

1 **SECTION IV: SECTION 202 PROJECT RENTAL ASSISTANCE CONTRACT (PRAC) PROJECTS**

2 **4.1 Purpose**

3 Section 237 of the General Provisions – Department of Housing and Urban Development in the
4 Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141) authorized RAD conversion of
5 Project Rental Assistance Contracts (PRACs) under Section 202(c)(2) of the Housing Act of
6 1959. This Section provides RAD program instructions to owners of these Section 202 Housing
7 for the Elderly Capital Advance properties with PRACs. These properties are referred to as “202
8 PRAC Projects” unless otherwise noted.

9
10 While the Second Component of RAD does not have the broad statutory waiver authority that
11 the First Component does, the Second Component does provide that participation is subject to
12 “requirements established by the Secretary.” HUD has used this authority and standard
13 regulatory waiver authority to develop alternative requirements, and to waive purely regulatory
14 provisions where necessary in order to fulfill the purposes of the Demonstration.

15 **4.2 General Program Description**

16 Under the Second Component of RAD, a 202 PRAC Project Owner may convert an eligible
17 PRAC to one of two forms of long-term Section 8 Housing Assistance Payment (HAP)
18 Contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). The
19 selection is the Project Owner’s choice. At the time of conversion, Converting Projects will be
20 released from any outstanding obligations under the Capital Advance Agreement, the Capital
21 Advance Mortgage Note, the Capital Advance Program Regulatory Agreement, the Capital
22 Advance Program Use Agreement, and related or collateral documents associated with the
23 PRAC and the foregoing documents and will enter into an Elderly Housing Use Agreement,
24 which will be recorded as a restrictive covenant in first position on the Covered Project. The
25 Elderly Housing Use Agreement, described in more detail in Section 4.4.J, will restate any
26 PRAC obligations that survive the conversion. The Elderly Housing Use Agreement will have a
27 term of 20 years plus the balance of the term left on the Capital Advance Program Use
28 Agreement at the time of conversion. Any PRAC documents still in effect at the time of
29 conversion will be terminated immediately prior to execution of a new PBV or PBRA HAP
30 Contract and the Elderly Housing Use Agreement.

31
32 **A. PBV Conversions.** If the Project Owner requests to enter into a Section 8 PBV HAP
33 Contract, HUD will make a reasonable effort to find an eligible PHA with a Housing Choice
34 Voucher Program and with operational jurisdiction, that is willing to enter into and
35 administer the PBV HAP Contract with the Project Owner. After HUD determines that the
36 requirements of this Notice have been satisfied, the PHA that has agreed to administer the
37 PBV HAP Contract will have the resulting vouchers and budget authority added to its Annual

38 Contributions Contract (ACC). Contract rents will be established and adjusted according to
39 the terms described in this Notice. Project Owner and the PHA will execute the HAP
40 Contract effective at the expiration of the PRAC. The initial contract must be for a term of 20
41 years (i.e., the maximum allowable initial term under section 8(o)(13)(F) of the Act).
42 Mandatory contract extensions of the initial term are governed by section 4.5.B. of this
43 Notice. Unless specifically identified in this Notice, all regulatory and statutory requirements
44 of the PBV program in 24 CFR part 983, and applicable standing and subsequent Office of
45 Public and Indian Housing guidance, including related notices and handbooks, shall apply.

46
47 **B. PBRA Conversions.** If a Project Owner requests to enter into a Section 8 PBRA HAP
48 Contract (subject to annual appropriations), the HAP Contract will be executed by HUD's
49 Office of Housing. After HUD determines that the requirements of this Notice have been
50 satisfied, the Project Owner and HUD will execute the HAP Contract to finalize the
51 conversion. Contract rents will be established and adjusted according to the terms described
52 in this Notice. The initial contract must be for a period of 20 years and will be subject to
53 annual appropriations. At expiration, the initial contract shall be eligible for renewal under
54 the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRAA).
55 Mandatory contract renewals are governed by section 4.6.C. of this Notice. The Covered
56 Project shall be governed by 24 CFR part 880, as modified and as published in Appendix I of
57 this Notice, the site and neighborhood standards in Appendix III of this Notice, as well as by
58 applicable standing and subsequent Office of Housing guidance, including notices and
59 handbooks.

60
61 **4.3 Eligibility**

62
63 Owners of 202 PRAC Projects that meet all eligibility requirements described below may request
64 to convert assistance under the Second Component of RAD. HUD may, at its discretion and
65 subject to the availability of staffing resources, prioritize processing and approval of conversions
66 for projects that have immediate capital needs; funding from a 3rd party source; and/or are PBRA
67 conversions.

68
69 **4.3.1 Eligible Owners**

70
71 **A. Compliance with HUD Requirements.** The Project Owner must be in good standing with
72 HUD. If the current Project Owner is anticipated to remain in the ownership structure, the
73 Project Owner must not have a history of non-compliance with program and contractual
74 requirements, including maintaining units in a decent, safe, and sanitary condition. If a
75 proposed conversion is in the context of an acquisition simultaneous with the conversion,
76 the purchaser must provide evidence of successful experience owning and operating HUD

77 or other multifamily housing properties. Any change in Ownership will require Form
78 HUD-2530 Previous Participation approval as described in Attachment 4A.

79
80 **B. Fair Housing and Civil Rights Compliance.** A Project Owner must certify it will comply
81 with all fair housing and civil rights requirements including but not limited to those at 24
82 CFR § 5.105(a). Any outstanding fair housing or civil rights matters arising prior to
83 conversion must be resolved to HUD’s satisfaction prior to conversion, provided that all
84 applicable legal processes have been satisfied. If HUD determines a conversion would fail to
85 meet this standard, HUD will notify the Project Owner of its determination and any
86 necessary actions. Fair housing or civil rights matters that arise after conversion will be
87 addressed in accordance with applicable authorities.

88
89 Additionally, a Project Owner may be required to demonstrate that its proposed activities
90 under RAD are consistent with any applicable VCA, conciliation agreement, consent order or
91 consent decree, final judicial ruling, or administrative ruling or decision. HUD may terminate
92 an approval if it determines that the terms of the conversion would be inconsistent with fair
93 housing or civil rights laws or a fair housing or civil rights court order, settlement agreement,
94 or VCA. Furthermore, if a project is subject to a VCA, conciliation agreement, consent order
95 or consent decree, or final judicial ruling or administrative ruling or decision, it must ensure
96 that the ownership agreement or other appropriate document makes the new Project Owner
97 subject to the remedial provisions contained in such documents. It is the Project Owner’s
98 obligation to disclose such documents, etc., to the prospective Project Owner. The extent of
99 the Project Owner’s responsibilities, including whether the responsibilities are appropriately
100 limited to the development, maintenance, or operation of the particular RAD project, must be
101 appropriately documented. The Project Owner will follow any requirements for the
102 modification of such VCA, conciliation agreement, consent order or consent decree, or final
103 judicial ruling or administrative ruling or decision. If HUD is a party to such document, the
104 RAD project will not close without HUD’s express approval of the transfer of obligations to
105 the new Project Owner.

106
107 **4.3.2 Eligible Properties and Units**

108
109 **A. Eligible Properties and Units.** A property is eligible for conversion if the property is
110 currently receiving assistance through a PRAC that is in its renewal term. A property
111 assisted by a PRAC in its initial term is also eligible for conversion but, depending on the age
112 of the funds HUD has obligated to the contract, may have to time the conversion based on
113 when funding can be transferred to support a conversion to a Section 8 contract. For a
114 property assisted by a PRAC in its initial term, the Project Owner should confirm with HUD
115 the necessary timing of its conversion. Properties that were previously assisted under a
116 PRAC which has been terminated due to noncompliance are ineligible to participate under

117 this Notice. A Project Owner may include under the subsequent Section 8 HAP Contract no
118 more than the number of units covered under the PRAC.

- 119
120 **B. Physical Condition.** For PBRA conversions, unless project plans address (or obviate,
121 through transfer of assistance) all physical deficiencies identified in the most recent REAC
122 Inspection report, the project must have a REAC score of 60 or above.

123
124 For PBV conversions, the Converting Project must qualify as “existing housing” in order to be
125 eligible for conversion. This means that the PHA must ensure that the Converting Project’s
126 units substantially comply with HQS, as defined in the PHA’s Section 8 administrative plan,
127 prior to submission of the Conversion Plan (see Section 4.7.4 for more information on the
128 Conversion Plan). Prior to entering into a PBV HAP Contract, the PHA must inspect the
129 Converting Project proposed for conversion to ensure that the units fully comply with HQS,
130 unless the PHA is using HOTMA non-life threatening and alternative inspection provisions.¹

131
132 **4.4 General Requirements**

- 133 **A. Applicability of PRAC Requirements.** Until conversion and the effective date of a HAP
134 Contract, properties continue to be subject to the requirements of the PRAC. Owners of 202
135 PRAC Projects are required to submit a project budget and any accompanying request for a
136 Budget Based Rent Increase annually for renewal of the PRAC. HUD requires that Project
137 Owners analyze project operating and capital needs as well as the efficacy of resident
138 services at each renewal and request adjustments to the Operating Expense Amount
139 accordingly.

- 140
141 **B. Capital Needs Assessment (CNA).** Each Converting Project is required to have a CNA and
142 to demonstrate that both short-term and long-term capital needs can be addressed through the
143 replacement reserve account (see paragraph C) and/or through financing (see paragraph D) as
144 appropriate. The CNA contains two major components – the narrative (the description of
145 each component and its age and condition) and the financial model (the 20-year schedule and
146 associated determination of the Initial Deposit to Replacement Reserve, or IDRR, and the
147 Annual Deposit to Replacement Reserve, or ADRR). The CNA must be completed or
148 updated within 12 months of the submission of the Conversion Plan, except with HUD
149 approval. Further, the CNA must be performed by a qualified, independent third-party
150 professional as defined in Section 5.2.B.2 of the MAP Guide. The CNA must be prepared in
151 accordance with the instructions at Appendix 5G of the MAP Guide although the use of a
152 specific format is not required unless HUD requires a specific format for 202 PRAC budget-
153 based rent increase requests. The CNA submitted for RAD must be consistent with any CNA
154 submitted to a Multifamily Regional Center as part of the demonstration of project expenses

¹ See Notice PIH-2017-20

155 for the most recent annual rent adjustment under the 202 PRAC, although it may include
156 additional discretionary items. (As such, the CNA submitted for the purposes of
157 demonstrating project expenses must meet the aforementioned standards.) The CNA will
158 identify certain improvements for physical accessibility for persons with disabilities as well
159 as design considerations that promote housing stability for an aging population. In further
160 developing the scope of work, refer to Paragraphs E, F, and G regarding Accessibility
161 Requirements, Design Considerations for Elderly Housing, and Healthy Housing and Energy
162 Efficiency, respectively.

163
164 **C. Replacement Reserve.** The Project Owner shall establish and maintain a replacement
165 reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair
166 and replacement of capital items. The reserve must be built up to and maintained at a level
167 determined by HUD to be sufficient to meet projected needs as identified in the CNA 20-year
168 replacement schedule. The Project Owner must commit to repairing and replacing
169 components generally in accordance with the schedule set forth in the CNA. HUD
170 encourages Project Owners to evaluate the 20-year replacement needs of the property at the
171 time of their annual PRAC renewal, prior to submitting a Conversion Plan.

- 172
- 173 • For PBRA, 24 CFR § 880.602 applies, as amended (see Appendix I).
- 174 • For PBV, replacement reserves shall be maintained in a bank account or similar
175 instrument, as approved by HUD, where funds will be held by the mortgagee or,
176 where there is no financing, by the Project Owner and may be drawn from the reserve
177 account and used subject to HUD guidelines.
- 178

179 **D. Financing and Repairs.** If the CNA identifies repairs as critical, immediate or required
180 within the first two years following conversion and the total of such repairs exceeds an
181 average of \$5,000 per unit, if HUD determines that immediate repairs are necessary based on
182 REAC scores of 59 or less or referrals to the Department Enforcement Center (DEC) related
183 to physical conditions, or if there is outstanding noncompliance with accessibility
184 requirements identified by the CNA, the Project Owner must demonstrate as a condition of
185 closing that it has secured financing sources to address such needs and must agree to address
186 such needs within a prescribed period following the conversion as part of the Work.
187 Following conversion and the completion of any immediate repairs, HUD requires all
188 Projects to either utilize available capital replacement reserves to address ongoing capital
189 repair and replacement needs generally consistent with the CNA, or to periodically
190 recapitalize as lifecycle improvements become necessary.

191
192 **E. Accessibility Requirements.** Federal accessibility requirements apply to all conversions.
193 The laws that most typically apply to HUD-assisted housing undergoing rehabilitation
194 include Section 504 of the Rehabilitation Act of 1973 (Section 504), the Fair Housing Act,
195 and, in some cases, the Americans with Disabilities Act (ADA). Although the requirements

196 of each of these laws are somewhat different, Project Owners must comply with each law
197 that applies. Section 504 and the ADA apply to new construction and additions as defined in
198 24 CFR § 8.22, substantial alterations and other alterations as defined in 24 CFR § 8.23 and
199 to existing, unaltered facilities (24 CFR § 8.24), as well as any combination thereof. See also
200 28 CFR § 35.151(b) and 28 CFR § 36.402. Section 504 and the ADA also require structural
201 modifications as reasonable accommodations. The Fair Housing Act applies to the design
202 and construction of multifamily dwellings built for first occupancy after March 13, 1991. It
203 also requires that Project Owners allow for structural alterations in housing generally as
204 reasonable modifications when necessary for an individual with a disability to use and enjoy
205 a dwelling, and under these authorities, Project Owners must ensure that reasonable
206 modifications remain available to the resident after construction or alteration (e.g.,
207 accommodations are preserved through the course of the construction work or, if the resident
208 is moved to a different unit as a result of construction, are installed in the new unit).

209
210 When a Project’s rehabilitation meets the definition of a “substantial alteration” under 24
211 CFR § 8.23, the Project Owner must comply with all applicable accessibility requirements
212 for new construction at 24 CFR § 8.22 under HUD’s Section 504 regulations as well as the
213 ADA. For some Projects, “other alterations” are made over time. If other alterations,
214 considered together, amount to an alteration of an entire dwelling unit, the entire dwelling
215 unit shall be made accessible, until five percent of the dwelling units in a project are readily
216 accessible to and usable by individuals with mobility impairments (see 24 CFR § 8.23).

217
218 Project Owners are encouraged to use universal design principles, visitability principles, and
219 active design guidelines in planning any construction. However, adherence to any of these
220 principles or guidelines does not replace compliance with the accessibility requirements of
221 Section 504, the ADA, and the Fair Housing Act.

222
223 **F. Design Considerations for Elderly Housing.** Quality housing is a platform for health and
224 wellness. Health can be promoted through both supportive services (as described below) and
225 through a physical living environment suitable for the needs of the anticipated residents. In
226 the context of housing for the elderly, enhanced livability of the physical environment
227 promotes housing stability and may prevent premature institutionalization in assisted living
228 or nursing homes. A well-situated, well-designed physical space at the unit and building level
229 can help seniors maintain independence and age in place longer. In addition to any required
230 accessibility features under Section 504 of the Rehabilitation Act of 1973, the design and
231 construction requirements of the Fair Housing Act, or Title II of the Americans with
232 Disabilities Act, the Department strongly encourages Project Owners to incorporate design
233 standards that address fall prevention, visitability, universal design, and electronic
234 communication mechanisms when developing or rehabilitating housing and community
235 facilities. Project Owners are expected to consider access to transportation and walkability to
236 the surrounding community and neighborhood services when selecting sites for a transfer of

237 assistance. These design elements and siting decisions all serve to enhance the livability of
238 housing for older adults and promote housing stability.

239

240 **G. Healthy Housing and Energy Efficiency.** If systems and appliances are being replaced as
241 part of the Work identified in the approved Conversion Plan, the Project Owner shall utilize
242 the most energy- and water-efficient options that are financially feasible and that are found to
243 be cost-effective. The use of Energy Star®, WaterSense® or Federal Energy Management
244 Program (FEMP)-designated products and appliances, if any such designation is available for
245 the applicable system or appliance, is presumed to be the minimum threshold for meeting
246 such requirement.² Project Owners are strongly encouraged, for all Converting Projects, to
247 scope rehabilitation and ongoing replacements that utilize the components that the CNA
248 indicates will improve indoor air quality, prepare the property for known or anticipated
249 natural hazards, generate utility cost savings for residents or common areas, and/or reduce
250 overall environmental impact, where those components are determined to be cost-effective
251 and consistent with healthy housing and energy efficiency principles and best practices.

252

253 **H. Existing Residual Receipts Balance.** Project Owners may apply any balance in the
254 Converting Project’s residual receipts as a source in the development budget to support
255 conversion. Eligible conversion-related uses for these funds include pre-development,
256 development, or rehabilitation costs of the Covered Project, or establishment of the
257 replacement reserve or operating reserve.

258

259 **I. Operating Reserve.** The Project Owner shall establish and maintain a Project operating
260 reserve account in an interest-bearing account to be used for project purposes, consistent with
261 this paragraph. Withdrawals from the operating reserve do not require HUD approval.
262 However, surplus cash distributions are prohibited during any period when the balance in the
263 operating reserve is less than \$250 per unit. The Project operating reserve is separate and
264 apart from the replacement reserve. The operating reserve must be used for the benefit of the
265 project, including to provide working capital, to cover unexpected operating or capital
266 expenses, to bridge periods of financial instability, to cover budget deficiencies arising from
267 time to time as a result of delinquent receivables or other contingencies, or for other similar
268 purposes determined by the Project Owner as beneficial to preserve the financial or physical
269 stability of the Project. HUD will monitor the balance in the operating reserve when
270 reviewing the Project Owner’s annual financial statements. An operating reserve required by
271 a third-party source of financing (e.g., a lender or a LIHTC-motivated equity investor) that
272 meets or exceeds \$250 per unit satisfies the requirements of this Section and the Project
273 Owner is not required to maintain a distinct operating reserve for this purpose.

274

² 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/>.

275 **J. Ownership and Control.** Through the term of the Converting Project’s Capital Advance
276 Use Agreement, HUD will require ownership or control of the Covered Project by a non-
277 profit entity. A non-profit entity is an organization that has tax-exempt status under Section
278 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code of 1986 or that is a non-profit
279 consumer cooperative and includes a non-profit entity that is affiliated with a public agency.
280 Subject to HUD review, non-profit entity ownership or control requirements may be satisfied
281 if a non-profit entity (or entities), directly or through an entity wholly owned by the non-
282 profit entity (or entities) meets one or more of the following: (1) holds a fee simple interest in
283 the real property of the Covered Project; (2) is the lessor under a ground lease with the
284 Project Owner; (3) has the direct or indirect legal authority (via contract, partnership share,
285 agreement of an equity partnership, voting rights, or otherwise) to direct the financial and
286 legal interests of the Project Owner with respect to the RAD units; (4) owns 51 percent or
287 more of the general partner interests in a limited partnership or 51 percent or more of the
288 managing member interests in a limited liability company with all powers of a general
289 partner or managing member, as applicable; (5) owns a lesser percentage of the general
290 partner or managing member interests and holds certain control rights as approved by HUD;
291 (6) owns 51 percent or more of all ownership interests in a limited partnership or limited
292 liability company and holds certain control rights as approved by HUD; or (7) other
293 ownership and control arrangements approved by HUD. Note however, that prior to
294 conversion, the Converting Project must continue to meet the ownership requirements set
295 forth in the Housing Act of 1959, as amended.

297 **K. Elderly Housing Use Agreement.** A Covered Project shall have an Elderly Housing Use
298 Agreement. The Elderly Housing Use Agreement will:

- 299 • Restrict the units covered under the HAP Contract, but not govern any other units at
300 the Covered Project;
- 301 • Be recorded in a superior position to all other liens on the property that HUD
302 determines could compromise the applicability or enforceability of the Elderly
303 Housing Use Agreement. The Elderly Housing Use Agreement shall be recorded
304 prior to any mortgage or security instrument, including an FHA-insured loan or a
305 Risk-Share loan;
- 306 • Have a term equal to the remaining term of the Capital Advance Use Agreement plus
307 20 years but not to exceed 60 years from the commencement of the Capital Advance
308 Use Agreement;
- 309 • Remain in effect even in the case of abatement or termination of the HAP Contract,
310 although the Secretary may approve a modification or termination of the Elderly
311 Housing Use Agreement to facilitate a transfer of assistance or if HUD determines it
312 is necessary in order to address a demonstrated financial burden caused by
313 insufficient Federal appropriations;

- 314 • Provide that, if the HAP Contract is terminated due to breach or non-compliance by
315 the Project Owner, for all units previously covered under the HAP Contract, new
316 tenants must meet the definition of “elderly family” in 24 CFR 5.403; and
317 1. Through the period equal to the remaining term of the Capital Advance Use
318 Agreement, must have incomes at or below fifty percent (50%) of the area
319 median income (AMI) at the time of admission and rents may not exceed
320 thirty percent (30%) of fifty percent (50%) of AMI for an appropriate-size unit
321 for the remainder of the term of the Elderly Housing Use Agreement; and
322 2. Thereafter and through the remainder of the Elderly Housing Use Agreement,
323 must have incomes at or below eighty percent (80%) of the area median
324 income (AMI) at the time of admission and rents may not exceed thirty
325 percent (30%) of eighty percent (80%) of AMI for an appropriate-size unit for
326 the remainder of the term of the Elderly Housing Use Agreement;
327 • Require compliance with all applicable fair housing and civil rights requirements,
328 including the obligation to affirmatively further fair housing; and
329 • Prescribe potential remedies in the event of default, which remedies may include,
330 without limitation, civil money penalties, injunctive relief, specific performance, the
331 right to take possession subject to non-disturbance of subordinate lienholders, the
332 right to appointment of a receiver, the right to require a transfer of the Covered
333 Project with consent of mortgage lienholders, the right to transfer the HAP Contract,
334 and any other remedy available at law or in equity.
335

336 **L. Restriction on Net Proceeds from Refinance or Sale.** The proceeds from any refinance or
337 sale of the Covered Project, net of funds described below, that occurs during the period equal
338 to the remaining term of the original Capital Advance Use Agreement will be restricted to
339 benefit the Covered Project or residents at the Covered Project (e.g., capital improvements,
340 service delivery, or any uses set forth in a HUD-approved sources and uses statement other
341 than acquisition) or to other Affordable Housing Purposes. For purposes of this paragraph,
342 proceeds of a refinancing include all commercial or subsidized loan proceeds, equity
343 investments and grants received by or invested in the Project Owner after deduction of funds
344 used for repayment of commercial first mortgage debt secured by the Covered Project. For
345 purposes of this paragraph, proceeds of a sale include all cash or other direct or indirect
346 consideration paid to or on behalf of the seller of a Covered Project after deduction of funds
347 used for repayment of commercial first mortgage debt secured by the Covered Project. In
348 addition, in the context of an arms-length sale to an unrelated third party, net proceeds of a
349 sale shall be determined after deduction of the following:

- 350 • The seller’s payment of real estate or transfer taxes and fees, recording fees, real
351 estate brokerage fees, and reasonable third-party transaction costs associated with the
352 sale;
- 353 • Any unrecovered (i.e., not previously drawn) seller equity in the Covered Project.
354 Seller equity shall be calculated as a pro-rata portion of the original Capital Advance

355 Note corresponding to the term of the Capital Advance Use Agreement that has
356 elapsed;³ and

- 357 • Paydown of any Identity of Interest (IOI) loans or advances that were used to address
358 the needs of the project or residents of the project.

359

360 **M. Environmental Reviews.** Under Federal environmental review requirements, proposed RAD
361 Projects are subject to environmental review. Environmental documents are required to be
362 submitted as part of the applicant’s overall Conversion Plan. A Conversion Plan cannot be
363 approved by HUD if the Project plan does not meet environmental review requirements.
364 Please see Attachment 4A for a discussion of the environmental review requirements
365 applicable to PRAC conversions, including conversion transactions that will not result in the
366 alteration of the physical condition of the Project.

367

368 **N. Relocation and Right to Return.** Any person who is legally on the lease or otherwise in
369 lawful occupancy at the Converting Project at or after the time of submission of the
370 Conversion Plan has a right to remain in or, in the event that rehabilitation will result in the
371 relocation of residents, a right to return to an assisted unit at the Covered Project. Any
372 relocation as a direct result of acquisition, demolition, or rehabilitation is subject to
373 requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies
374 Act of 1970 (URA) which are found at 49 CFR part 24. Proper notices including the General
375 Information Notice (GIN), when applicable, must be sent in accordance with URA
376 regulations and other applicable relocation regulations. Additionally, relocation and one-for-
377 one replacement requirements under section 104(d) of the Housing and Community
378 Development Act of 1974 may apply when CDBG or HOME funds are used in connection
379 with a RAD conversion. Section 104(d) requirements are found at 24 CFR part 42, subpart C,
380 and program-specific relocation requirements for CDBG and HOME projects are found at 24
381 CFR 570.606 and 24 CFR 92.353, respectively. The applicability of URA or section 104(d)
382 requirements to a RAD conversion is fact-specific and must be determined in accordance
383 with the applicable URA and section 104(d) regulations. Permanent involuntary
384 displacement of residents may not occur as a result of a Project’s conversion of assistance. If
385 proposed plans for a Project would preclude a resident from returning to the Covered Project,
386 the resident must be given an opportunity to comment and/or object to such plans. If the
387 resident objects to such plans, the Project Owner must alter the Project plans in order to
388 house the resident in the Covered Project. If a resident agrees to the plans which would

³ For example, if a property with an original Capital Advance Note of \$10 million is sold as part of the proposed conversion 20 years into the original 40 year Capital Advance Use Agreement term, the Project Owner would have accrued \$5 million in seller equity (20 years ÷ 40 year × \$10 million) that would be unrestricted at sale. If the property were subsequently re-sold 10 years later the maximum seller equity potentially available at that time would be \$7.5 million. However, if \$3 million in seller equity had been drawn at the original conversion, the maximum unrecovered seller equity available at the subsequent sale would be \$4.5 million.

389 preclude the resident’s return, the Project Owner must ensure that the resident’s decision is
 390 fully informed, voluntary, and well documented. To be fully informed, at a minimum the
 391 resident must be notified in writing of a) his or her right to return; b) his or her right to object
 392 to plans which would preclude the resident from returning; c) the Project Owner’s obligation
 393 to accommodate the resident’s right to return; and d) a description of the short and long-term
 394 implications of both the right to return arrangements (e.g., temporary relocation) and the
 395 resident’s options if the resident agrees to such plans. The resident must be provided
 396 counseling regarding the resident’s rights and options. To be voluntary, a resident must be
 397 informed of their right to return, potential for relocation, and temporary and permanent
 398 housing options 30 days before making a decision. In addition, under the URA regulation,
 399 residents must be provided notice of relocation at least 90 days before the relocation. The
 400 Project Owner cannot employ any tactics to pressure the resident into relinquishing his or her
 401 right to return or accepting permanent relocation assistance and payments. To be well
 402 documented, evidence of a resident’s decision must be retained by the Project Owner. At a
 403 minimum such evidence must include copies of notices informing the resident of their
 404 options, records of any counseling or assistance provided, and the resident’s informed,
 405 written consent, including an acknowledgement that acceptance of such assistance terminates
 406 the resident’s right to return to the Covered Project. If the resident agrees to the Project
 407 Owner’s plans, the permanent relocation is considered voluntary, but must include, at a
 408 minimum, any relocation assistance and payments required under the URA and Section
 409 104(d), as applicable. The Project Owner may not propose or request that residents waive
 410 their rights or entitlements to relocation assistance under the URA or Section 104(d).

411
 412 **O. Site Selection and Neighborhood Standards.** Where a Project Owner is planning to convert
 413 assistance under RAD, the Project Owner must comply with all applicable site selection
 414 requirements, including those of 24 CFR § 983.57 for PBV (except as waived in Section
 415 4.5.E) and Appendix III of this Notice for PBRA, and of the Fair Housing Act and Title VI of
 416 the Civil Rights Act of 1964, including implementing regulations at 24 CFR § 1.4(b)(3), and
 417 of Section 504 of the Rehabilitation Act of 1973, including implementing regulations at 24
 418 CFR § 8.4(b)(5).

419
 420 **P. Change in Unit Configuration.** Project Owners may change the unit configuration in
 421 conjunction with conversion (e.g., converting efficiency units to one-bedroom units).
 422 However, the Project Owner must ensure that the change in bedroom distribution will not
 423 result in the involuntary permanent displacement of any resident (see Section 4.4.M on
 424 Relocation and Right to Return), will not result in a reduction in accessible units below the
 425 minimum percentage, and will not, except with HUD approval, result in a reduction in the
 426 number of assisted units by the greater of 5% or five units. The Project Owner must also
 427 ensure that a change in unit configuration does not result in discrimination based on race,
 428 color, national origin, religion, sex, disability, or familial status.

429

430 **Q. Transfer of Assistance (TOA).** In order to facilitate the financing, development, and
 431 preservation of decent, safe, and sanitary affordable housing, there are three scenarios under
 432 which assistance converted pursuant to RAD may be transferred from the existing Project
 433 (for the purposes of this paragraph, transfer of assistance does not include transfers to an
 434 adjacent site): (1) the Project Owner requests assistance to be transferred as part of the
 435 conversion from a Converting Project to another Project; (2) post-conversion, the Project
 436 Owner requests a partial or full transfer of assistance to another Project; or (3) as a result of a
 437 default of the HAP Contract, HUD terminates the HAP Contract but seeks to preserve the
 438 assistance at another Project with another Project Owner.

439

440 HUD will ascertain that assistance does not transfer to neighborhoods with highly
 441 concentrated poverty based on the criteria formulated for transfers under section 8(bb) of the
 442 Act.⁴ Further, HUD will consider whether conversion on-site is economically non-viable;
 443 whether the Converting Project is physically obsolete or severely distressed; how the transfer
 444 would affect the Converting Project's residents; and all applicable fair housing and civil
 445 rights requirements.⁵ Project Owners are strongly encouraged to request HUD approval of
 446 the proposed site prior to submission of the Conversion Plan.

447

448 For PBV transfers of assistance to a new site, the PRAC contract will remain in effect at the
 449 original site and will not be terminated until the units at the new site are ready for occupancy
 450 and the HAP Contract is executed. For PBRA transfers of assistance, the HAP Contract can
 451 be executed at the closing of the construction financing and the Project Owner may use the
 452 Section 8 Pass-Through to provide for the continued flow of subsidy during the construction
 453 period.⁶

454

455 After initial conversion, in general, a Project Owner may only request a transfer of assistance
 456 after 10 years from the effective date of the initial HAP Contract. A Project Owner may

⁴ The analysis can be found in Section VIII B.1 of Notice H-2015-03, "Transferring Budget Authority of Project-Based Section 8 Housing Assistance Payments Contract under Section 8(bb)(1) of the United States Housing Act." A copy of the criteria is available at www.hud.gov/rad. At a minimum, projects that are located in neighborhoods that meet the 8(bb) criteria satisfy the requirement under this Notice that transfers not occur to neighborhoods of concentrated poverty. HUD may modify these criteria as appropriate to fit the purposes of RAD and will post the applicable criteria at www.hud.gov/rad.

⁵ For example, any transfers of assistance must comply with requirements detailed in this Notice on Site and Neighborhood Standards (see Section 4.4.O), Changes in Unit Configuration (see Section 4.4.P), and Accessibility Requirements (see Section 4.4.E). For PBV conversions, PHAs will be responsible for this determination.

⁶ As fully described in Handbook 4350.1, under Section 8 Pass Through, Project Owners with residents under a project-based Section 8 HAP Contract whose unit was rendered uninhabitable may temporarily lease a unit in another building, which is habitable, under UPCS. The Project Owner can sign a temporary lease on behalf of the displaced Section 8 resident (i.e., a master lease) and begin to voucher for the contract rent for that temporary unit.

457 submit a transfer request sooner if it is needed as a result of eminent domain proceedings,
458 natural disasters, unforeseen events, or as otherwise approved by HUD (for example, if HUD
459 provided approval of a future transfer prior to conversion). HUD may consider, and approve
460 with such conditions as HUD determines appropriate, a partial or complete transfer of
461 assistance to a new location if the new location complies with applicable site selection
462 standards. If applicable, any lender to and/or investor in the Covered Project must also
463 approve the transfer of the assistance. Substantially all units covered by the initial HAP
464 Contract must remain or be replaced as a result of the transfer. Residents of the original
465 location at the time of the transfer request shall not experience a loss of rental assistance.
466 PBV-assisted families living at the property upon termination of a PBV HAP Contract have a
467 statutory right to receive a tenant-based voucher and to certain tenancy protections.⁷ (A
468 family may voluntarily decline the tenant-based voucher and accept a PBV unit at the new
469 location but may not be required to do so.) Termination of a PBV contract is not cause for
470 issuance of additional tenant-based voucher assistance from HUD. PHAs and owners
471 contemplating RAD PBV transfers after conversion must take the PBV families' right to
472 tenant-based voucher assistance into consideration and ensure that there will be sufficient
473 resources available to the PHA to both effectuate the transfer and meet the PHA's obligation
474 to provide tenant-based vouchers to those families that wish to receive them. Subject to the
475 availability of appropriations, PBRA-assisted families living at the property upon termination
476 of a PBRA HAP Contract that meet the eligibility requirements for voucher assistance may
477 receive tenant-based tenant protection vouchers (TPVs) in the event the termination of the
478 original PBRA HAP Contract qualifies for issuance of such vouchers.

479
480 In the event that a transfer of assistance is approved, the underlying Elderly Housing Use
481 Agreement will be transferred to the new Project and HUD will release the Elderly Housing
482 Use Agreement on the original site corresponding to the units transferred.

483
484 **R. Davis-Bacon prevailing wages.** Execution of a HAP Contract through RAD that provides
485 rental assistance to previously-assisted units does not trigger Davis-Bacon prevailing wage
486 requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and
487 implementing regulations, rules, and requirements). However, to the extent that construction
488 or rehabilitation is performed on nine or more units that were not previously rent assisted or
489 rent restricted and will be newly assisted as a result of the conversion transaction (including,
490 without limitation, through transfer of assistance), such construction or rehabilitation is

⁷ See the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and HUD's implementation notices including the "January 18, 2017 HOTMA implementation notice, 82 Fed. Reg. 5458," and the "July 14, 2017 technical correction and clarification notice, 82 Fed. Reg. 32461." Also see Notice PIH 2017-21. Pursuant to applicable Housing Choice Voucher program requirements, upon PBV HAP Contract termination the family must be given the option to remain in their unit with HCV assistance if the unit remains rental housing, the rent is reasonable, and the unit meets housing quality standards.

491 subject to Davis-Bacon prevailing wage requirements. In such cases, Davis-Bacon applies to
492 a PBRA conversion to the same extent it would apply if the conversion were a PBV
493 conversion.
494

495 **S. Supportive Services for the Elderly.** A Service Coordinator and/or the availability of
496 Supportive Services for the elderly plays a critical role supporting the physical and mental
497 health and wellness of residents and the delivery of cost-effective long-term community-
498 based housing for this population. HUD encourages Project Owners to evaluate the service
499 provision at the time of their annual PRAC renewal, prior to submitting a Conversion Plan.
500 Each project will be required to demonstrate that the needs of residents are adequately met
501 either through a Service Coordinator (full-time or part-time) funded through the annual
502 project budget or through another service coordination/service provision arrangement.
503 Project Owners must describe how the proposed supportive services provided by the Project
504 or otherwise available to residents will meet the identified needs of the anticipated residents
505 as they age. Project Owners must further describe how the identified supportive services will
506 be provided or otherwise made available on a consistent, long-term basis to support residents.
507 These commitments will be incorporated into terms of the Elderly Housing Use Agreement
508 and/or HAP Contract at closing.
509

510 **T. Provision of Services.** For properties that have submitted an Initial Submission of Interest to
511 HUD (i.e., prior to conversion), HUD may approve service costs to be paid from Section 202
512 project rental assistance up to \$27 per unit per month if it is necessary to provide effective
513 supportive services for the elderly. This adjustment to the PRAC contract shall be subject to
514 the availability of funding in the Housing for the Elderly account.⁸ Accordingly, conditioned
515 on the project's successful conversion, HUD is waiving and providing an alternative
516 requirement to 24 § CFR 891.225, which limits the eligible service costs that can be paid
517 from project rental assistance to \$15 per unit per month. This rent adjustment would become
518 effective immediately prior to the conversion (following Conversion Plan Approval and
519 following release of all Closing documents from escrow to permit the Closing) and would be
520 rescinded if the conversion does not occur. Following conversion, the Project Owner is
521 required to maintain provision of services in accordance with this paragraph.
522

523 **U. Lead Based Paint Hazards.** For properties built before 1978 and in the infrequent case that
524 a child under age 6 resides in one or more units:

- 525 • The Lead Disclosure Rule and the Lead Safe Housing Rule (specifically, 24 CFR part
526 35, subparts A, B, H, and R) apply to each such unit, any common areas servicing such
527 units, and exterior painted surfaces associated with such units or common areas.

⁸ PRAC renewals and rent adjustments are funded from the Housing for the Elderly account. Renewal of ongoing PRAC contracts including inflationary adjustments to core operating expenses will be prioritized over mid-cycle rent increases that enhance services and replacement reserves for converting properties.

528 (These covered areas must have a risk assessment conducted and any lead-based paint
529 hazards identified controlled and cleared, with affected tenants getting disclosure
530 and/or notification of these activities, as applicable; see also the MAP Guide section
531 9.5.A, Lead-Based Paint.)

532 • If occupancy rule exceptions are made to allow children under age 6 to reside (such as
533 in accordance with the Living Equitably: Grandparents Aiding Children and Youth
534 Act of 2003, P.L. 108-186), the general exemption of the property from the lead safety
535 rules is not available and they apply to the entire property.

536

537 **V. Completion Certification.** HUD may require a certification or evidence of completion of
538 any requirements the Project Owner is required to complete following the conversion of
539 assistance.

540

541 **4.5 Special Provisions Affecting Conversions to PBVs**

542

543 Certain PBV statutory provisions have been waived or altered consistent with the authority
544 Congress has provided for Second Component conversions. In these cases, HUD also notes the
545 corresponding regulatory provisions that are waived or altered. Additionally, HUD has waived
546 certain regulatory provisions (that are not statutorily based) and established alternative
547 requirements in order to prevent displacement of certain residents and otherwise serve the
548 purposes of this Demonstration. All other regulatory and statutory requirements of the PBV
549 program in 24 CFR part 983 and section 8(o)(13) of the Act and applicable standing and
550 subsequent Office of Public and Indian Housing guidance, including related notices and
551 handbooks shall apply, including resident choice, environmental review, and non-discrimination
552 and equal opportunity requirements.

553

554 The modified or alternative requirements that pertain solely to 202 PRAC Projects converting
555 assistance to PBV under the Demonstration are described below.

556

557 Please note that while in this Notice HUD prescribes requirements for converting 202 PRAC
558 Projects to PBV, the conversion of project subsidy from its current PRAC account to a PBV
559 contract will result in added complexity to the closing of the transaction (as compared to PRAC
560 conversions to PBRA) and may cause unforeseen delays.

561

562 **A. Initiation of Contract.** The HAP may only be effective at the expiration of the PRAC.
563 Further in order to provide sufficient time for HUD to transfer funds across appropriated
564 accounts and then to subsequently obligate new funding to a PHA's Housing Choice

565 Voucher ACC, all closing conditions must be satisfied, and all transaction documents
566 executed and held in escrow, 90 days before the PRAC expiration.⁹

567 **B. Length of Contract.** Section 8(o)(13)(F) of the Act provides, in part, that the HAP Contract
568 may have an initial term of up to 20 years. In addition, 24 CFR § 983.205(a) provides the
569 PHA with discretion to set the contract term, for a minimum period of one year and a
570 maximum period of twenty years. By choosing to participate in RAD, the PHA and the
571 Project Owner agree to an initial HAP Contract term of 20 years. A PHA may enter into an
572 extension of the initial HAP Contract term with the Project Owner at any time during the
573 initial term. The PBV HAP Contract during the initial and any extended term is subject to the
574 requirement for sufficient annual appropriated funding.

575
576 **C. Mandatory Contract Extension.** Section 8(o)(13)(G) of the Act provides, in part, that the
577 extension of any PBV HAP Contract is at the discretion of the PHA. The regulatory
578 provisions governing PBV HAP Contract extensions are contained in 24 CFR § 983.205(b).
579 By choosing to participate in RAD, the PHA agrees to offer, and the Project Owner agrees to
580 accept, each extension of the initial HAP Contract term during the term of the Elderly
581 Housing Use Agreement so that the contract could expire no earlier than the expiration date
582 of the Elderly Housing Use Agreement.¹⁰ As indicated in Section 4.5.A, the PBV HAP
583 Contract during the initial and any extended term is subject to the requirement for sufficient
584 annual appropriated funding. The contract extension(s) shall be for the prescribed number
585 and mix of units but may, upon request of the Project Owner and subject to HUD approval,
586 be on one or more transfer of assistance sites in lieu of the project site subject to the expiring
587 contract.

588
589 **D. PBV Percentage Limitation.** Per the RAD statute, Section 8(o)(13)(B) of the Act (and, by
590 extension, 24 CFR § 983.6) does not apply and Covered Projects do not count against the
591 percentage limitation applicable to the PBV program. As a result, a PHA that is
592 administering RAD PBV assistance does not take the RAD PBV into consideration when
593 calculating the percent limitation for any non-RAD PBV actions that are subject to the
594 percent limitation. In other words, RAD PBV is excluded from both the numerator and the
595 denominator when calculating the percent that may be project-based for non-RAD PBV.

596
597 **E. Cap on the Number of PBV Units in Each Project.** There is no cap on the number of units
598 that may receive RAD PBV assistance in each project because under the HOTMA

⁹ In addition to statutory limitations, HUD must structure the conversion in this manner in order to ensure that there are not delays between when the PHA has subsidy obligations under the HAP contract and when funds are obligated to the PHA's HCV program and to ensure that the funding provided is adequate.

¹⁰ For example, if the Elderly Housing Use Agreement required a minimum affordability period of 39 years, the PHA and Project Owner would enter into an initial 20-year HAP contract and, because the Elderly Housing Use Agreement would still be in effect at the end of the 20 year term, must subsequently agree to extend the contract for at least 19 additional years.

599 Implementation Notice, units exclusively serving elderly families are excepted from the
600 project cap.

601

602 **F. Site Selection –Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24**
603 **CFR § 983.57(b)(1) and (c)(2).** HUD waives these provisions having to do with
604 deconcentration of poverty and expanding housing and economic opportunity, for the
605 existing site.

606

607 **G. Owner Proposal Selection Procedures, 24 CFR § 983.51.** Projects are selected in
608 accordance with program requirements detailed in this Notice. HUD is waiving 24 CFR §
609 983.51. For purposes of RAD, the date of PBV proposal selection shall be the date on which
610 the Project Owner submits a Conversion Plan. With respect to site selection standards, HUD
611 requires compliance with the site selection standards as set forth in this Notice.

612

613 **H. Initial Contract Rent Setting.** Consistent with the requirements of section 8(o)(13)(H) of
614 the 1937 Act and 24 CFR part 983, Subpart G, the initial contract rents will be the lower of:
615 (a) the approved PRAC rents determined by HUD;¹¹ (b) the reasonable rent (as defined under
616 24 CFR § 983.303); (c) an amount determined by the PHA, not to exceed 110 percent of the
617 applicable FMR (or applicable exception payment standard, or rent cap approved in an MTW
618 Plan), minus any utility allowance; or (d) the rent requested by the Project Owner.

619

620 With HUD approval, Project Owners and the PHA administering the contract may adjust
621 subsidy amounts across multiple Projects proposed for conversion in order to modify initial
622 contract rents that would be established in the HAP Contracts, as long as the subsidy
623 adjustments do not exceed the aggregate subsidy for all of the Projects that the Project
624 Owners has submitted for conversion under RAD and as long as the rents do not exceed
625 applicable rent limits described in 24 CFR part 983 subpart G. This use, which HUD refers to
626 as “bundled” rents, is permissible when multiple Project Owners in mutual agreement submit
627 Conversion Plans for two or more Projects. There is no limit to the number of Projects that
628 Project Owners may bundle. The conversion of the donor Project must close prior to or
629 simultaneous with the conversion of the recipient Project. For example, assume that when
630 Project Owners are considering bundling two identical Projects, both consisting of 100 units.
631 In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The Project
632 Owners could bundle the two projects such that the initial contract rents for both projects will
633 be \$550.

634

635 **I. Re-Determined Rents.** The Project Owner may request an increase in rent at the anniversary

¹¹ 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 G. If PRAC rents have been temporarily increased in accordance with an approved plan with the Multifamily Regional Center, the PRAC rents used for the purposes of setting initial contract rents at conversion will be adjusted downward.

636 date of the HAP contract by written notice to the PHA in accordance with 24 CFR
637 § 983.301(b)(2). Under the PBV regulations, a Project Owner may request an adjusted rent
638 level below the PBV rent caps. As a condition of converting to PBV under RAD, the Project
639 Owner agrees to never request a rent increase in excess of the OCAF-adjusted rent.¹² This
640 OCAF limitation is in addition to the existing PBV rent limitations in 24 CFR § 983.301(b)
641 more generally. All other PBV provisions governing the redetermination of rent to the
642 Project Owner apply.

643
644 **J. Distributions.** As an alternative requirement, distribution of surplus cash is prohibited unless
645 the Project operating reserve is funded at no less than \$250 per unit and the replacement
646 reserve is funded at a level prescribed by any conversion agreements.

647
648 **K. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion,
649 current households cannot be excluded from occupancy at the Covered Project based on any
650 rescreening, income eligibility, or income targeting. With respect to occupancy in the
651 Covered Project, current households in the Converting Project will be grandfathered for
652 application of any eligibility criteria to conditions that occurred prior to conversion but will
653 be subject to any ongoing eligibility requirements for actions that occur after conversion.¹³
654 Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to
655 PBV requirements regarding continued occupancy. For example, a unit with a household that
656 was over-income at time of conversion would continue to be treated as an assisted unit. Thus,
657 24 CFR § 982.201, concerning income eligibility and income targeting of tenants at initial
658 occupancy, will not apply for current households. Once the grandfathered household moves
659 out, the unit must be leased to an eligible family. Income eligibility requirements associated
660 with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede
661 this prohibition on rescreening, and the Project Owner may be required to exclude Section 8
662 units occupied by ineligible households from being covered by the new financing's
663 restrictions.

664
665 **L. Under-Occupied Units.** If a family is in an under-occupied unit under 24 CFR § 983.260 at
666 the time of conversion, the family may remain in the unit until an appropriate-sized unit
667 becomes available in the Covered Project.¹⁴ When an appropriate sized unit becomes
668 available in the Covered Project, the family living in the under-occupied unit must move to

¹² 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.

¹³ These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

¹⁴ A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

669 the appropriate-sized unit within a reasonable period of time, as determined by the PHA. In
670 order to allow the family to remain in the under-occupied unit until an appropriate-sized unit
671 becomes available in the Covered Project, 24 CFR § 983.260 is waived.¹⁵
672

673 **M. Occupancy Requirements.** In accordance with the RAD statute, as amended by the
674 Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141), Section 202 PRAC projects
675 converting assistance under RAD must continue to serve elderly persons. Accordingly, in
676 addition to income-eligibility and income targeting requirements in 24 CFR 982.201, new
677 admissions must meet the definition of “elderly family” in 24 CFR 5.403. See Section 4.5.K
678 regarding the treatment of current households.
679

680 **4.6 Special Provisions Affecting Conversions to PBRA**

681
682 For 202 PRAC Projects converting assistance to PBRA, 24 CFR part 880 (“Section 8 Housing
683 Assistance Payments Program for New Construction”), as modified and as published in
684 Appendix I of this Notice, the site and neighborhood standards in Appendix III of this Notice,
685 and applicable standing and subsequent Office of Housing guidance¹⁶ will apply, except for the
686 provisions listed below. Where applicable, reference is made to the affected statute and/or
687 regulation.
688

689 **A. Initiation of Contract.** The HAP effective date will typically be the first day of the month,
690 that begins at least 30 days after all closing conditions have been satisfied and documents
691 executed and recorded, as applicable. For example, for a closing that occurs on May 28th, a
692 HAP effective date will typically be July 1. This timing will enable a smooth transition from
693 vouchering for payments under the PRAC to vouchering under the new HAP.
694

695 **B. Length of Contract.** Pursuant to the RAD statute, Covered Projects shall have an initial
696 HAP Contract term of 20 years. Accordingly, section 8(d)(2)(A) of the Act, which
697 establishes a maximum term of 15 years for “an existing structure,” does not apply.
698 Additionally, 24 CFR § 880.502, which imposes maximum contract terms for New
699 Construction Projects consistent with statutory authority that was repealed in 1983, does not
700 apply.

¹⁵ As the later enacted statute, the RAD Statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141) to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

¹⁶ Examples of Office of Housing guidance include handbooks such as “Occupancy Requirements of Subsidized Multifamily Housing Programs” (4350.3) and “Multifamily Asset Management and Project Servicing” (4350.1).

701
702 **C. Mandatory Contract Renewal.** Pursuant to the RAD Statute, after the initial term of the
703 HAP Contract, the HAP Contract is eligible for renewal under section 524 of MAHRAA,
704 subject to the terms and conditions applicable at the time of renewal and the availability of
705 appropriations for each year of such renewal. By choosing to participate in RAD, the Project
706 Owner agrees to accept each offer to renew the HAP contract during the term of the Elderly
707 Housing Use Agreement so that any renewal of the HAP contract could expire no earlier than
708 the expiration of the Elderly Housing Use Agreement, but not to exceed a term of 20 years
709 for any given renewal.¹⁷ The renewal contract(s) shall be for the prescribed number and mix
710 of units but may, upon request of the Project Owner and subject to HUD approval, be on one
711 or more transfer of assistance sites in lieu of the project site associated with the expiring
712 contract.

713
714 **D. Initial Contract Rent Setting.** The initial contract rents will be the lower of (a) the approved
715 PRAC rents¹⁸ or (b) 120% of the applicable FMR (consistent with the requirements of
716 Section 8(c)(1) of the Act), less any utility allowances. A Project Owner may request that
717 HUD use the SAFMR in place of the FMR in the computation of the rent cap. To implement
718 this provision HUD is implementing an alternative requirement to 24 CFR §888.113(h) so as
719 to permit the use of a Small Area FMR by project for initial contract rent setting and when
720 adjusting contract rents.

721
722 With HUD approval, Project Owners may adjust subsidy across multiple Projects proposed
723 for conversion in order to modify the initial contract rents that would be established in the
724 HAP Contract, as long as the Project Owners do not exceed the aggregate subsidy for all of
725 the Projects the Project Owners have submitted for conversion under RAD and the rents do
726 not exceed 120% of FMR (or SAFMR, as applicable). This use, which HUD refers to as
727 “bundled” rents, is permissible when Project Owners in mutual agreement submit Conversion
728 Plans for two or more Projects. There is no limit to the number of Projects that Project
729 Owners may rent bundle together. The conversion of the “donor” Project must close prior to
730 or simultaneously with the conversion of the “recipient” Project. For example, assume that
731 two Project Owners are considering bundling two identical Projects, both consisting of 100
732 units. In Project A, the contract rent is \$500; and in Project B, the contract rent is \$600. The

¹⁷ For example, if the Elderly Housing Use Agreement required a minimum affordability period of 39 years, the HUD and Project Owner would enter into an initial 20 year HAP contract and, because the Elderly Housing Use Agreement would still be in effect at the end of the 20 year term, at the end of the term, HUD would offer and a Project Owner must request a contract renewal covering at least 19 additional years.

¹⁸ 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 C. If PRAC rents have been temporarily increased in accordance with an approved plan with the Multifamily Regional Center, the PRAC rents used for the purposes of setting initial contract rents at conversion will be adjusted downward.

733 Project Owners could bundle the two projects such that the initial contract rents for both
734 Projects will be \$550.

735
736 HUD may, in limited circumstances, modify the PRAC Rents separate from the annual
737 contract renewal process and prior to conversion, given the project budget, and subject to the
738 availability of funding in the Housing for the Elderly account.¹⁹ For example, if a CNA was
739 not available at the time of the most recent PRAC renewal, a rent adjustment to appropriately
740 update reserve for replacement deposits could be requested in the middle of the contract year,
741 ahead of conversion.

742
743 **E. Method of Adjusting Contract Rents.** Contract rents will be adjusted by an OCAF at each
744 anniversary of the HAP Contract, subject to (a) the availability of appropriations for each
745 year of the initial term of the HAP Contract, and (b) the Maximum Rent, as defined below.²⁰

746
747 The Maximum Rent is the higher of 120% of FMR or SAFMR (less utility allowances) or the
748 market rents, as demonstrated by an RCS procured and paid for by the Project Owner. Where
749 an RCS has been used to justify an OCAF adjusted rent that exceeds 120% of the FMR, the
750 RCS will remain valid for five years, the Maximum Rent will not apply for the next four
751 annual rent adjustments, and rents will be adjusted only by the OCAF. The applicable FMR
752 used for SRO units shall be the zero-bedroom (efficiency) FMR. Further, where HUD has
753 approved the use of SAFMR by project, the SAFMR will continue to serve as the applicable
754 FMR when determining the rent cap.

755
756 **F. Distributions.** Covered Projects will not be subject to any limitation on distributions,
757 contingent on satisfaction of program requirements and the availability of surplus cash as
758 determined by year-end audited or certified financial statements, and subject to the
759 provisions of this paragraph. To implement this provision, HUD will not apply 24 CFR §
760 880.205, which, among other provisions, establishes certain limitations on distributions for
761 profit-motivated owners and authorizes HUD to require not-for-profit and certain for-profit
762 owners to establish a residual receipts account. As an alternative requirement, in addition to
763 standard PBRA requirements that must be satisfied prior to calculating surplus cash,
764 distribution of surplus cash is prohibited unless HUD is able to verify on the annual financial
765 statement that the Project operating reserve is funded at no less than \$250 per unit. HUD may
766 also impose restrictions on distributions of surplus cash on a given project as a potential
767 remedy if HUD determines the Project Owner is in violation of the HAP Contract or Elderly

¹⁹ PRAC renewals and rent adjustments are funded from the Housing for the Elderly account. Renewal of ongoing PRAC contracts including inflationary adjustments to core operating expenses will be prioritized over mid-cycle rent increases that enhance services and replacement reserves for converting properties.

²⁰ 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.

768 Housing Use Agreement.

769

770 **G. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion,
771 current households cannot be excluded from occupancy at the Covered Project based on any
772 rescreening, income eligibility, or income targeting. With respect to occupancy in the
773 Covered Project, current households in the Converting Project will be grandfathered for
774 application of any eligibility criteria to conditions that occurred prior to conversion but will
775 be subject to any ongoing eligibility requirements for actions that occur after conversion.²¹
776 Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to
777 PBRA requirements regarding continued occupancy. For example, a household that would
778 not be income eligible for initial occupancy of a Section 8 unit at the time of conversion
779 would still be placed on a Section 8 lease and eligible for assistance under the provisions
780 governing continued occupancy. Thus, the first clause of section 8(c)(4) of the Act and 24
781 CFR § 880.603(b), concerning determination of eligibility and selection of tenants for initial
782 occupancy, will not apply for current households. Once the grandfathered household moves
783 out, the unit must be leased to an eligible family. Income eligibility requirements associated
784 with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede
785 this prohibition on rescreening, and the Project Owner may be required to exclude Section 8
786 units occupied by ineligible households from being covered by the new financing's
787 restrictions.

788

789 **H. Under-Occupied Units.** If at the time of conversion, an eligible family assisted under the
790 PRAC is occupying a unit that is larger than appropriate because of the family's composition,
791 the family may remain in the unit until an appropriate-sized unit becomes available in the
792 Covered Project.²² When an appropriate sized unit becomes available in the Covered Project,
793 the family living in the under-occupied unit must move to the appropriate-sized within 30
794 days. In order to allow the family to remain in the under-occupied unit until an appropriate-
795 sized unit becomes available in the Covered Project, HUD is waiving the portion of 24 CFR
796 § 880.605 that assumes the unit has become under-occupied as the result of a change in
797 family size.²³

²¹ These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

²² A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the Covered Project.

²³ As the later enacted statute, the RAD Statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141) to prohibit conversion under the Second Component from being the basis for re-screening, termination of assistance, or eviction of a family in the Converting Project, overrides the last sentence of section 3(b)(3)(A) of the Act. Absent this override, the latter provision would prohibit occupancy of an assisted unit of two or more bedrooms by a single person who is not elderly, disabled, a displaced person, or the remaining member of a tenant family, and any such unit occupied by such a person could not be included in the HAP Contract. Accordingly, 24 CFR § 5.655(b)(5) shall not apply.

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I. Occupancy Requirements. In accordance with the RAD statute, as amended by the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141), Section 202 PRAC projects converting assistance under RAD must continue to serve elderly persons. Accordingly, in addition to income-eligibility and income targeting requirements in 24 CFR 5.653, new admissions must meet the definition of “elderly family” in 24 CFR 5.403. See Section 4.5.K regarding the treatment of current households.

J. UPCS (REAC) Inspections. Under current regulations at 24 CFR part 5, subpart G, a unit covered under a PBRA HAP Contract must meet the UPCS before assistance can be paid on behalf of a household. Under RAD, only after the PBRA HAP Contract is executed and any proposed Work is completed, HUD will order a REAC inspection of the Project to ensure conditions meet the UPCS. HUD is waiving and establishing this alternative requirement to 24 CFR part 5 subpart G.

4.7 Conversion and Processing Requirements

As discussed in further detail below, the conversion of a PRAC Project will generally entail:

- An Initial Submission of Interest to HUD
- Resident Notification and Consultation
- Selection of PHA (PBV conversions only)
- Conversion Plan Submission, RAD Approval, and Closing

4.7.1 Initial Submission of Interest to HUD

Prior to submitting a Conversion Plan, a Project Owner must make an initial submission to HUD indicating the Project Owner’s interest in conversion under this Notice. The submission must include:

- Project name;
- Project address;
- Project Owner’s name;
- Project Owner’s contact information;
- The PRAC Contract number(s);
- PRAC Contract expiration date(s);
- Total number of units covered under the PRAC Contract(s), by bedroom size; and
- Conversion Type (PBV or PBRA).

HUD has developed an electronic form submission for Project Owners to make the initial submission. To access the electronic submission template, Project Owners must request access to

837 the RAD Resource Desk at www.radresource.net where users will be prompted to provide the
838 information listed above.

839
840 HUD will provide the Project Owner a confirmation of successful submission. HUD will use the
841 initial submission in order to:

- 842 1. Assign a Transaction Manager, who will make contact to discuss the conversion process
843 and the Project Owner's goals for the Project; and
- 844 2. For PBV conversion, initiate the process to identify a PHA willing to administer the new
845 PBV contract.

846
847 There is no fee associated with the initial submission. HUD will take no adverse action against a
848 Project Owner who makes an initial submission but does not later submit a Conversion Plan.

849

850 4.7.2 **PHA Administration of the PBV Contract**

851

852 **A. Selection of a PHA.** For PBV conversions only, HUD will need to identify a PHA able and
853 willing to administer the PBV contract, and the PHA would need to agree to accept the
854 responsibility. Within 30 days of the initial submission, HUD will identify an eligible PHA
855 and request that the PHA provide written consent to administer the PBV contract or decline
856 the request within 30 days of HUD's request. HUD will communicate the PHA's response to
857 the Project Owner. Applicants must wait until a PBV HAP Contract administrator has been
858 identified before submitting their Conversion Plan, as the PHA who will act in this capacity
859 must be identified in that plan. If no PHA consents to enter into the PBV contract, the Project
860 cannot convert to PBV, and the Project Owner may consider conversion to PBRA instead.

861

862 **B. Role of Administering PHA.** The PHA that agrees to administer the PBV contract is
863 responsible for administrative duties described in 24 CFR part 983 and this Notice. Prior to
864 conversion, the PHA's key roles include:

- 865 1. **Pre-Selection Inspection.** The PHA must ensure that the units substantially comply
866 with HQS, as defined in the PHA's Section 8 administrative plan, prior to submission
867 of the Conversion Plan.
- 868 2. **Initial Contract Rent Setting.** The PHA will determine that the initial contract rents
869 do not exceed the rent caps described in Section 4.5.G.
- 870 3. **HQS Inspections.** Prior to entering into a PBV HAP Contract, the PHA must inspect
871 the Converting Project proposed for conversion to ensure that the units fully comply
872 with HQS,²⁴ unless the PHA is using HOTMA non-life threatening and alternative

²⁴ Please note that under PBV, the standard HQS requirements related to lead-based paint under 24 CFR 982.401 do not apply. Instead, if the property was constructed before 1978 and one or more units has a child under age 6 residing, the PHA must ensure that the HQS requirements for lead safety at 24 CFR 983.101(c)(2) are met in those

inspection provisions.²⁵

4.7.3 **Resident Notification and Consultation**

Resident Notification. For all conversions, a Project Owner is required to notify residents in writing of its intent to participate in RAD and is required to hold at least two meetings with residents.²⁶ The Project Owner must have at least one resident meeting within 30 days prior to submission of the Conversion Plan and at least one resident meeting after submission of the Conversion Plan but prior to conversion. The Notification letter must:

1. Be delivered to all Converting Project residents, including each PRAC–assisted household, as well as posted in the Converting Project office or other common area, and at no fewer than three prominent locations on the Converting Project site;
2. Include the date and time of the resident briefings;
3. Include an estimated date of conversion to either a PBV or PBRA HAP Contract;
4. Include a description of any proposed change in ownership, rehabilitation, construction, or transfer of assistance associated with the conversion;
5. State the Project Owner’s plan for relocation, if applicable, as a result of rehabilitation or construction, including the expected length of the relocation, the temporary nature of the relocation, the household’s right to return, and the Project Owner’s responsibility for covering relocation costs; and
6. Supply information on the method to submit comments to the Project Owner and provide for a 30-day comment period.

The Project Owner must conduct two resident meetings with all affected residents and provide the residents with an opportunity to comment on the conversion. The purpose of the resident meeting is to provide residents with greater detail related to the conversion, including rehabilitation plans (if applicable), relocation (if applicable), and PBV or PBRA program rules that may differ from PRAC rules. The Project Owner must hold an additional meeting when there has been a material change that was not already discussed in a previous meeting.

When providing resident notifications and conducting resident meetings, the Project Owner 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 includes, but is not limited to, providing written materials in appropriate alternative formats (e.g., Braille, large type), as

units, common areas servicing those units, and exterior painted surfaces associated with such units or common areas (or the whole property if there are children under age 6 residing in numerous units).

²⁵ See Notice PIH-2017-20 for guidance on HOTMA non-life threatening and alternative inspection provisions.

²⁶ Sample resident notification letters are available at www.hud.gov/rad.

908 needed, and providing sign language interpreters and assistive listening devices at resident
909 meetings, as needed (24 CFR § 8.6). Additionally, resident meetings must be held in facilities
910 that are physically accessible to persons with disabilities. Where physical accessibility is not
911 achievable, a Project Owner must use alternative methods to meet with qualified individuals with
912 disabilities, such as holding meetings at an alternate accessible site or offering in-home meetings.
913 Such meetings must be provided in the most integrated setting appropriate to the needs of
914 qualified individuals with disabilities in a setting that enables individuals with disabilities to
915 interact with nondisabled persons to the fullest extent possible (28 CFR part 35, Appendix B).

916

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

927

928 The Project Owner must submit a copy of all comments received with their Conversion Plan,
929 along with a description of how the residents' comments will be addressed in the conversion.
930 HUD will consider all resident comments and the Project Owner's plan to address the comments
931 before approving the Conversion Plan. If more than 50 percent of written resident comments
932 disapprove of the conversion of assistance, HUD will contact the Project Owner to discuss
933 options for proceeding with the conversion request or may decline the request.

934

935 Upon Conversion Plan approval, the Project Owner must notify each affected family that the
936 Project has been approved.

937

938 4.7.4 **Conversion Plan Submission, RAD Approval, and Closing**

939

940 **A. Conversion Plan Submission.** The Project Owner must submit to HUD through the RAD
941 Resource Desk a complete Conversion Plan that satisfies all RAD program requirements.
942 (See Attachment 4.A for Conversion Plan Requirements.)

943

944 HUD will review the Conversion Plan and Notify the Project Owner of HUD's determination
945 to approve or reject the plan or to request additional information. HUD's decisions regarding
946 the acceptance of the Conversion Plan will be made in HUD's sole discretion. If HUD
947 determines that a Conversion Plan is not feasible or that the requirements of the Conversion
948 Plan as set forth in Attachment 4A have not been met, then the Project Owner may either

949 make corrections that satisfactorily address HUD’s concerns or appeal the decision. If a
950 Conversion Plan is disapproved, HUD’s letter of disapproval will discuss changes, if any,
951 that would result in an acceptable Conversion Plan.
952

953 **B. RAD Approval.** If the Conversion Plan satisfies the requirements of this Notice, HUD will
954 issue an approval letter to the Project Owner. The approval letter will outline the key
955 components of the planned RAD conversion and will discuss the conditions that need to be
956 satisfied in order to close the conversion. Once the approval letter is issued, HUD expects
957 that the RAD conversion will close in a timely manner. The approval letter will allow 90
958 calendar days (from the date the approval letter is issued to the Project Owner) in which to
959 close the RAD conversion transaction, unless extended by HUD. The Project Owner will
960 need to work diligently to achieve closing within the timeframe required under this Notice in
961 order to avoid rescission of the RAD approval.
962

963 **C. Closing.** Upon conversion, units whose assistance has been converted pursuant to RAD will
964 be removed from the 202 PRAC program. Converting Projects will be released from any
965 outstanding obligations under the Capital Advance Agreement, the Capital Advance
966 Mortgage Note, the Capital Advance Program Regulatory Agreement, the Capital Advance
967 Program Use Agreement, and related or collateral documents associated with the PRAC and
968 the foregoing documents. The 202 PRAC will be terminated (or for PBV conversions, the
969 202 PRAC will expire without renewal), the Section 8 HAP Contract will be executed and
970 the Project Owner will enter into an Elderly Housing Use Agreement, which will be recorded
971 as a restrictive covenant in first position on the Covered Project. The effective date identified
972 in the HAP Contract is the date the Project will cease to operate as a 202 PRAC Project and
973 begins to operate under Section 8 requirements.
974

975 4.8 Additional Information

976
977 For additional information on this section of the Notice, please check www.hud.gov/rad or email
978 questions to RAD2@hud.gov.
979

980

981 **Attachment 4A: Conversion Plan Requirements and Feasibility Benchmarks for**
982 **PRAC Conversions**

983 A Conversion Plan will not be reviewed until all required documentation is submitted
984 electronically to the RAD Resource Desk at www.radresource.net. HUD will complete an initial
985 review for document completeness within five business days of submission and will notify the
986 Project Owner of deficiencies. Once HUD has determined that all required documents appear to
987 have been received, HUD will review the submission.

988
989 HUD's purpose in reviewing the Conversion Plan is to ensure the long-term physical and
990 financial viability of the Covered Project in providing quality, supportive housing to elderly
991 residents. HUD reserves the right to reject any Conversion Plan if the information provided is not
992 complete, accurate, or in compliance with the submission requirements listed below. If a
993 Conversion Plan fails one or more feasibility benchmarks, HUD may, in its sole discretion, still
994 accept the Conversion Plan if HUD determines that the Conversion Plan is consistent with the
995 long-term physical and financial viability of the Covered Project, and/or the Project Owner has
996 demonstrated through historical data or other means that the Project Owner can satisfactorily
997 maintain and manage the Covered Project as presented in the Conversion Plan. HUD will not
998 accept the Conversion Plan if the Covered Project does not meet environmental review
999 requirements, as described below.

1000
1001 Below are all the required components of a complete Conversion Plan and the requirements of
1002 each component. Additional guidance in preparing the Conversion Plan is available in the PRAC
1003 Processing Guide located at http://www.radresource.net/mf_library.cfm.

1004
1005 **A. Conversion Overview.** A narrative summary of the Covered Project and the Project Owner's
1006 conversion goals. Include details such as a description of the physical Project, Project history,
1007 identification of immediate capital needs of the Project, identification of other properties to
1008 be held within the same ownership entity, anticipated financing that will be obtained to meet
1009 the capital needs, anticipated relocation, how the conversion of assistance will impact
1010 residents, and circumstances such as new construction, Transfer of Assistance, scattered site,
1011 and reconfiguration of units.

1012
1013 **B. Proposed Units.** The Project Owner must provide the number of units by bedroom size
1014 proposed to be covered by the HAP Contract. If a reconfiguration of units is proposed, the
1015 Project Owner must submit a narrative explanation of the proposal, including a description of
1016 the units to be removed and an explanation of why the Project can better serve assisted
1017 residents at the reduced number. Discussion of the proposed units can be included in the
1018 Conversion Overview.

1019

- 1020 **C. PRAC Contract.** Submit a copy of the fully executed current PRAC Contract including all
1021 exhibits.
1022
- 1023 **D. Statement of Compliance with Fair Housing and Civil Rights.** The Project Owner must
1024 submit a written statement certifying that it does not have any outstanding fair housing or
1025 civil right matters and that the proposed RAD conversion is consistent with any applicable
1026 remedial order or agreements, as described in section 4.3.1.B. of this Notice.
1027
- 1028 **E. Resident Notification.** The Project Owner must provide proof of written notification
1029 informing residents of the intent to participate in RAD. Include a PDF attachment of all
1030 **comments received from residents** as described in Section 4.7.3. Project Owners must
1031 provide a certification that they have held the required meetings with residents and have
1032 provided residents with a reasonable time period to submit comments on the conversion. The
1033 Project Owner must also provide a description of how the residents' comments will be
1034 addressed in their plan for conversion.
1035
- 1036 **F. Capital Needs Assessment.** A CNA is required in order to identify the short-term and long-
1037 term capital needs of the property, which will factor into the Scope of Work and both the
1038 Initial and Annual Deposits to the Replacement Reserve. See Paragraph 4.4.A. for additional
1039 information on CNA requirements.
1040
- 1041 **G. Initial Contract Rent Setting.**
- 1042 1. For PBV conversions, submit evidence that the Project Owner's proposed rents are in
1043 accordance with the PHA's rent setting. See Section 4.5.G for additional information on
1044 Initial Contract Rent Setting for PBV.
 - 1045 2. For PBRA conversions, the rents cannot exceed the limits set forth in Section 4.6.C
1046
- 1047 **H. Scope of Work.** The Conversion Plan must include a Scope of Work that accompanies the
1048 CNA. The Scope of Work must:
- 1049 1. Identify and address all repairs identified in the CNA as critical, immediate or required
1050 within the first two years following conversion when the total of such repairs exceeds
1051 \$5,000 per unit (including all items identified in the CNA as not functioning at the time
1052 of the CNA site visit). Briefly discuss any differences between the proposed Work and
1053 the conclusions and recommendations of the CNA provider; any additional scope items
1054 not identified in the CNA; and the Project Owner's choices for replacement components.
 - 1055 2. If the most recent REAC Inspection score is below 60, or the property has been referred
1056 to DEC due to physical deficiencies, the scope of work must address all physical
1057 deficiencies identified.
 - 1058 3. Identify replacement quantities and costs. Rehabilitation estimates must be based on
1059 reasonable market estimates of actual costs, confirmed either by cost estimating

- 1060 completed by the architect/engineer, or through actual competitive bids for major
1061 rehabilitation or construction items, in compliance with HUD requirements.
- 1062 4. Include a summary of environmental issues and corresponding remediation activities
1063 known at that time, and a summary of accessibility features that are required pursuant to
1064 applicable accessibility standards and other accessibility requirements. Other accessibility
1065 requirements include, but are not limited to, physical features that need to be provided as
1066 reasonable accommodations for qualified persons with disabilities. The scope of work
1067 should also include design features necessary for elderly housing (see Section 4.4.F) and
1068 a description of how those features will promote housing stability for an aging
1069 population.
- 1070 5. Include a construction contingency of 10 percent (HUD may require a higher contingency
1071 on a case-by-case basis) if the Project Owner plans to obtain new financing simultaneous
1072 with the Conversion.
- 1073 6. Include a reasonable timeline for completion of all rehabilitation items acceptable to
1074 HUD, from the date of Conversion Closing and any financing, depending on the scope of
1075 rehabilitation needed.

1076

1077 For Conversions using FHA financing, conventional debt, or equity sources of financing,
1078 submit a copy of the Scope of Work included with the FHA Application for Firm
1079 Commitment, or submitted to the lender, equity provider (including LIHTC, historic tax
1080 credit or Opportunity Zone equity providers), LIHTC allocating agency or comparable
1081 funding source.

1082

1083 **I. Environmental Review.** HUD cannot approve an applicant’s Conversion Plan submission
1084 unless and until the required environmental review has been completed for the applicant’s
1085 proposed conversion project and found to meet environmental review requirements. The
1086 following describes the submission and approval steps for securing a completed
1087 environmental review.

1088

1089 A RAD transaction will either be reviewed under 24 CFR Part 50 (“Part 50 Reviews”) or 24
1090 CFR Part 58 (“Part 58 Reviews”). Part 50 applies when HUD conducts the environmental
1091 review, and Part 58 applies when a Responsible Entity (RE) conducts the environmental
1092 review. The following table shows which review protocol a transaction will follow, along
1093 with who will conduct the review:

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1095
1096
1097
1098
1099

Description	Type of Environmental Review	Reviewer
PBRA Non-FHA	Part 50	RAD Transaction Manager
PBRA FHA Non-Risk Share ²⁷	Part 50	FHA Production
PBRA FHA Risk-Share	Part 50	Transaction Manager
PBV FHA Non-Risk Share	Part 50	FHA Production
PBV Non-FHA	Part 58	Responsible Entity
PBV FHA Risk-Share	Part 58	State Housing Finance Agency or Responsible Entity, as applicable ²⁸

1100

1101 Under limited circumstances, per 24 CFR 58.11(c), an Awardee with a non-FHA PBV
 1102 transaction may request HUD to undertake the environmental review under Part 50 if a
 1103 suitable RE cannot be found or if the local government was not a direct recipient of the funds
 1104 and refuses to accept responsibility or when HUD determines the local government does not
 1105 have capacity to act as an RE.²⁹ This request must be made in writing and submitted to HUD
 1106 no later than at the time of the Conversion Plan submission.

1107

1108 For multi-phase developments, the environmental documents submitted with the Conversion
 1109 Plan during the first phase must be submitted for the entire site (i.e. all of the phases of the
 1110 multi-phase development) and the environmental review conducted during the first phase
 1111 will cover the entire site.

1112

1113 Requests to transfer assistance from the Converting Project to a new location are subject to
 1114 environmental review.

1115

1116 For transactions receiving funding from other HUD programs (i.e. HOME, CDBG, non-RAD
 1117 PBV), HUD encourages all parties to complete and adopt one review for all programs, even
 1118 if these programs’ environmental reviews are conducted under a different review protocol
 1119 (Part 50, Part 58). In cases where two Part 58 programs are combined, HUD encourages
 1120 applicants to work with the Responsible Entity or Entities to see if environmental reviews

²⁷ Section 542(c) of the Housing and Community Development Act of 1992 enables HUD and State and local housing finance agencies (HFAs) to provide new risk-sharing arrangements to help those agencies provide more insurance and credit for multifamily loans known as the FHA Risk Sharing Program.

²⁸ Housing Finance Agencies can act as the Responsible Entity for Housing’s Risk Share Programs if the HFA is a regular part of the state government or if the HFA is a state instrumentality that has been approved by the governor. If the HFA does not meet either criteria, it must request another department of the state to act as Responsible Entity. An instrumentality of a city or county government cannot act as a Responsible Entity for the Risk Share Program. Please contact HUD if you have any questions about whether an HFA can act as the Responsible Entity.

²⁹ These circumstances are considered on a case-by-case basis only. Please work with your Transaction Manager to determine suitability.

1121 can be combined. However, this is solely the Responsible Entities' determination. In cases
1122 where a Part 50 program and a Part 58 program are combined, HUD may determine that it
1123 will perform one Part 50 environmental review for both programs under 24 CFR 58.11 if
1124 performing an additional Part 58 environmental review is not feasible in the time allotted.
1125 HUD must ensure that the Part 50 review considers the full scope of all activities and funding
1126 associated with all programs. When one review is used for both programs, the Approving
1127 Officials for both programs must certify the review.

1128

1129 **For all Part 50 reviews, the applicant must submit reports and documentation to HUD**
1130 **in accordance with 24 CFR Part 50, as discussed in Chapter 9 of the MAP Guide,**
1131 **except as follows:**³⁰

1132 1. For PBRA conversions (or where HUD has determined to conduct the PBV
1133 environmental review under Part 50) without FHA insurance and without any
1134 rehabilitation, construction, or demolition,³¹ HUD conducted a tiered review of
1135 program-wide and site-specific compliance. HUD has made program-wide
1136 compliance determinations for most of the applicable environmental laws and
1137 authorities, and will complete a site-specific compliance review of the following:

1138 A. Coastal protection pursuant to the Coastal Barrier Resources Act, as amended by
1139 the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501);

1140 B. Flood insurance and floodplain management pursuant to the Flood Disaster
1141 Protection Act of 1973, the National Flood Insurance Reform Act of 1994 (42
1142 U.S.C. 4001-4128 and 42 U.S.C. 5154a), Executive Order 11988, particularly
1143 section 2(a), and 24 C.F.R. Part 55;

1144 C. Contamination pursuant to 24 C.F.R. 50.3(i) (HUD Standard).

1145

1146 Additionally, while Historic Preservation (National Historic Preservation Act of
1147 1966, particularly sections 106 & 110; 36 CFR Part 800) is not included in the tiered
1148 review, for conversions that entail no physical activities or only activities that are
1149 limited to maintenance as defined in HUD Notice CPD-16-02, HUD has no further
1150 obligations under Section 106. HUD is not required to contact SHPO, THPO, and/or
1151 other interested parties or the public.³²

³⁰ The MAP Guide is available at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430.
Additional guidance on environmental review requirements is available on the HUD Environmental Review
website, at <https://www.hudexchange.info/environmental-review/>.

³¹ This is further defined as those transactions that do not anticipate any reasonably foreseeable repairs or other
physical activities beyond maintenance, as defined in HUD Notice CPD 2016-02.

³² This Determination is detailed in the "Determination of 'No Potential to Cause Effects' under Section 106 of the
National Historic Preservation Act for Rental Assistance Demonstration (RAD) Projects Limited to Maintenance

- 1152
1153 Project Owners will be required to submit documentation to facilitate HUD’s site-
1154 specific review.
1155
- 1156 2. For all non-FHA PBRA conversions (or where HUD has determined to conduct the
1157 PBV environmental review under Part 50) that do not meet the requirements under
1158 paragraph 1 above, the Project Owner or vendor will follow the guidelines in Chapter
1159 9 of the MAP guide. Project Owners or vendors will upload all applicable
1160 documentation directly into HEROS at the time of Conversion Plan submission. The
1161 following exceptions to the MAP Guide apply:
- 1162 ■ In lieu of a Phase I Environmental Site Assessment (ESA) in accordance
1163 with ASTM E 1527-13 (or the most recent edition),³³ except for
1164 conversions involving substantial rehabilitation or new construction
1165 activities. Awardees may submit a more limited report on potential
1166 sources of contamination. Where a Phase I ESA is not required (i.e.,
1167 projects without any associated substantial rehabilitation³⁴ or new
1168 construction), the Awardees can submit a “transaction screen” in
1169 accordance with ASTM E 1528-14 (or the most recent edition). A
1170 transaction screen will identify potential environmental concerns based on
1171 questionnaires, owner/occupant inquiry, site visit, government records
1172 inquiry and historical sources inquiry. The transaction screen must be
1173 prepared by a qualified professional, in accordance with 24 CFR
1174 50.3(i)(4). As the definition of preparer in ASTM E 1528-14 does not
1175 meet this requirement, the professional must have either (a) a science
1176 degree and at least one year of practical environmental assessment
1177 experience in the field, or (b) three years of practical environmental
1178 assessment experience in the field performing site assessments for site
1179 contamination. If any potential environmental concerns are identified, an
1180 ASTM Phase ESA in accordance with ASTM E 1527-13 (or the most
1181 recent edition) must be provided.
 - 1182 ■ Awardees may submit a Phase I ESA that is up to 5 years old upon
1183 submission; however, it must be updated by a Transaction Screen that is
1184 up to 1 year old upon submission.

Activities and Carried Out Under 24 CFR Part 50. <https://www.hudexchange.info/resource/3865/no-potential-to-cause-effects-to-historic-properties-memos/>

³³ The Transaction Screen does not meet the standard for “All Appropriate Inquiries” for CERCLA liability protection, as noted in ASTM E 1528-14 Section 4.2.1.

³⁴ Substantial rehabilitation is any rehabilitation that does not meet the conditions in 24 CFR § 50.20(a)(2) for exclusion from review under the National Environmental Policy Act. Applications to RAD for conversion assistance involving substantial rehabilitation or new construction will always require a Phase I ESA in accordance with ASTM E 1527-13.

1185
1186 When HUD conducts the environmental review under Part 50, PHAs (or their vendors) must
1187 submit environmental reports and documentation³⁵ for HUD review into the HUD
1188 Environmental Review Online System (HEROS), where HUD will complete its review.

1189
1190 HUD staff will review the submissions and may require additional information in order to
1191 complete their review. HUD's review will result in a determination, which may stipulate the
1192 rejection of the site for this demonstration or may require the completion of mitigation
1193 measures. The RAD approval will include any conditions required to carry out any and all
1194 mitigation measures as may result from the environmental review. Any conditions or
1195 mitigation that cannot be satisfied before Closing will survive Closing.

1196
1197 **When a Responsible Entity (RE) completes an environmental review under Part 58, the**
1198 **Conversion Plan must include either Form 7015.16 or a letter with the Responsible**
1199 **Entity's (RE's) finding of exempt activity in order to consider the environmental review**
1200 **to be complete.** The RE should use HUD recommended formats to document the
1201 environmental review record.³⁶ The PHA should submit an environmental report to the RE,
1202 in such form as prescribed by the RE, to enable the RE to complete their analysis. Once the
1203 review is completed, the PHA must submit *either*:

- 1204
- 1205 • Form HUD-7015.15, Request for Release of Funds (RROF), to their local PIH field
1206 staff.³⁷ After the PIH Field Director approves the RROF, the Director sends a
1207 completed HUD Form 7015.16 to the PHA, approving the release of funds. The PHA
1208 must submit proof of the completed Form 7015.16 (either a copy of the paper form or
1209 a screenshot of the completed screen in HEROS) to HUD; or
 - 1210 • If form HUD-7015.15 is not required because the project converts to Exempt under
1211 24 CFR § 58.34(a)(12), the PHA must submit the RE's finding of exempt activity
1212 with their RAD Conversion Plan. A finding of exempt activity is a statement of the
1213 result of the RE's environmental review and is required even when form HUD-
1214 7015.15 is not required. A letter from the RE indicating that the project converts to
Exempt under 24 CFR § 58.34(a)(12) is sufficient.

³⁵ PHAs and providers should take care to respond to all applicable laws and authorities and MAP-specific requirements when providing documentation for environmental review. For all maps, please clearly indicate where the project site is located. Information about HEROS and how to register can be found at

<https://www.hudexchange.info/programs/environmental-review/housing/#heros>

³⁶ HUD recommended formats are available at <https://www.hudexchange.info/resource/3139/part-58-environmental-review-cest-format/> and <https://www.hudexchange.info/resource/3140/part-58-environmental-assessment-form/>.

³⁷ Form HUD-7015.15 is available at <https://www.hudexchange.info/resource/2338/hud-form-701515-request-release-funds-certification/>.

1215 Additionally, except for properties without any rehabilitation, construction, or
1216 demolition,³⁸ the PHA must submit either a) a statement declaring that the RE examined
1217 radon or b) where the RE had not examined radon as part of its review, either a Radon
1218 Report consistent with the requirements of the Section 9.5.C of the MAP Guide (or
1219 successor provision) for HUD to review or a statement that the property is exempt from
1220 submission of a Radon Report per the MAP Guide.

1221
1222 **J. Accessibility and Relocation Plan Checklist.** All Project Owners shall complete and submit
1223 the Accessibility and Relocation Plan Checklist provided by HUD on the RAD Resource
1224 Desk. The checklist shall include a certification that the relocation plan complies with all
1225 applicable HUD requirements, including the URA as well as applicable accessibility
1226 standards, including but not limited to those under Section 504 of the Rehabilitation Act of
1227 1973 and its implementing regulations (24 CFR § 8.23). The cost of accessibility
1228 improvements and relocation must be fully funded in the Development Budget. Project
1229 Owners are encouraged to use HUD’s guidance on relocation planning for persons with
1230 disabilities in HUD Handbook 1378.0, Exhibit 3-1 and the RAD Fair Housing and Civil
1231 Rights Notice.

1232
1233 **K. Proposed Financing**
1234 1. For all conversions using financing, the following must be addressed:
1235 a. Provide a brief discussion of conditions/milestones to be satisfied prior to closing
1236 including any known impediments to closing within the timeframe required under the
1237 Notice;
1238 b. Estimated closing date(s) for all proposed financing;
1239 c. For each proposed loan, equity contribution, or grant, the Conversion Plan must
1240 include a recent lender, investor or grant commitment letter, dated no more than 60
1241 days prior to Conversion Plan submission, with key terms identified (including
1242 amount, repayment terms, interest rate, amortization, maturity, prepayment
1243 restrictions, and pay-in schedule) from all financing provider(s);
1244 2. For conversions not using FHA financing or equity sources, the following requirements
1245 must be addressed in addition to the requirements set forth in Attachment 4A, Section
1246 K.1 above:
1247 a. Permanent debt financing with monthly payment amounts not conditioned on the
1248 availability of cash flow (i.e., “hard” debt) on Covered Projects must:
1249 i. Be at a fixed rate of interest, for a fixed term, fully amortized over no more
1250 than 40 years;

³⁸ This is further defined as those transactions that do not anticipate any reasonably foreseeable repairs or other physical activities beyond maintenance, as defined in HUD Notice CPD 2016-02.

- 1251 ii. Not have a balloon payment until after the earlier to occur of a) expiration of
1252 the term of the HAP Contract or b) 17 years from the date of the permanent
1253 debt financing; and
1254 iii. Not have a debt service coverage less than the higher of 1.11 or lender
1255 requirements.
1256 b. All subordinate (or secondary) financing must be disclosed and then approved by the
1257 first-mortgage lender;
1258 c. The terms for all seller take-back financing must also be disclosed;
1259 d. If project revenue or existing reserves will be a source of funding, submit evidence of
1260 the current account balances.

- 1261
1262 **L. Development Budget (Sources and Uses of Funds).** All Project Owners must submit a
1263 Development Budget.
1264 **1. For Conversions using FHA financing or equity sources of financing,** submit a copy
1265 of the Development Budget included with the FHA Application for Firm Commitment, or
1266 submitted to the lender, equity provider (including LIHTC, historic tax credit or
1267 Opportunity Zone equity providers), LIHTC allocating agency or comparable funding
1268 source. The Project Owner must submit the FHA Application for Firm Commitment
1269 review before the RAD conversion is submitted to the Office of Recapitalization. Include
1270 a Subsidy Layering Review (SLR) if one has been performed by another agency. If no
1271 SLR is provided, HUD will complete an SLR whenever multiple federal sources are
1272 proposed.
1273 **2. For all other Conversions with new financing:**
1274 a. Include a reasonable, balanced, and comprehensive presentation of both construction
1275 period and permanent sources and uses of funds, which development budget must be
1276 consistent with the development budget submitted to the lender, equity provider
1277 (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC
1278 allocating agency or comparable funding source.
1279 b. Identify existing loans or debt that will be paid off at the closing, if applicable.
1280 c. Include a binding commitment letter with respect to any new source of financing or
1281 sources of equity.
1282 d. Include a construction contingency of 10 percent (HUD may require a higher
1283 contingency on a case-by-case basis) if the Project Owner plans to obtain new
1284 financing simultaneous with the Conversion.
1285 e. Demonstrate that any Identity of Interest (IOI) loans or advances will be converted to
1286 unsecured Surplus Cash Notes (Project's cash remaining, after debt service, project
1287 operational costs and other permitted payments) unless otherwise approved by HUD.
1288 f. If applicable, identify the initial operating deficit during the construction period and
1289 how that deficit will be funded, such as an operating deficit escrow or similar fund.

1290 g. Include a Subsidy Layering Review (SLR) if one has been performed by another
1291 agency. If no SLR is provided, HUD will complete a SLR whenever multiple federal
1292 sources are proposed.
1293

1294 **M. Proposed Development Team.** The Project Owner must identify the proposed legal entity
1295 that will own the Covered Project following conversion, the proposed management agent
1296 following conversion, and the “principals” of both entities. In addition, the Project Owner
1297 shall provide the following:
1298

- 1299 1. For all conversions with a proposed change in ownership entity, the new Project Owner
1300 must provide evidence of successful experience owning and operating HUD or other
1301 multifamily housing properties. New Project Owners may be required to demonstrate that
1302 the criteria specified in [HUD Handbook 4350.1, Chapter 13, Change in Ownership:
1303 Transfer of Physical Assets](#) have been met in part or in whole.
- 1304 2. For PBRA conversions with a proposed change in ownership entity or a material
1305 proposed change in ownership of the existing ownership entity, the new Project Owner
1306 must submit evidence that all new principals have a Previous Participation Certification
1307 in the Active Partners Performance System (APPS) (formerly referred to as Form HUD-
1308 2530) and are not be debarred, suspended, or subject to a Limited Denial of Participation.
- 1309 3. For all conversions with a proposed change in management agent the new agent must
1310 provide evidence of successful experience managing and operating HUD or other
1311 multifamily housing properties.
- 1312 4. For all conversions in which Work is proposed, the Project Owner must submit the
1313 identity of the general contractor or construction manager or a statement that the Project
1314 Owner will be managing construction directly, together with evidence of the general
1315 contractor’s, construction manager’s or Project Owner’s recent and successful experience
1316 with similar rehabilitation or construction projects.
1317

1318 **N. Operating Pro Forma.** The Operating Pro-Forma must:

- 1319 1. **For all FHA transactions or Conversions using equity sources of financing:**
1320 a. Provide a copy of the Operating Pro Forma that was submitted with the FHA
1321 Application for Firm Commitment or submitted to the lender, equity provider
1322 (including LIHTC, historic tax credit or Opportunity Zone equity providers), LIHTC
1323 allocating agency or comparable funding source.
- 1324 2. **For all other Conversions:**
1325 a. Provide a 20-year Operating Pro Forma in an owner-provided template,
1326 b. Include an attached discussion of the extent of energy and water savings that are
1327 anticipated as a result of the rehabilitation or construction and the basis for those
1328 estimates. The discussion must explain to what extent anticipated savings in utility
1329 costs have been included in the pro forma operating expenses.

- 1330 c. Include columns capturing the average amount for the past three years for all line
1331 items listed in the Pro Forma. Provide explanations and/or supporting documentation
1332 for any major deviations of the historical average from the year 1 data entered on the
1333 Pro Forma.
- 1334 d. Ensure the Pro Forma complies with at least the following feasibility benchmarks
1335 unless otherwise approved by HUD:

1336 **Revenue:**

- 1337 i. Rents shall not exceed the amounts permitted under program rules;
1338 ii. All other sources of income must not exceed the average for the last three
1339 years (other income should not include interest income on the replacement
1340 reserve account, which must remain in the reserve and is not available for
1341 other purposes);
1342 iii. Vacancy loss shall be no less than the greater of the average over the past
1343 three years or 3 percent;
1344 iv. Allowance for bad debt should be not less than the greater of the average
1345 over the past three years or 2 percent;

1346 **Expenses:**

- 1347 i. All operating expenses shall be reasonable, with decreases justified and
1348 generally no less than 85 percent of the average for the last three years;
1349 ii. The ADRR should be equal to that amount which, if deposited annually,
1350 will be sufficient to fund all capital needs, as identified in the CNA,
1351 arising during the first 20 years and otherwise not addressed upfront in
1352 either the rehabilitation or an initial deposit to the replacement reserve
1353 account. The Project Owner should use reasonable estimates for inflation
1354 but in doing so the rate for escalating the increase in repair costs should
1355 not exceed the rate of interest on reserve deposits by more than 1%. HUD
1356 may consider alternative arrangements with respect to the Initial Deposit
1357 to the Replacement Reserve (IDRR) if risks to the Covered Project can be
1358 adequately mitigated. The ADRR must be sufficient to maintain a
1359 minimum balance at the end of each year during the initial 20-year HAP
1360 Contract term in accordance with the HUD MAP Guide Appendix 5g,
1361 Section VII.C.3D, Minimum Balances; and
1362 iii. For non-leveraged transactions, the stabilized cash flow should not be less
1363 than \$12 per unit monthly. For leveraged transactions, the debt-coverage
1364 ratio should not be less than 1.11 over a ten-year period using 2% growth
1365 in revenue and 3% growth in expenses.

- 1366
- 1367 **O. Supportive Services and Design.** Applicants must describe how the proposed supportive
1368 services meet the identified needs of the anticipated residents, both initially and as they age,
1369 and how the identified supportive services will be provided on a consistent, long-term basis

1370 to support residents. The conversion plan also must discuss how current property design
1371 features and/or modifications planned in conjunction with the conversion provide a physical
1372 living environment suitable for meeting the needs of elderly residents and facilitating
1373 prolonged independent living. Relevant building design features may include, but are not
1374 limited to, those focused on fall prevention and visitability, universal design, and electronic
1375 communication mechanisms.

1376
1377 **P. Market Study.** A market study or net demand analysis may be required if the project is
1378 currently experiencing a high vacancy rate or if the Project Owner is requesting a
1379 reconfiguration of units. The Project Owner should consult with the Transaction Manager to
1380 determine if a market study is necessary before procuring one.

1381
1382 **Q. Certification of Compliance with Site and Neighborhood Standards.** The Project Owner
1383 (for PBRA) or the PHA (for PBV) shall evaluate and include a certification that the site
1384 complies with applicable Site and Neighborhood Standards (see Section 4.4.O.).

1385
1386 **R. Affirmative Fair Housing Marketing Plan.** For PBRA conversions, evidence that a
1387 completed AFHMP (Form HUD-935.2A) has been submitted for approval to the local
1388 Multifamily Regional Center. Typically, the management agent or the entity responsible for
1389 marketing (if different) is responsible for completing and submitting the AFHMP. If a Project
1390 Owner plans to adopt any tenant admission local or residency preferences, the Project Owner
1391 must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3,
1392 page 4-4) for review. The AFHMP may not conflict with any special condition arising from
1393 the RAD conversion or provision in a remedial order or agreement. Each Covered Project
1394 must have a HUD-approved AFHMP prior to closing.

1395
1396 The purpose of affirmative marketing is to ensure that individuals of similar income levels in
1397 the same housing market area have a like range of housing choices available to them
1398 regardless of their race, color, national origin, religion, sex, disability, or familial status.

1399
1400 **S. Transfer of Assistance.** For all conversions involving a transfer of assistance to a new site,
1401 the Project Owner must have secured HUD approval of the site (Covered Project). See
1402 Section 2.4.I.

1403
1404 **T. Title Report.** Submit a complete title report including information on whether the
1405 Converting Project is currently subject to any other liens, encroachments, easements or other
1406 encumbrances on the property.

1407