

PBV Checklist for PHAs Using A RAD/Section 18 Blend

Purpose

This Checklist includes a list of Action Items that PHAs that will serve as the contract administrator of the Project-Based Voucher contract resulting from a RAD/Section 18 blend can use to assess whether they have taken the appropriate steps with respect to the non-RAD PBV units that are established through a RAD/Section 18 Blend. Each question includes a citation to the applicable authority, which can be referenced for more detailed information about the applicable rule. **This Checklist does not cover every PBV rule.** For example, this checklist does not include most items that are already covered in RAD conversion that apply to the entire property, such as Subsidy Layering Reviews, Environmental Reviews, and Site and Neighborhood Standards.

This checklist is for the PHA's internal compliance purposes and does not need to be submitted to HUD.

Background

PHAs that use RAD/Section 18 Blends must be careful to ensure that the units that will be replaced under a non-RAD PBV HAP contract (the units converted under Section 18) comply with PBV requirements. The units converted under RAD are subject to the waivers and alternative requirements for project-basing described in the RAD Notice (H 2019-09/PIH 2019-23). RAD waivers and alternative requirements only apply to non-RAD PBV units, including the Section 18 units in a Blend, that are part of a RAD Covered Project if such waivers are explicitly provided in the RAD Notice. An explicitly provided waiver will contain a statement such as "any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision." Specifically, HUD has extended RAD waivers and alternative requirements related to resident rights as well as the waiver of the PBV requirements under section 8(o)(13)(C)(ii) of the Act and 24 CFR § 983.57(b)(1) and (c)(2) having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site (see RAD Notice § 1.6.A.4).

Most RAD waivers and alternative requirements do not extend to the Section 18 units that will result in non-RAD PBV assistance through a blend. For instance, non-RAD PBV units are subject to regular PBV rules during the pre-HAP contract phase relating to competitions, inspections, and use of an AHAP, and during the post-HAP contract phase relating to contract rent increases and choice mobility. Regular PBV rules may be found in 24 CFR Part 983 and the Housing Opportunity Through Modernization Act (HOTMA) Federal Register (FR) Implementation Notices at 82 FR 5458 (January 18, 2017), 82 FR 32461 (Jul. 14, 2017), referred to throughout this Checklist as the 1/18/17 FR Notice and the 7/14/17 FR Notice, respectively. Additional guidance can be found in PIH Notice 2021-07 and in the latest [PBV FAQs](#).

Checklist

This checklist is organized by action items that the PHA needs to take prior to submitting the RAD Financing Plan and items that the PHA needs to take prior to executing the non-RAD PBV HAP contract.

BEFORE FINANCING PLAN

1. **PHA Policies.** Utilizing the PBV program requires changes to the PHA Plan and Section 8 Administrative Plan.

| Action Item | Citation | Completed? |
|---|---|---|
| Has the PHA established in its Annual PHA Plan that project-basing would be consistent with its Plan, and the projected number and general location of units? | 24 C.F.R. §§ 903.7(r)(3), 903.12(b); PIH Notice 2017-21, p. 57. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Has the PHA adopted required PBV policies in its Administrative Plan? | PIH Notice 2017-21, pp. 57-59. | <input type="checkbox"/> Yes <input type="checkbox"/> No |

2. **PBV Program Cap.** Units that previously received public housing funds (among other requirements described at PIH Notice 2017-21, pp. 32-36) are exempt from the PBV program cap, subject to the notification requirements of this section.

| Action Items | Citation | Completed? |
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| Did the PHA provide notice to HUD of its intent to project-base units, demonstrating that it will project-base no more than 20% of the PHA's vouchers (plus a 10% increase for eligible units) or that the units are not subject to a cap? | 24 C.F.R. § 983.6, as amended by 1/18/17 FR and 7/14/17 FR; PIH Notice 2017-21, pp. 19-25, 32-36, 54-56. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Did the PHA receive HUD approval before selecting a project or issuing a request for proposals? | 24 C.F.R. § 983.6(d), as amended by 1/18/17 FR; PIH Notice 2017-21, p. 20, 35-36. | <input type="checkbox"/> Yes <input type="checkbox"/> No |

3. **PHA-Owned Units and Use of an Independent Entity.**

| Action Items | Citation | Completed? |
|---|--|---|
| If the project is PHA-owned (owned by the contract administrator), has the PHA obtained HUD approval to use an independent entity to perform certain functions? | 24 C.F.R. §§ 983.3, 983.51, 983.59, 983.103, 983.301, 983.303, as amended by 1/18/17 FR and 7/14/17 FR; PIH Notice 2017-21, pp. 10-18. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

4. **Eligibility and Project Cap.** In projects where more than the greater of 25 units or 25% of units in the project will be project-based (projects that exceed the cap), units that previously received public housing funds (among other requirements described at PIH Notice 2017-21, pp. 32-36) qualify for an exception to the PBV project cap.

| Action Items | Citation | Completed? |
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| If more than the greater of 25 units or 25% of the units in the project will be project-based, did the PHA determine the project-based units that exceed the cap qualify for one of the exceptions listed in PIH Notice 2017-21? | 24 C.F.R. § 983.56, as amended by 1/18/17 FR and 7/14/17 FR; PIH Notice 2017-21, pp. 26-36. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Has the PHA determined the units to be project-based are not one of the ineligible types listed at 24 C.F.R. § 983.53(a)? | 24 C.F.R. § 983.53(a). | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Has the PHA determined the units to be project-based will not be one of the subsidized housing types listed at 24 C.F.R. § 983.54 once the units are removed from Public Housing after the RAD closing? | 24 C.F.R. § 983.54. | <input type="checkbox"/> Yes <input type="checkbox"/> No |

5. **Project Selection.** Project selection requirements apply to non-RAD PBV units resulting from a RAD/Section 18 Blend.

| Action Items | Citation | Completed? |
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| Did the PHA use a required project selection method: A. Did the PHA select the project after confirming eligibility to attach PBVs without competition to a project the PHA (contract administrator) has an ownership interest in or control of, where the PHA is engaged in an initiative to improve, develop, or replace public housing, per its Administrative Plan? <i>[Most common in RAD/Section 18 blends]</i> | 24 C.F.R. § 983.51, as amended by 1/18/17 FR and 7/14/17 FR; PIH Notice 2017-21, pp. 49-50. | <input type="checkbox"/> Yes <input type="checkbox"/> No |

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| B. Did the PHA select the project using a request for PBV proposals not limited to single site, per its Administrative Plan? C. Were the units selected (without consideration that the project would receive PBV assistance) under a similar government competition within 3 years of the PBV proposal selection date? | | |
| For PHA-owned units, has the HUD-approved independent entity or the HUD field office made a determination that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA's Administrative Plan? | 24 C.F.R. § 983.51; PIH Notice 2017-21 pp. 13-18. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Did the PHA inspect the project before the proposal selection date and, for existing housing projects (as opposed to rehabilitated and newly constructed - see 24 C.F.R. § 983.3(b)), did the units substantially comply with HQS? | 24 C.F.R. §§ 983.3(b), 983.103(a)(1)-(2); PIH Notice 2017-21 pp. 65-67. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| For PHA-owned units, was the pre-selection inspection performed by a HUD-approved independent entity? | 24 C.F.R. § 983.103(a)(1)-(2), (f); PIH Notice 2017-21 pp. 13-18, 65-67. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

BEFORE EXECUTING THE PBV HAP CONTRACT

- 1. Agreement to enter into Housing Assistance Payments (AHAP).** Unlike RAD units where HQS requirements are deferred until rehab is complete, an AHAP is not used, and all units enter into a single form of HAP contract, non-RAD PBV units follow standard PBV requirements with respect to the form of HAP contract and use of an AHAP.

| Action Items | Citation | Completed? |
|---|---|---|
| Did the PHA determine whether the project qualifies as Newly Constructed Housing, Rehabilitated Housing, or Existing Housing? [If project qualifies as Existing Housing, skip the rest of this section] | 24 C.F.R. §§ 983.3(b), 983.5; PIH Notice 2017-21 p. 59. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| For Newly Constructed and Rehabilitated units, did the PHA and owner execute an AHAP before the owner began construction or rehabilitation work? | 24 C.F.R. §§ 983.53(d), 983.151-.153; Form HUD-52531A. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| For Newly Constructed and Rehabilitated units, has the executed AHAP been submitted to the Office of Recapitalization as part of the RAD closing? | RAD/Section 18 Blend Processing Instructions | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| For newly constructed or substantially rehabilitated buildings with more than 4 rental units selected or rehabilitated while under a HAP contract after 1/19/17, was broadband infrastructure installed or an exception documented? | 24 C.F.R. § 983.157. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| For Newly Constructed and Rehabilitated projects, has the PHA received the evidence of completion from the owner? | 24 C.F.R. § 983.155. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

- 2. Rent to Owner (i.e., Contract Rents) for non-RAD PBV units.** While the RAD Rents are confirmed by Recap through a CHAP and subsequent CHAP Amendments, Recap does not review the PBV rents for the non-RAD units in a RAD/Section 18 Blend. Therefore, Contract Administrators must ensure that the requested rents comply with PBV rent requirements.

| Action Items | Citation | Completed? |
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| Has the PHA, or HUD-approved independent entity if PHA-owned, determined rent reasonableness? | 24 C.F.R. §§ 983.301, 983.303. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Did the PHA, or HUD-approved independent entity if PHA-owned, calculate rent to owner such that it does not exceed the lowest of: (1) an amount set by the PHA that does not exceed 110% of the applicable FMR (or SAMFR or approved exception payment standard) in effect no more than 30 days prior to contract effective date minus the PHA's utility allowance (unless tax credit rent is used, per next item below); (2) the reasonable rent; or (3) the rent requested by the owner? | 24 C.F.R. §§ 888.113(h), 983.301(b). | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If the PHA calculation of rent to owner used the tax credit rent in lieu of an amount set by the PHA, did the PHA, or HUD-approved independent entity if PHA-owned, determine (1) the project is not in a qualified census tract; (2) in the same building there are comparable tax credit units of the same unit size as the contract unit that do not have any form of rental assistance other than the tax credit; and (3) the tax credit rent exceeds the applicable FMR (or SAMFR or approved exception payment standard)? | 24 C.F.R. § 983.301(c). | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Was the rent capped as required by any applicable federal subsidy, law, or SLR? | 24 C.F.R. §§ 983.304-.305. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

3. **Application for Tenant Protection Vouchers (TPVs).** PHAs will generally use the TPV award to attach PBV assistance to the Section 18 units and thus should apply for the TPVs 30-60 days before it is ready to put them under a HAP contract. The timing will depend on whether the PHA is attaching the PBV assistance concurrently with the RAD closing or is attaching PBV assistance to the units through an AHAP. The PHA may also choose to use the TPV award to provide families with tenant-based (mobility) assistance and then use its existing HCV resources to later attach PBV assistance to the Section 18 units, provided the PHA is offering the RAD families the same relocation options. PHAs providing tenant-based TPV assistance apply for the TPVs 30-60 days before the families will initially lease units with the tenant-based vouchers.

| Action Items | Citation | Completed? |
|--|-------------------------------|---|
| Has the PHA (contract administrator) applied for TPVs? | PIH Notice 2021-07 p. 11. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If the PHA has concerns regarding the sufficiency of the TPV funding based on its average Per Unit Cost (PUC), has the PHA requested higher TPV funding? | PIH Notice 2021-10 p. 6. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Has the PHA received an Advice of Disbursement letter from HUD PIH's Financial Management Center (FMC) indicating that the PHA has received a new increment of replacement TPVs? | PIH Notice 2018-09 pp. 6, 11. | <input type="checkbox"/> Yes <input type="checkbox"/> No |

4. **Execution of Non-RAD PBV HAP Contract.** The timing of the execution and effective date of the non-RAD PBV HAP contract will depend on whether the project qualifies as Existing Housing or as Newly Constructed or Rehabilitated Housing.

- For Existing Housing, the PBV HAP Contract for Existing Housing: Part 1 and Part 2 (52530B) will be executed and effective simultaneous with the RAD HAP Contract and submitted as part of the RAD conversion closing.
- For Newly Constructed or Rehabilitated Housing, the PBV HAP Contract for New Construction or Rehabilitated Housing: Part 1 and Part 2 (52530A) will be executed and effective at the completion of rehabilitation or construction conducted in accordance with the AHAP.

Families' PBV assistance does not begin in Non-RAD PBV units until the family's PBV lease effective date, which must be on or following the effective date of the HAP contract.

| Action Items | Citation | Completed? |
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| Has the PHA, or HUD-approved independent entity if PHA-owned, determined the units to be fully compliant with HQS (unless the PHA has adopted either (or both) of the HOTMA HQS flexibilities) before executing the PBV HAP contract? | 24 C.F.R. § 983.103(b); PIH Notice 2017-21 pp. 65-67, PIH Notice 2017-20. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Has the PHA determined the appropriate number of HAP contracts to use so that a HAP contract covers only one “project” as defined in 24 CFR 983.3 and further defined in the PHA’s plan? | 24 C.F.R. §§ 983.3(b), 983.202(a); PIH Notice 2017-21 pp. 59, 61. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| For PHA-owned units, did the independent entity agree upon the term of the HAP contract and extensions? | 24 C.F.R. § 983.59(b)(2); PIH Notice 2017-21 pp. 13-18. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Was the HAP contract executed on Form HUD-52530B for Existing Housing projects and on Form HUD-52530A for Newly Constructed or Rehabilitated Housing projects? | 24 C.F.R. § 983.202(a); Forms HUD-52530B and HUD-52530A. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If the property is owned by the PHA, has the PHA established a separate legal entity to serve as the owner? | PIH Notice 2017-21, p. 12. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| For projects that qualify as Existing Housing, has the executed HAP (Form HUD-52530B) been submitted to the Office of Recapitalization as part of the RAD closing? | RAD/Section 18 Blend Processing Instructions | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |