUD Model Lease

Changes to the Model Lease for Subsidized Programs may be made only to comply with documented state or local laws, or a management practice generally used by management entities of assisted projects. Before implementing lease changes, owners must obtain written approval from HUD or the Contract Administrator. A modification to the lease may only be effective at the end of a lease term and the owner must provide the tenant with the approved modifications at least 60 days prior to the end of the lease term.

HUD will not permit modifications to the following nine provisions of the model lease:

1. Changes in Tenant Rent;
2. Regularly Scheduled Recertifications;
3. Reporting Changes Between Regularly Scheduled Recertifications;
4. Removal of Subsidy;
5. Tenant Obligation to Repay;
6. Discrimination Prohibited;
7. Termination of Tenancy; and
8. Penalties for Submitting False Information

9.3.4 Security Deposits

Owners must collect a security deposit at the time of the initial lease execution equal to the greater of the household's one month total tenant payment at move-in or $50. See HUD Handbook 4350.3 REV-1, Chapter 6, Section 2 for further information relating to security deposits.

9.3.5 Charges in Addition to Rent

Multifamily Housing does not permit charges prior to occupancy or at initial occupancy for properties converting under RAD. Some charges during occupancy are allowed. A complete explanation can be found in HUD Handbook 4350.3 REV-1, Chapter 6, Section 3.

9.4 Pets

Lease provisions for pets are found only in the Model Leases for Section 202/8, Section 202 PACs, Section 202 PRACs, and Section 811 PRACs. However, certain properties (e.g., Section 8 New Construction, Section 8 State Agency) may be available for occupancy only to elderly and/or disabled tenants. As a result, the language addressing pets that is found in the Model Lease for Section 202/8 and Section 202 PACs must be added to the Model Lease for Subsidized Programs for use in these properties. Instead of modifying the Model Lease for Subsidized Programs to include the pet provisions from the Model Lease for Section 202/8 and Section 202 PACs, owners must attach a HUD-approved lease addendum.

9.5 EIV & You Brochure

Owners must provide each tenant household with the *EIV & You* brochure at the time of move-in or annual recertification along with a copy of the HUD Fact Sheet "How Your Rent is Determined."

Owners may order the *EIV & You* brochure (English version) from the online HUD Direct Distribution Center at http://www.hud.gov/offices/adm/dds/index.cfm, or by telephone at (800) 767-7468. Quantities ordered should be sufficient to cover distribution to existing tenant households and anticipated new tenant households over the next twelve months. The brochure is also available for download at the Multifamily RHIIP website at http://www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm.

Translated versions of the brochure for non-English speaking households are posted to the Multifamily RHIIP website and on the Department's Limited English Proficiency (LEP) website, located at www.hud.gov. These versions will not be available for order through the HUD Direct Distribution Center.

9.6 Resident Rights and Responsibilities

Owners must provide each tenant household with a copy of the Resident Rights and Responsibilities brochure at the time of move-in or annual recertification.

10 Recertification of Family Income and Composition

10.1 Annual Recertifications

To ensure that assisted tenants pay rents commensurate with their ability to pay, HUD requires owners to conduct a recertification of family income and composition at least annually. Owners must then recompute the tenants' rents and assistance payments, if applicable, based on the information gathered. HUD Handbook 4350.3 REV-1, Chapter 7, Section 1 provides detail for completing annual recertifications.

10.2 Interim Recertificaitons

Interim recertifications are required by 24 CFR 5.657 and further information can be found in HUD Handbook 4350.3 REV-1, Chapter 7, Section 2. Interim recertifications are performed when a tenant experiences a change in income or family composition between annual recertifications.

1. To ensure that assisted tenants pay rents commensurate with their ability to pay, tenants must supply information requested by the owner or HUD for use in an interim recertification of family income and composition in accordance with HUD requirements. All tenants must notify the owner when:
    a. A family member moves out of the unit;
    b. The family proposes to move a new member into the unit;
    c. An adult member of the family who was reported as unemployed on the most recent certification or recertification obtains employment; or
    d. The family's income cumulatively increases by $200 or more a month.
2. Tenants may request an interim recertification due to any changes occurring since the last recertification that may affect the Total Tenant Payment (TTP) or tenant rent and assistance payment for the tenant. Changes to a tenant report include the following:
    a. Decrease in income including, but not limited to, loss of employment, reduction in the number of hours worked by an employed family member, and loss or reduction of welfare income;
    b. Increases in allowances including, but not limited to, increased medical expenses, and higher child care costs; and
    c. Other changes affecting the calculation of a family's annual or adjusted income including, but not limited to, a family member turning 62 years old, becoming a full-time student, or becoming a person with a disability.
3. Tenants are not required to report when a family member turns 18 years of age between annual recertifications. However, tenants must follow the requirements in their lease for reporting changes in the household income.
4. Owners must process an interim recertification if a tenant reports:
    a. A change in family composition;
    b. An increase in a family's cumulative income of $200 or more a month;
    c. An increase in allowances (e.g. number of dependents, a new disability assistance expense);
    d. Most decreases in income except in circumstances described in HUD Handbook 4350.3 REV-1, paragraph 7-11.D; or
    e. A change in citizenship or eligible immigration status of any family member
5. If a tenant reports a change in income that does not increase the household's cumulative income by $200 or more a month, the owner should not process an interim recertification to increase the tenant's rent. If a tenant reports any other change addressed above along with an increase in income that does not increase household income by $200 or more a month, the owner should not include the increase in income in processing the interim recertification.

6. Upon receiving a tenant request for an interim recertification, owners must process a recertification of family income and composition within a reasonable time, which is only the amount of time needed to verify the information provided by the tenant. Generally, this should not exceed four weeks.
7. Owners should not recertify a tenant receiving welfare assistance in an as-paid welfare program when the Public Assistance Agency reduces the tenant's shelter and utility allowance because it is greater than the tenant's actual rent.
8. Owners may delay, but not refuse, to process an interim recertification if they have confirmation that a tenant's income will be partially or fully restored within two months. Processing may be delayed only until the new income is known.
9. Owners do not have to perform interim recertifications for individual tenants who are paying market rent.

10.3 Determining Income and Calculating Rent

For tenants not subject to rent phase-in, income must be determined and tenant rent must be calculated according to 24 CFR 5.609 and HUD Handbook 4350.3 REV-1, Chapter 5. In-place tenants under a rent phase-in agreement must calculate rent based on the rent phase-in procedure.

10.4 Verification Requirements

Owners must verify all income, assets, expenses, deductions, family characteristics, and circumstances that affect family eligibility or level of assistance. HUD Handbook 4350.3 REV-1, Chapter 5, Section 3 provides details on performing third-party verifications.

11 Processing and Administration

11.1 Establishing Project Files and Recorded Documents

Following the issuance of the HAP contract number, the Multifamily Hub/Program Center Project Manager assigned to the project will be responsible for entering all relevant project information into iREMS. Separate guidance will be issued to Multifamily Hub/Program Center staff on monitoring these projects.

11.2 Project Oversight in Initial Conversion Year

Until the beginning of the calendar year following the year in which the HAP Contract becomes effective, funding for the RAD HAP contract will come from PIH. However, the owner will still need to voucher through TRACS. All vouchers transmitted to TRACS during this time must include an accurate representation of the tenant population and must be submitted with an Owner Agent Request (OARQ) Miscellaneous Accounting Request adjusting the total voucher amount to $0.00.

The owner and the Multifamily Hub/Program Center Project Manager must complete the following steps monthly during the initial conversion year:

1. The owner sends the completed paper HAP voucher via fax or email to the Multifamily Hub/Program Center Project Manager.
2. The Multifamily Hub/Program Center Project Manager conducts a cursory review of the HAP voucher to ensure it is zeroed out.
3. The Multifamily Hub/Program Center Project Manager returns the reviewed HAP voucher to the owner via fax or email with an accompanying memo indicating approval or needed changes.
4. Once the owner has received approval, the owner transmits the voucher in TRACS using the TRACS compliant software.

11.3 Ongoing Project Management

Following the initial conversion year, the Multifamily Hub/PC Project Manager will conduct oversight activities for the project in accordance with all relevant guidance. Oversight and monitoring of the RAD Contract will include all oversight tasks currently performed for other project-based rental assistance contracts. At this time, RAD contracts will not be administered by Project-Based Contract Administrators (PBCA); therefore, Multifamily Hub/Program Center staff will serve as the Contract Administrator (CA). Multifamily Hub/Program Center staff will need to review the HAP vouchers for each RAD PBRA property prior to formal submission of the voucher into TRACS. Owners should enter all relevant tenant information into TRACS and supply the Multifamily Hub/Program Center with a draft voucher via email or fax. The Multifamily Hub/Program Center staff will review the voucher and provide approval or request changes to the voucher via email or fax. Once the Owner has received Multifamily Hub/Program Center approval of the voucher, they can submit the voucher in TRACS.

11.4 Annual Operating Cost Adjustment Factor (OCAF) Rent Adjustment

At least 120 days before the contract anniversary date of the HAP, the owner submits the OCAF Rent Adjustment Worksheet, HUD 9625, to HUD Project manager/Contract Administrator (PM/CA). The PM/CA will validate the data on the HUD Form 9625 and process the OCAF Rent Adjustment. Once completed, the HUD/CA will provide the new rents to the owner with an effective date of the contract anniversary. The owner will complete a gross rent adjustment in the TRACS software and transmit it to TRACS.

11.5 Conversion of Utilities from Owner Paid to Tenant Paid

Subject to HUD approval, owners of properties converting under RAD can convert utilities from owner paid to tenant paid. If conversion to tenant paid utilities is occurring at the RAD conversion date then multifamily contract rents are determined by decreasing the PIH rents by the approved utility allowance. If conversion to tenant paid utilities occurs after the RAD conversion date, the utility conversion must be effective at the

property's contract anniversary date. Chapter 12, Section 5 of HUD Handbook 4350.1 describes the procedural requirements for these conversion requests.

12 Resources

- HUD Handbook 4350.3 REV-1 *Occupancy Requirements of Subsidized Multifamily Housing Programs*
  http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4350.3

- HUD Handbook 4350.1 *Multifamily Asset Management and Project Servicing*
  http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4350.1

- HUD Handbook 4381.5 *The Management Agent Handbook*
  http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4381.5

- Multifamily Help Desk
  Telephone: 1-800-767-7588

- Rental Housing Integrity Improvement Project (RHIIP) Website
  http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rhiip/mfhrhiip

- MF RHIIP Listserv
  http://portal.hud.gov/hudportal/HUD?src=/subscribe/signup&listname=Multifamily%20Housing%20RHIIP%20(Rental%20Housing%20Integrity%20Improvement%20Program)%20Tips&list=MFH-RHIIP-TIPS-L

- Multifamily Housing EIV Website
  http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rhiip/eiv/eivhome

- MAT Guide
  http://www.hud.gov/offices/hsg/mfh/trx/trxmatg.cfm

- TRACS Website
  http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/trx/trxsum

- Rent and Income Determination Quality Control Monitoring Guide for Multifamily Housing Programs
  http://www.hud.gov/offices/hsg/mfh/rhiip/qcguide.pdf

- Special Claims Guide
  http://www.hud.gov/offices/adm/hudclips/guidebooks/HSG-06-01/HSG-06-01gHBGUID.pdf

Attachment 1: Timeline Attachment

Prior to Closing		
	Requirement	**Citation for Further Information**
☐	Create Site-Specific Waiting List	
☐	Create Affirmative Fair Housing Marketing Plan and Submit to HUD for Approval	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-12)
☐	Create Property Specific House Rules	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-9)
☐	Create Property Specific Tenant Selection Plan	HUD Handbook 4350.3 REV-1, Chapter 4 (Section 1)
☐	Purchase Site Software allowing Transmission through TRACS or Obtain the services of a Service Bureau	MAT Guide
☐	Prepare form HUD-50059 for each tenant	MAT Guide

Post-Closing		
	Requirement	**Citation for Further Information**
☐	Obtain Access to the Multifamily Housing EIV System	HUD Handbook 4350.3 REV-1, Chapter 9
☐	Provide Tenants with Property Documents	
	☐ House Rules	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-5)
	☐ Tenant Selection Plan	HUD Handbook 4350.3 REV-1, Chapter 4 (Section 1)
☐	Have Tenants Sign all Move-In Documents	
	☐ Lease (form HUD-90105-A) including all Addendums and Attachments	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-5)
	☐ Pet Rules (if applicable)	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-5)
	☐ Lead Based Paint Addendum (if applicable)	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-5)
	☐ Form HUD-92006 Supplement to Application for Federally Assisted Housing	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-14)
	☐ Race/Ethnicity	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-14)
	☐ Form HUD 50059 and 50059-A	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-5)

☐ Owner's Live-in Aide Addendum (if applicable)	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-5)
☐ Violence Against Women Act (VAWA) Lease Addendum	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 6-5)
☐ Form HUD-9887/9887A	HUD Handbook 4350.3 REV-1, Chapter 3 (paragraph 3-11); and Chapter 4 (paragraph 4-24)
☐ Resident Rights and Responsibilities Brochure	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-24)
☐ EIV & Your Brochure	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-24)
☐ Fact Sheet on How Rents are Determined	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-24)
☐ Recertification Notice	HUD Handbook 4350.3 REV-1, Chapter 7 (paragraph 7-7)
☐ Ensure the Following Documents are in each Tenant File	
☐ Unit Inspections NOTE: if no move-in or annual inspections have been performed for the unit, perform one at conversion and use as a baseline. Annual unit inspections required thereafter.	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraphs 6-5 and 6-29)
☐ Social Security Number Verification	HUD Handbook 4350.3 REV-1, Chapter 3 (paragraphs 3-9 and 3-31); and Chapter 4 (paragraph 4-24)
☐ Eligible Immigration Status Declaration	HUD Handbook 4350.3 REV-1, Chapter 3 (paragraphs 3-12 and 3-32; and Chapter 4 (paragraph 4-24)
☐ Criminal and Drug Screening	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-7)
☐ State Lifetime Sex Offender Registration Check	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-7)
☐ Other screening criteria used by owner	HUD Handbook 4350.3 REV-1, Chapter 4 (paragraph 4-7)
☐ Verification of Disability	HUD Handbook 4350.3 REV-1, Chapter 3 (paragraph 3-28)
☐ Verification of Student Status	HUD Handbook 4350.3 REV-1, Chapter 3 (paragraphs 3-13 and 3-33)
☐ Age Verifications	HUD Handbook 4350.3 REV-1, Chapter 3 (paragraph 3-28)
☐ Documentation of Security Deposit Amount	HUD Handbook 4350.3 REV-1, Chapter 6 (Section 2)

☐ Documentation of Pet Deposit (if applicable)	HUD Handbook 4350.3 REV-1, Chapter 6 (paragraph 3-24); and HUD Handbook 4350.1
☐ Documentation for any Income, Expenses, Deductions, and Allowances listed on the HUD-50059	HUD Handbook 4350.3 REV-1
☐ Any Active Repayment Agreements	HUD Handbook 4350.3 REV-1, Chapter 8 (paragraph 8-23)

Attachment 2: Rent Phase-In Procedure

The below method explains the set percentage-based phase-in an owner must follow according to the phase-in period established. For purposes of this section "Calculated Multifamily Housing 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 the family's most recent HUD Form 50059.

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 Total Tenant Payments (TTP) and the calculated Multifamily Housing TTP

- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) in prior to Year 3 AR – 66% of difference between most recently paid TTP and calculated Multifamily Housing TTP

- Year 3: Year 3 AR and all subsequent recertifications – Full Multifamily Housing 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 and the calculated Multifamily Housing TTP

- Year 2: Year 2 AR and any IR prior to Year 3 AR – 40% of difference between most recently paid TTP and calculated Multifamily Housing TTP

- Year 3: Year 3 AR and any IR prior to Year 4 AR – 60% of difference between most recently paid TTP and calculated Multifamily Housing TTP

- Year 4: Year 4 AR and any IR prior to Year 5 AR – 80% of difference between most recently paid TTP and calculated Multifamily Housing TTP

- Year 5 AR and all subsequent recertifications – Full Multifamily Housing TTP

Please Note: In either the three-year phase-in or the five-year phase-in, once Multifamily Housing TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full Multifamily Housing TTP from that point forward.

Attachment 3: House Rule Provisions Required by RAD

The information provided below must be included as part of the house rules for the associated project and the house rules must be furnished to HUD for purposes of monitoring the program. This language is also provided as Attachment 1E of PIH 2012-32 (HA), REV-1.

Resident Procedural Rights

A. Termination Notification. HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects converting assistance under RAD, that supplement notification requirements in regulations at 24 CFR 880.607 and the Multifamily HUD Model Lease.

a. *Termination of Tenancy and Assistance*. The termination procedure for RAD conversions to PBRA will additionally require that PHAs (as owners) provide adequate written notice of termination of the lease which shall not be less than:
   - A reasonable period of time, but not to exceed 30 days:
     - if the health or safety of other tenants, owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
     - In the event of any drug-related or violent criminal activity or any felony conviction; or
   - 14 days in the case of nonpayment of rent.

b. *Termination of Assistance.* In all other cases, the requirements at 24 CFR 880.603, the Multifamily HUD Model Lease, and any other HUD multifamily administrative guidance shall apply.

B. Grievance Process. In addition to program rules that require that tenants are given notice of covered actions under 24 CFR Part 245 (including increases in rent, conversions of a project from project-paid utilities to tenant-paid utilities, or a reduction in tenant paid utility allowances), HUD is incorporating resident procedural rights to comply with the requirements of section 6 of the Act. RAD will require that:

a. Residents be provided with notice of the specific grounds of the proposed owner adverse action, as well as their right to an informal hearing with the PHA (as owner);
b. Residents will have an opportunity for an informal hearing with an impartial member of PHA's staff (as owner) within a reasonable period of time;
c. Residents will have the opportunity to be represented by another person of their choice, to ask questions of witnesses, have others make statements at the hearing, and to examine any regulations and any evidence relied upon by the owner as the basis for the adverse action. With reasonable notice to the PHA (as owner), prior to hearing and at the residents' own cost, resident may copy any documents or records related to the proposed adverse action; and

d. PHAs (as owners) provide the resident with a written decision within a reasonable period of time stating the grounds for the adverse action, and the evidence the PHA (as owner) relied on as the basis for the adverse action.

The PHA (as owner) will be bound by decisions from these hearings, except if the:

a. Hearing concerns a matter that exceeds the authority of the impartial party conducting the hearing.
b. Decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.

If the PHA (as owner) determines that it is not bound by a hearing decision, the PHA must promptly notify the resident of this determination, and of the reasons for the determination.