



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of Housing  
Office of Public and Indian Housing**

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**Special Attention of:**

Public Housing Agencies  
Public Housing Hub Office Directors  
Public Housing Program Center Directors  
Multifamily Regional Center Directors  
Multifamily Regional Satellite Office Directors  
Regional and Field Office Directors  
Regional Administrators  
Performance Based Contract Administrators

**Notice H-2023-08 PIH-2023-19 (HA)**

Issued: July 27, 2023

Expires: This Notice remains in effect until amended, superseded, or rescinded.

Amends: H-2019-09/PIH-2019-23; and PIH-2021-07

Rescinds: H-2020-09/PIH-2020-26

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**SUBJECT:** Rental Assistance Demonstration – Supplemental Notice 4B

**Purpose**

This Supplemental Notice amends Housing 2019-09/ PIH 2019-23 and PIH Notice 2021-07 and rescinds Notice H-2020-09/Notice PIH-2020-26 in order to implement certain changes to the Rental Assistance Demonstration (RAD) authorized under the FY 2022 Appropriations Act as well as other changes.

**Background**

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 ([Pub. L. No. 112-55](#), approved November 18, 2011), as amended by the [Consolidated Appropriations Act, 2014](#) (Pub. L. No. 113-76, approved January 17, 2014), the [Consolidated and Further Continuing Appropriations Act, 2015](#) (Pub. L. No. 113-235, approved December 16, 2014), the [Consolidated Appropriations Act, 2016](#) (Pub. L. No. 114-113, approved December 18, 2015), the [Consolidated Appropriations Act, 2017](#) (Pub. L. No 115-31, approved May 5, 2017), the [Consolidated Appropriations Act, 2018](#) (Pub. L. 115-141, approved March 23, 2018) and the

[Consolidated Appropriations Act, 2022](#) (Pub. L. 117-103, approved March 15, 2022) (collectively, the “RAD Statute.”).

#### **MAJOR REVISIONS IN SUPPLEMENTAL NOTICE 4B**

Implementation guidance for RAD is currently described in Housing 2019-09/ PIH 2019-23 “Rental Assistance Demonstration – Final Implementation, Revision 4.” (RAD Notice, Rev-4) This Supplemental Notice supplements and amends RAD Notice, Rev-4 in the following respects:

RAD for PRAC Initial Contract Rent Setting. The Consolidated Appropriations Act, 2022 and the Consolidated Appropriations Act, 2023, each provided up to \$6 million (up to \$12 million total) to support preservation transactions of housing for the elderly originally developed with a Section 202 Capital Advance and assisted with a Project Rental Assistance Contract (PRAC). HUD is implementing these funding provisions in this Supplemental Notice by allowing additional rent-setting flexibilities to promote and incentivize projects where the conversion supports long-term preservation by enhancing climate resilience, energy and water efficiency, and the design of housing appropriate for the elderly to age-in-place. It further implements waiver authority provided in the Consolidated Appropriations Act, 2022 to ensure the continuation of resident services previously provided at Section 202 PRAC properties that are converting through RAD and to avoid reductions in rental subsidy at such properties.

Resident Engagement. Section II of this Supplemental Notice amends the Resident Engagement requirements for PHAs in order to ensure that the residents are better informed and engaged in the RAD conversion process and that HUD can adequately monitor resident engagement. This Supplemental Notice enhances the descriptions of resident engagement that must be submitted with the RAD application and modifies the resident meeting requirements to provide for more frequent and meaningful updates to residents.

Energy Efficiency and Climate Resilience. Section III of this Supplemental Notice amends the RAD Notice, Rev-4 to raise the minimum energy efficiency standards applicable to new construction activities by reference to updated energy codes incorporating higher, cost-effective standards and requires ownership teams to participate in climate resilience planning.

Harmonizing Radon Policies in RAD Conversions. Section IV of this Supplemental Notice amends the RAD Notice, Rev-4 to ensure that all projects converting assistance under RAD are evaluated for radon. RAD Notice, Rev-4 introduced requirements for radon testing for properties converting under RAD but exempted certain scenarios from the requirement. It also inadvertently omitted Mod Rehab conversions from the

requirement. HUD's subsequent amendments to Chapter 9 of the MAP Guide further narrowed the exempted scenarios. Through this Notice, HUD is eliminating the remaining exemptions, subjecting all Converting Projects to radon testing requirements.

Treatment of Zero-HAP families. Section V of this Supplemental Notice amends the treatment of families whose total tenant payment (TTP) exceeds the Gross Rent on the RAD HAP Contract, including families present at the time of conversion and families newly admitted to the property after conversion.

Faircloth-to-RAD Developments. Section VI and Section II of this Supplemental Notice make changes to the RAD Notice, Rev-4 in order to support PHAs that are developing public housing units to replace public housing units previously removed from the PHA's portfolio. PHAs can secure a conditional pre-completion approval to convert newly developed public housing units to a long-term Section 8 contract through RAD following completion of the public housing development process. The changes make it simpler for PHAs to reserve RAD conversion authority, allow PHAs to utilize HAP reserves in order to augment RAD rents for such units at conversion, and set forth alternative resident notification procedures that a PHA may employ.

Housing Quality Standards. Section VII of this Supplemental Notice amends the RAD Notice, Rev-4 to clarify applicability of HQS during the Work period for occupied units and adds a certification requirement regarding the condition of the unit prior to placing units and making payments under the HAP Contract.

RAD/Section 18 Blend Streamlining. Section VIII of this Supplemental Notice extends additional waiversto non-RAD PBVs at the Converted Project in order to facilitate uniform treatment of residents and units.

### **Effective Date**

Except as noted herein, the changes in this Notice shall be effective immediately following publication in the Federal Register (the "Effective Date"). Further, these provisions are subject to a 30-day comment period. If HUD receives comment that would lead to the reconsideration of any of the changes contained in this Supplemental Notice, HUD will notify the public in a new revision upon expiration of the comment period. Please submit all comments to [RAD@hud.gov](mailto:RAD@hud.gov).

## SECTION I: RAD FOR PRAC INITIAL CONTRACT RENT SETTING.

1. The first paragraph in Section 4.6.D is amended to read as follows:

**Initial Contract Rent Setting.** The initial contract rents will be set at the approved PRAC rents.<sup>192</sup> Pursuant to authority provided in the RAD Statute, the limitation under Section 8(c)(1)(A) of the Act on setting initial contract rents no higher than 120% of FMR, less any utility allowances, shall not apply as necessary to ensure the ongoing provision and coordination of services or to avoid a reduction in project subsidy. The initial contract rents shall be capped at 120% of the applicable FMR, less any utility allowance, consistent with the requirements of Section 8(c)(1) of the Act, only in the event the Project Owner utilizes the authority in this Section to *increase* the initial contract rents above the approved PRAC rents. Furthermore, HUD is implementing an alternative requirement to 24 CFR §888.113(h) permitting the use of a Small Area FMR as the “applicable FMR” upon request of the Project Owner.

2. New paragraphs are added to the end of Section 4.6.D. to read as follows:

In order to support preservation efforts that will enhance the resilience, energy and water efficiency, and design of housing appropriate for the elderly to age-in-place, for any transaction that is proposed in its Conversion Plan to undertake new construction or rehabilitation with debt financing, and subject to demonstrated need, HUD may provide an increase to the PRAC rent prior to conversion that will be incorporated in the initial Section 8 contract rent. Subject to the availability of funds,<sup>4B-1</sup> HUD may provide:

- An increase of up to \$250 per unit per month (PUM) to the PRAC rent for any transaction that will undertake new construction or substantial rehabilitation (defined as hard construction costs, including general requirements, overhead and

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<sup>192</sup> PRAC rents are the “Operating Expense Amounts” listed in Part I of the PRAC, Exhibit 1, as adjusted pursuant to rent “bundling” described in this subsection D. If PRAC rents have been adjusted by a special temporary increase in accordance with an approved plan with the Multifamily Regional Center, such special temporary rent increase will not be included in the PRAC rents used for the purposes of setting initial contract rents at conversion..

<sup>4B-1</sup> As of the date of publication, up to \$12 million were made available for such increases in the Consolidated Appropriations Act, 2022 (Public Law 117-103, approved March 15, 2022) and the Consolidated Appropriations Act, 2023 (Public Law 117-328, approved December 29, 2023).

profit, and payment and performance bonds) in excess of 60% of the Housing Construction Costs as published by HUD for a given market area.<sup>4B-2</sup>

- An increase of up to \$100 PUM to the PRAC rent for any transaction that will undertake rehabilitation (defined as hard construction costs, including general requirements, overhead and profit, and payment and performance bonds) in excess of 30% of the Housing Construction Costs as published by HUD for a given market area.

To be eligible for such increase to the PRAC rent prior to conversion, the Project Owner must demonstrate that the construction or substantial rehabilitation will enhance climate resilience, energy and water efficiency, and/or appropriate design for the elderly residents to age-in-place.<sup>4B-3</sup> Funds for this purpose shall be reserved on a first-come, first served basis based on the time of the request (communicated through the submission of a complete and acceptable Conversion Plan), subject to the availability of funds, and finalized when the Owner demonstrates the amount is necessary for the viability of the transaction.

When conversion will result in the reduction of one or more utility components (e.g., gas, water & sewer, electric) used to establish the Utility Allowance, HUD will permit the RAD contract rent to be increased by a portion of the utility savings. Project Owners can submit utility allowance projections performed by a third-party professional engineer, based on the project's plans and specifications that, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. For utilities that will remain tenant-paid, HUD will increase the contract rents by 75% of the approved reduction in Utility Allowance. The Utility Allowance shall be recalculated based on actual consumption within a reasonable period following completion of the work.

3. The second paragraph in Section 4.6.E is deleted in its entirety and the first paragraph is amended to read as follows:

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<sup>4B-2</sup> Housing Construction Costs are published annually. For the most recently published Housing Construction Costs as of the Notice publication date, please see [https://www.hud.gov/sites/dfiles/PIH/documents/TDCs\\_2022.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/TDCs_2022.pdf)

<sup>4B-3</sup> The ongoing goal for this housing stock is to provide affordable housing for elderly residents to live independently and age in place, even as they may require a higher level of assistance with activities of daily living over time. Such properties avoid the need for residents to move to assisted living facilities and nursing homes by design that prevents falls, incorporates universal design and visitability principles, leverages electronic communications, and promotes health and wellness.

**Method of Adjusting Contract Rents.** Contract rents will be adjusted by an OCAF at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the initial term of the HAP Contract.<sup>194</sup>

## **SECTION II: RESIDENT ENGAGEMENT.**

The provisions of this Section II are effective on the 30<sup>th</sup> day following the Effective Date. However, if a transaction has progressed beyond the point that the changes below would apply, the transaction will be held to the previous provisions of the RAD Notice, Rev-4 with respect to obligations required to occur prior to the effective date of this Section. For example, if a RAD conversion has an RCC on the date the provisions of this Supplemental Notice become effective, that conversion will not be subject to the new requirements with respect to the RAD application or other requirements that apply prior to receipt of the RCC, but would be subject to provisions applicable after the RCC is issued.

1. Section 1.8 is deleted in its entirety and replaced with the following:

### 1.8 Resident Engagement

**A. Before Application.** Prior to submitting an application to participate in the Demonstration, the PHA must:

1. Provide written notification of the PHA's intent to pursue a conversion to duly elected resident organizations (in accordance with 24 CFR Part 964) representing the buildings or developments proposed for conversion. Additionally, HUD encourages PHAs to partner with resident leaders to help communicate information about the RAD conversion to the broader resident population through peer-to-peer engagement;
2. Provide written notification in the form of a RAD Information Notice (RIN) to residents of projects proposed for conversion to inform the residents of the PHA's intent to pursue a conversion, their rights in connection with a proposed conversion (whether or not any relocation is anticipated), the nature of current conversion plans, including at a minimum, a description of the plans that will be discussed at the resident meetings, and a means for contacting HUD.<sup>4B-4</sup> RINs must be delivered directly to each unit or by U.S. mail to each head of household at the Converting Project, must be posted in a conspicuous place within the Converting Project, and must remain available at the management

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<sup>194</sup> OCAFs are calculated and published each year by HUD in the Federal Register and are applied to the portion of a contract rent that is not committed to debt service in order to calculate the contract rent for the project in the following fiscal year.

<sup>4B-4</sup> See the RAD Fair Housing, Civil Rights, and Relocation Notice for the required full contents of the RIN. Sample RIN provided at [www.radresourcedesk.net](http://www.radresourcedesk.net)

office during normal business hours for inspection and copying by tenants and by the public;

3. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, or if relocation is anticipated, another notice known as a General Information Notice (GIN) may also need to be issued simultaneously with the RIN. A GIN is a notice required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and its implementing regulations of 49 CFR part 24. The timing, content and delivery methods for GINs remain unchanged by this Notice. See the RAD Fair Housing, Civil Rights, and Relocation Notice for additional information.
4. No less than one week following issuance of the RIN and within the six months prior to submission of the application, conduct at least two meetings with residents of projects proposed for conversion to discuss conversion plans and provide opportunities for comment. Discussion at both meetings must include a description of resident rights described in Attachment 1B.1 and a description of the PHA's preliminary intentions, to the extent formulated, with respect to: a) whether the conversion will include a transfer of assistance and potential locations to which the assistance would be transferred, b) plans to partner with an entity other than an affiliate or instrumentality of the PHA if such partner will have a general partner or managing member ownership interest in the proposed Project Owner, c) change in the number or configuration of assisted units or any other change that may impact a household's ability to re-occupy the property following repairs or construction, d) de minimis reduction of units which will have been vacant for more than 24 months at the time of RAD Application, e) the scope of work and potential relocation scenarios, f) an overview and projected timeline of the the conversion process, and g) primary differences for residents between public housing and the Section 8 platform (PBV or PBRA) of the conversion;<sup>4B-5</sup> and
5. Submit the following information with the RAD Application<sup>60</sup>:
  - a. Certification that the RIN and notice of the tenant meetings have been provided to all residents in accordance with this Notice;

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<sup>4B-5</sup> Resident Education materials on a variety of topics, including the conversion process, the differences between PBV and PBRA, relocation and other topics are available at <https://www.hud.gov/RAD/residents/PublicHousingResidents>.

<sup>60</sup> It is understood that at the application stage, this information is very preliminary and may be presented as such. However, as noted below, additional meeting(s) with the residents should be held as this information is developed.

- b. A summary of meeting attendees and participation by residents, PHA staff, and other attendees, e.g. a sign-in sheet or list of registrants or participants for calls or online meetings;
- c. A description of the PHA's efforts to promote tenant participation in meetings, including the dates and times of meetings to accommodate a variety of schedules, efforts to accommodate residents with disabilities or Limited English Proficiency in accordance with subparagraph H below, the format of meetings (in-person, electronic, or both), location of in-person meetings, efforts to overcome technology barriers for virtual meetings, and other relevant efforts as the PHA determines appropriate (e.g., offering childcare or refreshments);
- d. Meeting agenda(s) and copies of any handouts or presentation materials;
- e. A summary of questions and comments asked in the meeting or submitted by residents to the PHA and responses provided to the residents by the PHA to those questions and comments;
- f. Identification of how residents who were unable to attend meetings are able to access materials or submit questions or comments;
- g. Identification of materials that were shared with residents to communicate resident protections, which can include but are not limited to the following materials: HUD resident rights brochure; HUD resident fact sheets; HUD RAD video; or other resident education materials created by HUD or the PHA; and
- h. Where there is a duly elected resident organization, contact information for at least one elected leader of such organization.

**B. Before Concept Call.** After a PHA is selected to participate in RAD (i.e., after receipt of the CHAP) but prior to requesting a Concept Call, the PHA must have at least two additional meetings with residents to discuss updated conversion plans covering, at a minimum, the topics listed above, and to clearly describe and solicit feedback on proposed or needed property improvements, management changes, services, or other items as appropriate. Meetings should be spaced to provide meaningful updates to residents on the progress of the conversion, to offer opportunities for residents to provide input, and to permit residents to raise questions and concerns. PHAs are encouraged to meet with residents each calendar quarter and to provide access to written materials describing the conversion prior to each meeting. The PHA shall submit in the Financing Plan a summary of questions and comments received in connection with the required resident meetings and the responses provided to the residents by the PHA. Additional resident meetings may be required by HUD after the Concept Call if

HUD determines that they are needed, for example, to provide residents with up-to-date information regarding the conversion.

- C. Before Closing.** After issuance of the RCC and prior to closing, the PHA must notify residents in writing that conversion of the project has been approved and hold an additional resident meeting following such notification.<sup>4B-6</sup> In the meeting and in the written notice, the PHA must address, as appropriate, the anticipated timing of the conversion, the anticipated duration of the Work, the revised terms of the lease and house rules, procedures for execution of the new lease, any anticipated relocation, and opportunities and procedures for the exercise of the choice-mobility option. PHAs must also provide access to or copies of the new lease form and any applicable house rules. HUD will require evidence of such notice and meeting(s) prior to closing.

Households in the affected project(s) who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA.

- D. Additional RAD Meetings.** The required meetings must discuss any substantial change to the conversion plans relative to what was presented in the previous resident meetings. Additional meetings with residents are required if one of the required meetings does not occur within a reasonable time (approximately three months) following a substantial change to the conversion plan. A substantial change to the conversion plans includes, but is not limited to:

- Introduction or abandonment of a transfer of assistance or a material change in the projected location to which the assistance would be transferred;
- Plans to partner with an entity other than an affiliate or instrumentality of the PHA if such partner will have a general partner or managing member ownership interest in the proposed Project Owner;
- Change in the number or configuration of assisted units or any other change that may impact a household's ability to re-occupy the property following repairs or construction;
- De minimis reduction of units which had been vacant for more than 24 months at the time of RAD Application;

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<sup>4B-6</sup> In certain circumstances where the closing is anticipated to occur soon after the issuance of the RCC, the Owner may request and HUD may approve the before-closing written notice and resident meeting to occur prior to issuance of the RCC.

- A substantial change in the proposed scope of the Work or relocation plans;
- A material change in utility allowances; or
- Other scenarios which HUD may prescribe.

**E. Significant Amendment Process.** The requirements for resident notifications and meetings for the RAD program are separate from, and complementary to, the resident notification and consultation requirements under the significant amendment process (24 CFR part 903).

**F. Other Requirements.** A PHA must comply with all applicable relocation requirements (see [Section 1.4.A.5](#)) and all applicable resident consultation and notification requirements. Refer to the RAD Fair Housing, Civil Rights, and Relocation Notice for resident consultation requirements regarding relocation.

**G. Meeting Participation.** PHAs must provide adequate notice of meetings, should consider practices to reduce barriers to resident participation in meetings, and should conduct meetings in a place and time to foster participation. PHAs should consider the timing of resident meetings (e.g., times of day, days of the week including weekends) to encourage participation by residents with a variety of preferences and schedules. PHAs must make meeting notifications and meeting materials available in an accessible format (e.g., website, hard copies in the management office). Resident meetings can be offered in various formats including electronically (e.g., Zoom), in person, and/or in a hybrid meeting format. If a resident meeting is offered virtually, PHAs should consider residents' computer and internet access and undertake reasonable measures to address technological barriers. Relevant parties from the PHA or the Project Owner should be available to respond to questions or comments from residents. Additionally, PHAs may not restrict attendance at the meetings unless necessary for the effective conduct of the meeting, for example, restricting attendance to accommodate size constraints of the venue of the meeting.

**H. Accessibility Requirements.** When providing resident notification and meetings, a PHA must use effective communication for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act of 1990. Effective communication may include, but is not limited to, providing written materials in appropriate alternative formats (e.g., Braille, large type, accessible email or websites), as needed, and providing sign language interpreters and assistive listening devices at resident meetings, as needed (24 CFR § 8.6).

Additionally, resident meetings must be held in facilities that are physically accessible to persons with disabilities. Where physical accessibility is not achievable, a PHA must use alternative methods to meet with qualified individuals with disabilities, such as holding meetings at an alternate accessible site or offering in-home meetings. Such meetings must be provided in the most integrated setting appropriate to the needs of qualified individuals with disabilities. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible (28 CFR part 35, appendix B).

Additionally, a PHA must provide meaningful access to its programs and activities for persons who have a limited ability to read, speak, or understand English. For projects undergoing RAD conversion, a PHA must provide language assistance to residents of the project who are Limited English Proficient (LEP) to ensure that they have meaningful access to RAD resident notifications and meetings. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at resident meetings. For guidance on providing language assistance to persons with LEP, please see Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732).

**I. Resident Engagement Requirements in a Faircloth-to-RAD conversion.** In addition to requirements for a PHA to include a Faircloth-to-RAD conversion in its Five-Year Plan, Annual Plan, or MTW Plan, HUD is requiring the following engagement with residents of an impacted property. When a PHA is developing new public housing units under Faircloth-to-RAD, this Section 1.8.I shall apply in lieu of Sections 1.8.A through 1.8.D.

1. If the property is occupied at the time the PHA requests a Notice of Anticipated RAD Rents, Sections 1.8.A through 1.8.D shall apply with the following modifications. The PHA must have complied with Section 1.8.A prior to submitting the request for a Notice of Anticipated RAD Rents. References to the Concept Call in Section 1.8.B shall be deemed to be references to the submission of the public housing acquisition, mixed finance development, or other development proposal pursuant to the applicable provisions of 24 CFR part 905. References to the RCC in Section 1.8.C shall be deemed to be references to HUD approval of such proposal and references to closing in Section 1.8.C shall be deemed to be the completion of such approved acquisition or development.

2. If tenants are admitted to the property in accordance with admissions requirements after issuance of an RCC and prior to the Closing of the RAD conversion, the PHA shall, prior to the execution of the lease:
  - i. Provide written notification in the form of a RAD Information Notice (RIN) to residents of projects proposed for conversion to inform the residents of the PHA's intent to pursue a conversion and of their rights in connection with a proposed conversion<sup>4B-7</sup>;
  - ii. Provide a written explanation of the leasing and occupancy changes that will occur soon after move-in resulting from the RAD conversion to Section 8; and
  - iii. Meet with each resident household to discuss the conversion, explain the written materials referenced in subparagraph i and ii, above, and provide the residents an opportunity to ask questions. The resident meeting can be conducted on an individual household basis.

**J. HUD Participation.** At HUD's request, the PHA must provide an opportunity for a representative from HUD to attend resident meetings either in-person or virtually.

**K. Contacting HUD.** Should residents and/or their advocates have concerns, require clarification on RAD program guidelines, including those focused on resident engagement and protections, or need additional support which cannot be met by the PHA, they may contact HUD at [rad@hud.gov](mailto:rad@hud.gov).

2. Attachment 1A, Paragraph R is revised as follows:

**R. Resident Participation and Comments.** Provide:

- a. A summary of meeting attendees and participation by residents, PHA staff, and other attendees;
- b. A description of the PHA's efforts to promote tenant participation in meetings, including the dates and times of meetings to accommodate a variety of schedules, efforts to accommodate residents with disabilities or Limited English Proficiency in accordance with Section 1.8.H, the format of meetings (in-person, electronic, or both), location of in-person meetings, efforts to

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<sup>4B-7</sup> In the rare event that relocation may be contemplated after issuance of the CHAP, the PHA must inform any household admitted prior to the issuance of the CHAP that they may be eligible for applicable relocation protections as described in the RAD Fair Housing, Civil Rights and Relocation Notice.

- overcome technology barriers for virtual meetings, and other relevant efforts as the PHA determines appropriate (e.g., offering childcare, refreshments);
- c. Meeting agenda(s) and copies of handouts or presentation materials;
  - d. A summary of questions and comments asked in the meeting or submitted by residents to the PHA and responses provided by the PHA to those questions and comments;
  - e. Identification of how residents who were unable to attend meetings are able to access materials or submit questions or comments and receive responses;
  - f. Identification of materials that were shared with residents to communicate resident protections, which can include but are not limited to the following materials: HUD resident rights brochure; HUD resident fact sheets; HUD RAD video; or other resident education materials created by HUD or the PHA; and
  - g. Where there is a duly elected resident organization, contact information for at least one elected leader of such organization.

### **SECTION III: ENERGY EFFICIENCY AND CLIMATE RESILIENCE.**

The provisions of this Section III shall be effective for any transaction that has not submitted a complete Financing Plan on or before the 30<sup>th</sup> day following the Effective Date. All other transactions will be subject to the previous provisions of the RAD Notice, Rev-4.

1. The Section 1.4.A.2 is deleted in its entirety and replaced as follows:

**2. Energy Efficiency and Climate Resilience.** For all projects retrofitted under a RAD conversion, if systems and appliances are being replaced as part of the Work identified in the approved Financing Plan and RCC, PHAs shall utilize the most energy- and water-efficient options that are financially feasible and that are found to be cost-effective by the CNA described above. The CNA will provide detailed analyses of energy-saving alternatives and other green building components, including payback and cost/saving analyses. The use of Energy Star®, WaterSense® or Federal Energy Management Program (FEMP)-designated products and appliances replacements, if any such designation is available for the applicable system or appliance, is presumed to be the minimum threshold for meeting such requirement.<sup>8</sup> Where the CNA indicates a component will improve indoor air quality and/or reduce overall environmental impact at little or no cost premium, the PHA shall use such component consistent with the principles and best practices of the green building industry.

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<sup>8</sup> For Energy Star®, see <http://www.energystar.gov/>. For WaterSense®, see <http://www.epa.gov/watersense/>. For FEMP, see <http://www1.eere.energy.gov/femp/>.

Where a PHA is planning to use a RAD conversion in conjunction with new construction, projects shall at a minimum meet or exceed the 2021 International Energy Conservation Code (IECC) for single family or low-rise multifamily properties (three stories or fewer) or the ASHRAE 90.1-2019 standard for mid to high-rise multifamily projects, or any successor codes that are adopted by HUD under the requirements of the Energy Independence and Security Act of 2007. Additionally, all new construction projects are encouraged to meet or exceed the requirements for Energy Star for New Homes or Energy Star for Multifamily New Construction. Further, in new construction and applicable retrofit projects, HUD strongly encourages the use of industry-recognized, green building certifications that support net-zero and net-zero ready construction, such as DOE Zero Energy Ready Homes - Multifamily, Enterprise Green Communities Plus, Passive House Core or Zero, International Living Future Institute Core Green Building Certification or Zero Energy and Zero Carbon, National Green Building Standard with net zero energy badge, and LEED Zero Energy or Zero Carbon.

As noted in Section 1.4.B.6, numerous state and local governments offer other funding programs which can be used as sources in financing plans, particularly if a scope of work includes “green retrofitting” or weatherization components. In many localities, utility companies and appliance manufacturers offer grants related to energy-saving retrofit components. (<http://www.dsireusa.org/> is one source of information on incentives and policies state by state.)

**Renewable Energy.** PHAs are also strongly encouraged to assess the viability and potential cost savings of renewable energy sources for the site and design roofs and other systems accordingly. For example, PHAs can use the National Renewable Energy Laboratory (NREL) REopt tool to evaluate the economic viability and cost savings of multiple renewable energy options.

**Climate Resilience.** All PHAs must:

1. Analyze likely hazard risk by entering property addresses into FEMA's [National Risk Index \(NRI\)](#) and identifying which hazards are "relatively high" or "very high" for their census tract. If a census tract hazard does not apply to their specific site (e.g., a site located on top of a hill may not face riverine flooding risk), the PHA should explain the non-applicability of the NRI rating. Applicants may also consider hazards identified in climate projection tools as applicable: [Climate Explorer](#), [Flood Factor](#), [NOAA Sea Level Rise Viewer](#), [Climate Central Coastal Risk Screening Tool](#) (by year and/or water level), and [Climate Mapping for Resilience and Adaptation \(CMRA\)](#).
2. Provide a narrative description detailing how the scope of work addresses or mitigates against the identified climate hazard risks. PHAs are strongly encouraged to consider strategies to reduce the risk of resident injury and property damage when hazards

strike. Hazard-specific resilience strategies to consider include, but are not limited to:

- Potable water storage (one gallon per person for five to seven days);
- Back-up power (generators or battery back-up for critical loads) to last five to seven days;
- Indoor air quality: sensors and purifiers;
- Flood protection: flood vents, water-resistant materials, roof sealing/water barrier, flood gates, flood doors, sandbags and other deployable barriers;
- Floodwater control: backwater valves, sump pumps, permeable pavement, green roof, bioswales, dry wells;
- Heat control: multi-pane and/or low-e coated windows, window shading, cool roofing products, enhanced roof and wall insulation;
- Fire protection: compliance with 2021 International Wildland-Urban Interface Code, class A roof, noncombustible or fire-resistant materials, fine mesh vent screens, enclosed decks and eaves, tempered glass for first-floor windows; and
- Winter and Rain Storm protection: impact-rated windows, FORTIFIED Roof™, buried utility lines.

3. Informed by the climate hazard risks, PHAs must also create a property-wide disaster plan including an evacuation plan that describes safe egress route(s), plans for evacuating residents with disabilities and special needs, and clear communication of the evacuation plan and safety resources for residents. For residents with disabilities and special needs, this must include a plan for emergency evacuation and relocation, including discussion of facilities of like capacity that are equipped to provide critical needs-related care and services at a level like the originating facility.

2. New sub paragraphs 7 and 8, are added to Attachment 1A, Paragraph C.

7. Identify which hazards are "relatively high" or "very high" for their county and census tract according to FEMA's [National Risk Index](#) (NRI) and provide a narrative description detailing how the scope of work addresses or mitigates against the climate hazard risks.

8. Until such time as regulations promulgated pursuant to Executive Order 13690 become effective, for all buildings that will be newly constructed (including gut rehab, where physically and financially feasible) and will be located in the FEMA 500-year floodplain (or 100-year floodplain where FEMA has not mapped the 500-year floodplain), all relevant building mechanicals (HVAC, cogeneration, hot water heating, and other systems) and all residential units must be designed to be at a height no less than the greater of the 500-year floodplain or two feet above the 100-year floodplain based on FEMA Flood Insurance Rate Maps (FIRMs). Any interior non-residential spaces – such

as common areas, community centers, and lobbies – that are not elevated to this level, must at a minimum be floodproofed to at least two feet above the 100-year floodplain. For buildings outside of FEMA floodplains, PHAs are encouraged to consult other sources (e.g., historical flooding of neighboring sites, NOAA Sea Level Rise Viewer, Flood Factor) to consider future flood risk and design accordingly.

#### **SECTION IV: HARMONIZING RADON POLICIES IN RAD CONVERSIONS.**

The provisions in this Section IV shall be effective for any transaction that has not submitted a Financing Plan or Conversion Plan on or before the 14<sup>th</sup> day following the Effective Date. All other transactions will be subject to the previous provisions of the RAD Notice, Rev-4.

1. Attachment 1A, the last paragraph of Paragraph D is deleted in its entirety and replaced with the following:

Additionally, the PHA must submit a Radon Report consistent with the requirements of Section 9.6.3 of the MAP Guide (or successor provision) for HUD to review.

2. Attachment 2A:

1. Paragraph K.3 is deleted in its entirety.

2. The following language is added to the end of Paragraph K:

Additionally, the PHA must submit a Radon Report consistent with the requirements of the Section 9.6.3 of the MAP Guide (or successor provision) for HUD to review.

3. Attachment 4A, the last paragraph of Paragraph I is deleted in its entirety and replaced with the following:

Additionally, the PHA must submit a Radon Report consistent with the requirements of the Section 9.6.3 of the MAP Guide (or successor provision) for HUD to review.

#### **SECTION V: TREATMENT OF ZERO-HAP FAMILIES.**

The provisions of this Section V are effective as of the Effective Date. With respect to families that are currently paying more than the Zero-HAP Rent Cap (described below), the PHA must inform the Project Owner and the family by notice of the amount of the new alternate rent to be paid to the owner by the zero-HAP family and the date the change shall go into effect, which must be no later than ninety (90) days after the issuance date of this notice.

1. The Definitions section is amended to add a new definition:

*Gross Rent.* The Gross Rent shall equal the contract rent plus any utility allowance for the unit.

2. Section 1.6.C.9 is deleted in its entirety and replaced with the following:

**When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the HAP Contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the Gross Rent. (24 CFR § 983.258 and § 983.211).

Pre-Conversion Residents. Since the rent limitation under this Section of the Notice may result in current residents having TTPs that exceed the Gross Rent, 24 CFR §983.53(c) does not apply in order to provide RAD PBV assistance to residents who were living in the Converting Project prior to conversion. As necessary to further implement the alternative requirements described below, HUD is waiving 24 CFR §983.258 and §983.211, as well as the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.

HUD is establishing an alternative requirement that the unit for a family with a TTP that equals or exceeds Gross Rent must be placed on the PBV HAP Contract and the family shall be admitted to the PBV program. In such cases the resident is considered a participant under the PBV program and all the family obligations and protections under RAD and PBV apply to the resident.

During any period when the family's TTP is equal to or above the Gross Rent, the zero-HAP family will pay an alternate rent to owner that is the lower of:

- a. the family's TTP less the Utility Allowance, subject to any required phase-in pursuant to Section 1.6.C.3 of this Notice; or
- b. the Zero-HAP Rent Cap, which is the lower of either:
  - i. 110% of the applicable FMR less the Utility Allowance; or
  - ii. In the event the units are subject to more restrictive rent setting requirements under the LIHTC or HOME programs, or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

During any period that the family's TTP falls below the Gross Rent, the normal PBV requirements apply and the family would pay 30% of adjusted income, less utility allowance.

After a family has paid the Zero-HAP Rent Cap as set by this Section for a period of 180 days, the PHA shall remove the unit from the HAP Contract and the family's participation in the PBV program ends.<sup>41</sup> If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP Contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP Contract unless the PHA previously substituted a different unit on the HAP Contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted, Section 1.6.B.10 of the Notice.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP Contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap set by this section and the family is otherwise eligible for PBV assistance. The PHA shall, at the earliest opportunity<sup>4B-8</sup>, reinstate the family's unit back onto the HAP Contract to provide rental assistance to the family. All PBV requirements with respect to the unit, such as compliance with HQS, apply while the unit is under the HAP Contract or added back to the HAP Contract.

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<sup>41</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance (Gross Rent = \$550). The FMR for the unit size in the area in which the project is located is \$800. Following conversion, the family is responsible for paying \$550 in tenant rent. If the resident's income rises or is subject to a rent increase phase-in and all other conditions remain the same, the family would pay TTP until the tenant rent reached the Zero-HAP Rent Cap of \$830 (\$880, which is 110% of the \$800 FMR, minus the \$50 utility allowance), at which point the family would continue paying \$830, and unless the family's income and TTP subsequently decreases, the unit would be removed from the contract after 180 days. Families paying less than TTP because of the phased in Tenant Rent Increase alternative requirement are not paying the Zero-HAP Rent Cap and are not subject to this 180-day requirement. However, if the family's Calculated PBV TTP under section 1.6.C.3 is more than the Gross Rent, the family is a zero-HAP family and the applicability of the phased in Tenant Rent increase would end when the amount the family would pay under that alternative requirement meets or exceeds the Zero-HAP Rent Cap. At that point in time the family would pay the Zero-HAP Rent Cap and would be subject to all zero-HAP family requirements of this section, including the 180-day requirement.

<sup>4B-8</sup> If the project was partially assisted and the PHA previously substituted a different unit on the HAP Contract, the PHA shall substitute the family's unit for a vacant unit on the HAP Contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP Contract becomes vacant if there are no vacant units on the HAP Contract at the time of the family request.

New Admission Families. Unless a PHA requests and receives the waiver described below, any new admission to the Covered Project must meet the eligibility requirements at 24 CFR § 982.201 and require a subsidy payment at admission to the PBV program, which means the family's TTP may not equal or exceed the Gross Rent for the unit at that time. Furthermore, a PHA must remove a new admission family's unit from the PBV HAP Contract when no assistance has been paid for 180 days because a new admission family's TTP subsequently increased to equal or exceed the Gross Rent. However, HUD is imposing an alternative requirement in such cases. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit on the HAP Contract and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP Contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted, Section 1.6.B.10 of the Notice.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver of 24 CFR §§983.53(c), 983.259, 983.211, and 983.301 from HUD for the Covered Project. The waiver will apply the alternative requirements applicable to the pre-conversion residents in this Section to new admission families.

The PHA may request the waiver during the RAD conversion process or may subsequently request the waiver any time after the effective date of the HAP Contract. In order for the waiver to be approved, the PHA must demonstrate that based on the RAD rent calculated in accordance with Attachment 1C, the monthly two-bedroom RAD Gross Rent is less than: 30% of the monthly income of a family of four at the midpoint between the Very Low Income (VLI) HUD Income Limit and Extremely Low Income (ELI) HUD Income Limit for the area in which the Covered Project is located.

For waivers submitted during the conversion process, the Office of Recapitalization may grant the waiver after review of the Financing Plan and confirmation that the RAD rents meet the waiver rent threshold described above.<sup>4B-9</sup> The Office of Recapitalization shall document the waiver by adding an additional provision to the RCC before closing. For waivers submitted after the effective date of the HAP Contract, the waiver is submitted through the normal waiver process outlined in Notice PIH 2018-16 (or any successor

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<sup>4B-9</sup> An example of the waiver rent threshold calculation is as follows. Assume the applicable VLI limit is \$46,850 and the ELI limit is \$28,100. The midpoint income is \$37,475 ( $\$46,850 + \$28,100 = \$74,950$ ;  $\$74,950/2 = \$37,475$ ). To calculate the affordable monthly rent, the midpoint income is divided by 12 and multiplied by 0.30 ( $\$37,475/12 = \$3,123$ ;  $\$3,123*0.30 = \$937$ ). If the RAD Rent is less than \$937, the Covered Project is eligible for the waiver.

notice). In both cases, the approved waiver will be for the initial term of the PBV HAP Contract.

If the waiver is approved, the new admission families covered under the waiver are participants under the PBV program, all the family obligations and protections under RAD and PBV apply to the family, the RAD PBV families shall be subject to the same alternative requirements applicable to the pre-conversion residents under this Section, and the unit is subject to all PBV program requirements, as modified by this Notice.

Further, Covered Projects that receive the waiver shall be subject to an alternative income targeting requirement that at least 75% of new admissions to the PBV units (both RAD and non-RAD PBV units) in the Covered Project in any PHA fiscal year are ELI families.<sup>4B-10</sup> If there are less than four new admissions to the Covered Project in a PHA fiscal year, the income targeting is determined by combining the new admissions for that fiscal year with the new admissions for the subsequent fiscal year (or years) until the combined total of new admissions equals or exceeds four for those consecutive fiscal years.<sup>4B-11</sup>

3. Section 1.7.B.9 is deleted in its entirety and replaced with the following:

**When Total Tenant Payment Exceeds Gross Rent.** Under normal PBRA rules, any new admission to the PBRA program must require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the Gross Rent for the unit at that time (Section 3-6 F.4 of HUD Handbook 4350.3, REV-1). Further, a resident's eligibility ends and a Project Owner must process a termination of assistance when the family's TTP has risen to a level that is equal to or greater than the Gross Rent and increase the tenant rent to the contract rent (assuming that the tenant does not receive the benefit of any other type of subsidy) (24 CFR 880.603(c)(3) and Section 8-5 C and 8-6 A.1 of HUD Handbook 4350.3, REV-1).

Since the rent limitation under this Section of the Notice may prevent the admission to a RAD PBRA Unit of existing residents or new admissions otherwise eligible for PBRA assistance, HUD is establishing an alternative requirement and requiring that families

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<sup>4B-10</sup> This alternative requirement for the Covered Project is in addition to the PHA's HCV/PBV program income targeting requirements at 24 CFR 982.201(b)(2). Admissions to the Covered Project continue to be taken into account when determining income targeting in accordance with 24 CFR 982.201(b)(2).

<sup>4B-11</sup> For example, assume in fiscal year in which the waiver was granted the Covered Project had one new admission and in following fiscal year had three new admissions. Compliance with the Covered Project income targeting requirement would be determined based on the combined total of the 4 new admissions over the two fiscal years (3 of the 4 new admissions to PBV units the Covered Project must have been ELI families).

with a TTP that equals or exceeds Gross Rent who would otherwise qualify for assistance in the unit, shall be admitted and allowed to occupy the unit. HUD is also requiring that the units occupied by such families shall be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent.

For residents living in the Converting Project prior to conversion and for all new admissions to the Covered Project during the initial term of the contract, HUD is establishing the alternative requirement that, during any period when the family's TTP is equal to or above the Gross Rent, the zero-HAP family will pay an alternate rent to owner that is the lower of:

- a. the family's TTP less the Utility Allowance, subject to any required phase-in pursuant to Section 1.6.C.3 of this Notice; or
- b. the Zero-HAP Rent Cap, which is the lower of either:
  - i. The applicable FMR less the Utility Allowance; or
  - ii. In the event the units are subject to more restrictive rent setting requirements under another federal, state, or local program (e.g. LIHTC or HOME), the rent to owner set to comply with such requirements.

As necessary to implement this alternative requirement, HUD is waiving 24 CFR 880.603(c)(3) and sections 3-6 F.4, 8-5 C., and 8-6 A.1. of HUD Handbook 4350.3, REV-1. Tenants will retain all of the rights under the Model Lease, including the right to occupy the unit, as well as those provided through this Notice. Additionally, tenants will still be subject to the requirements for Section 8 tenants, including the requirements concerning reexamination of family income and composition found in 24 CFR part 5 in order to determine the Zero-HAP Rent Cap. When TTP equals or exceeds Gross Rent, the Zero-HAP Rent Cap collected by the Project Owner is considered project funds and must be used for project purposes. Subsidy may subsequently be reinstated if the tenant becomes eligible for subsidy.

The Project Owner is not required to process these individuals through Multifamily Housing's Tenant Rental Assistance Certification System (TRACS) but may be required to do so in the future when a future revision of the TRACS can accept such certifications. All normal actions for the contract rent in TRACS shall continue for these units, including application of the OCAF adjustment to the contract rent indicated in the HAP Contract, since the OCAF adjusted rent will still be in effect whenever the unit is occupied by a family eligible for rental subsidy.

## SECTION VI: FAIRCLOTH-TO-RAD DEVELOPMENTS

1. The Definitions section is amended to include the following definitions:

*Faircloth-to-RAD.* The process by which PHAs develop additional public housing units pursuant to the Faircloth Limit using the public housing development process at 24 CFR Part 905, Subpart F with conditional pre-completion approval to convert these units to a long-term Section 8 contract through RAD following completion of construction, rehabilitation, or acquisition under the public housing development process.

*Faircloth Limit.* The limitation on the number of new public housing units a PHA may develop as described in Section 9(g)(3) of the Act.

*Notice of Anticipated RAD Rents (NARR).* Conditional commitment provided to the PHA for units the PHA proposes to develop under Faircloth-to-RAD that describes the terms under which HUD will issue a CHAP to the PHA once the units are developed and accepted into the public housing program.

2. Item 1 under Section 1.3 is deleted in its entirety and replaced with the following:

1. Have public housing units under an ACC or have available authority to develop units pursuant to the Faircloth Limit;

3. Section 1.9, the first two paragraphs of A. are deleted in their entirety and replaced with the following:

**A. General Requirements.** All applicants must complete the RAD Application, which HUD will make available on the RAD website ([www.hud.gov/rad](http://www.hud.gov/rad)), along with all other required submittals. The RAD Application will include certain pre-populated project data and will require the applicant to input summary information regarding the PHA's tentative plans.

PHAs apply by Project. A Project may consist of an entire Asset Management Project (AMP), a part of an AMP, multiple AMPs, or a project proposed for public housing development under 24 CFR Part 905. If a PHA desires to convert only a portion of a public housing AMP (e.g., only the high-rise portion of a project that is currently combined with scattered sites) and maintain the remaining portion as public housing, the PHA should indicate as such in its application (i.e., the PHA will not need to request a change in configuration for the project in order to submit the application). Similarly, a PHA may indicate in its application if it is applying for multiple public

housing AMPs as a single Project. PHAs pursuing a Faircloth-to-RAD conversion must request a Notice of Anticipated RAD Rents (NARR) in lieu of the RAD Application.

4. A new Section 1.6.B.5.f is added prior to the final paragraph of Section 1.6.B.5 (commencing with the words “Notwithstanding HUD’s calculation of the initial contract rent...”) and such final paragraph shall be designated as Section 1.6.B.5.g “**Initial PBV Rent Cap**”:

**f. Faircloth-to-RAD Initial Contract Rents.** The initial contract rents for the Faircloth-to-RAD units will be based on the project’s reasonably anticipated subsidy under the public housing program in accordance with a “RAD rent base year” described in Attachment 1C, as set forth in the NARR. In addition to applicable flexibilities as set forth in this Section 1.6.B.5, non-MTW PHAs may use existing HAP reserve funds to set the initial contract rents higher than the contract rent that is set forth in the NARR if the project meets both of the following conditions:

- i. The Faircloth-to-RAD units may not make up more than:
  - a) The greater of 25 units or 25% of the units in the project; or
  - b) The greater of 25 units or 40% of units in the project if it is in census tract where the poverty rate is no greater than 20%.
  - c) The limitations in (a) and (b) above shall not apply to units that are made exclusively available to people who are elderly, eligible for supportive services, or youth receiving HCV Family Unification Program assistance.
- ii. The Faircloth-to-RAD project is in one of the following locations:
  - a) A Metropolitan Statistical Area, Micropolitan Statistical Area, or ZIP code where the rental vacancy rate is less than 4 percent; or
  - b) A ZIP code where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area FMR.

When a non-MTW PHA uses existing HAP reserves to supplement the initial contract rents, HUD will only provide new incremental voucher funding for the first full calendar year following conversion using per unit costs (PUCs) based on normally applicable public housing subsidy levels. The initial contract rent is still subject to all other applicable program caps, and any use of the flexibilities referenced above in setting higher initial contract rents shall be subject to subsidy layering review.

5. A new Section 1.7.A.5.f is added:

**f. Faircloth-to-RAD Initial Contract Rents.** The initial contract rents for the Faircloth-to-RAD units will be based on the project’s reasonably anticipated subsidy under the public housing program in accordance with a “RAD rent base year”

described in Attachment 1C, as set forth in the NARR. Additionally, PHAs may use any other applicable flexibility as set forth in this Section 1.7.A.5 to set the initial contract rents higher than the contract rent that is set forth in the NARR.

6. HUD will evaluate the impact of the rent setting authorities set forth in Section 1.6.B.5.f based on data available as of September 30, 2024. HUD will not accept applications for NARRs for additional units using the rent setting authorities set forth in Section 1.6.B.5.f from September 30, 2024, until the analysis is complete and HUD determines whether to resume accepting applications for NARRs for additional units (communicated on [www.hud.gov/rad](http://www.hud.gov/rad)) or whether to issue revised policy guidance.

## **SECTION VII: HOUSING QUALITY STANDARDS.**

This Section is effective immediately for any transaction that has not received an RCC as of the Effective Date. All closed and other transactions that have received an RCC are subject to the previous provisions of the RAD Notice, Rev-4.

1. Section 1.6.B.10 is deleted in its entirety and replaced as follows:

**HQS Inspections.** Under current regulations at 24 CFR 983.103(b) a unit covered under a HAP Contract must be inspected for compliance with HQS before assistance can be paid on behalf of a household, unless the PHA is using HOTMA non-life threatening and alternative inspection provisions. In addition, section 8(o)(8)(A) of the Act provides that HAP Contract units must be inspected to ensure compliance with HQS prior to payment of any assistance on behalf of a family. When Work is occurring under RAD, HUD requires that all units undergo inspection for HQS no later than the date of completion of the Work as indicated in the RCC. To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP Contract instead of conducting an initial inspection. During the period of the Work, HQS requirements apply. The PHA must enforce the Project Owner's obligations under this paragraph and conduct inspections when needed, for example in response to tenant complaints or other information coming to its attention, and the owner must correct any deficiencies in accordance with HQS requirements (i.e. no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the Work as indicated in the RCC). To effectuate the revised initial inspection requirement for RAD PBV units and non-RAD PBV units within a Covered Project when such units are replacing public housing units at the time of

conversion, HUD is waiving and establishing an alternative requirement to 24 CFR 983.103(b) and section 8(o)(8)(A) of the Act.

#### **SECTION VIII. STREAMLINING RAD/SECTION 18 BLENDS.**

1. Section 1.5.B.2 is deleted in its entirety and replaced as follows:

**2. Joint RAD and Section 18 applications.** A PHA may be able to combine RAD and Section 18 activities towards the preservation of a project. In certain circumstances as determined by HUD (for additional details see PIH Notice 2021-07, or any successor Notice), HUD will offer the PHA a streamlined process for securing HUD approval for the units eligible for Section 18 applications.

- a. If a PHA is combining the use of RAD and Section 18 activities at a project, all RAD relocation requirements (such as the resident notice and meeting requirements, the right to return and relocation assistance and payments as described in the RAD Fair Housing, Civil Rights, and Relocation Notice) shall apply to residents of the Section 18 units in lieu of the relocation requirements under 24 CFR part 970.21. The PHA may not provide different relocation rights and benefits to residents of the project on the basis of whether they will reside in a RAD Section 8 PBV or PBRA unit or a Section 18 unit to be assisted under Section 8 PBV.
- b. If, at a converting project, a PHA is using 24 CFR 970.17(b) or 970.17(c) to dispose of other units at the project justified on the grounds that disposition allows more efficient or effective on-site or off-site development (970.17(b)) or to dispose for reasons and goals of the PHA in its PHA plan (970.17(c)) (see Notice PIH 2021-07, as may be amended or succeeded, for more details), HUD may disapprove the conversion if HUD determines that the PHA's use of both RAD and disposition under sections 970.17(b) or 970.17(c) in a single project undermines the unit replacement requirements of the RAD program.
- c. Notice PIH 2021-07 provided that any PBV HAP contract created under a RAD/Section 18 Small PHA Blend must be administered by an HCV contract administrator with at least 250 HCV units under its HCV Consolidated ACC prior to the creation of such PBV contract. This Notice revises the 250-unit standard and instead provides that the proposed HCV contract administrator must have at least 250 units under its HCV Consolidated ACC prior to the creation of the PBV HAP contract unless the field office determines that the proposed contract administrator has sufficient capacity to administer the PBV contract. The field office will consider factors such as the proposed contract administrator's prior

SEMAP scores, recent HCV-related audit findings for the contract administrator, whether the contract administrator has updated its Section 8 Administrative Plan to administer project-based vouchers, and whether the proposed contract administrator will have sufficient voucher authority, (in addition to any existing RAD or Non-RAD PBV HAP Contracts) to adequately serve the tenant-based waiting list and provide mobility options for the PBV residents.

- d. This Notice revises Section 3(A)(2)(e)(1)(a) of Notice PIH 2021-07, which defines high cost areas used for the purposes of defining the percentage of units that may be disposed of through Section 18 pursuant to a RAD/Section 18 Construction Blend, to state that if the hard construction costs are equal to or exceeds ninety percent (90%) of the Housing Construction Costs (HCC) as published by HUD for the given market area, at the PHA's discretion, up to sixty percent (60%) of the units in the Converting Project may be disposed of under Section 18. For high-cost areas, defined as those where HCC exceeds one hundred and twenty percent (120%) of the national average HCC or where the amount of construction necessary to convert the units from their current condition to the condition proposed as a result of the Work would cost in excess of two hundred percent (200%) of the national average HCC, at the PHA's discretion up to eighty percent (80%) of the units in the Converting Project may be disposed of under Section 18.

2. Section 1.6.A.1 is deleted in its entirety and replaced as follows:

- 1. PBV Percentage Limitation.** RAD PBV units in Covered Projects do not count against the percentage limitation applicable to the PBV program. The HOTMA Implementation Notice excludes PBV units at formerly federally assisted properties from the percentage limitation, which means neither the RAD PBV units nor the non-PBV RAD units count against the PBV program cap when the Covered Project is located at the same site as the converting public housing project. Furthermore, HUD is waiving section 8(o)(13)(B) of the Act as well as 24 CFR § 983.6 with respect to RAD PBV units and non-RAD PBV units within a Covered Project when such units are replacing public housing units at the time of the conversion at a new location. However, in such a case any additional PBV units subsequently placed at the former public housing site would not be exempt from the percentage limitation applicable to the PBV program. In other words, the number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a Covered Project that replace former public housing units at the time of conversion are excluded from both the numerator and the

denominator when calculating the percent of vouchers that may be project-based by a PHA.

3. Section 1.6.A.3 is deleted in its entirety and replaced as follows:

**3. Owner Proposal Selection Procedures.** In addition to situations already covered under the HOTMA Implementation Notice (e.g., cases where a PHA may attach PBV assistance to units in which the PHA has an ownership interest as part of an initiative to improve, develop, or replace public housing), HUD is waiving 24 CFR § 983.51 so that a RAD PBV HAP contract is never subject to competitive selection requirements. With respect to site selection standards, HUD requires compliance with the site selection standards as set forth in this Notice. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units in the same Covered Project, shall be subject to the terms of this provision.

### **Further Information**

Please check [www.hud.gov/rad](http://www.hud.gov/rad) for the latest information on RAD or to join the RAD listserv. *Materials referenced in this Notice may be obtained from this RAD website.* Email questions to [RAD@hud.gov](mailto:RAD@hud.gov). Additionally, HUD will develop informational materials to address various program elements that HUD will post on the RAD website.

### **Paperwork Reduction Act**

#### **Approved**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0612, 2529-0013, and 2506-0087. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

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

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Julia R. Gordon  
Assistant Secretary for Housing –  
Federal Housing Commissioner