

# PHILADELPHIA HOUSING AUTHORITY



## MOVING TO WORK ANNUAL PLAN FISCAL YEAR 2022 (APRIL 1, 2021 TO MARCH 31, 2022)

**FIRST SUBMISSION TO HUD: JANUARY 15, 2021**

**SECOND SUBMISSION TO HUD: APRIL 8, 2021**

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**RAD SIGNIFICANT AMENDMENT #1 SUBMISSION TO HUD:  
APRIL 21, 2021**

**AMENDMENT #1 APPROVED BY HUD: JUNE 10, 2021**

**RAD SIGNIFICANT AMENDMENT #2 SUBMISSION TO HUD:  
DECEMBER 23, 2021**

**PHILADELPHIA HOUSING AUTHORITY**  
**MOVING TO WORK ANNUAL PLAN – FISCAL YEAR 2022**

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## **I. INTRODUCTION**

This Annual Plan provides information on activities planned by the Philadelphia Housing Authority (PHA) under the Moving To Work Demonstration Program (MTW) for PHA Fiscal Year 2022, i.e. the period from **April 1, 2021 to March 31, 2022**.

PHA has been an MTW agency since April 2001, operating under an MTW Agreement with the U.S. Department of Housing and Urban Development (HUD). The MTW Agreement, as amended, describes the authority and flexibility granted to PHA under the MTW program along with the requirements for participation. PHA's MTW Agreement with HUD extends through 2028.

MTW is a demonstration program authorized by Congress, through which PHA and other participating agencies have the flexibility to waive certain statutes and HUD regulations to design and test approaches for providing housing assistance that address one or more of the following statutory objectives:

- 1) Reduce cost and achieve greater cost effectiveness in Federal expenditures;
- 2) Give incentives to families with children whose heads of household are either working, seeking work, or are participating in job training, educational or other programs that assist in obtaining employment and becoming economically self-sufficient; and
- 3) Increase housing choices for low-income families.

The FY 2022 Annual Plan incorporates HUD's current reporting requirements as detailed in the HUD Form 50900. Over the course of PHA's participation in the MTW program, the Annual Plan elements have been restructured and modified as needed to comply with HUD's evolving program requirements.

### **MTW Long-Term Goals and Objectives**

PHA established five (5) broad objectives in its first MTW Annual Plan:

- Reform the existing Housing Choice Voucher and Public Housing Programs to improve and increase the supply of quality affordable housing throughout the City of Philadelphia.
- Revitalize neighborhoods where MTW and MTW-eligible residents reside.
- Develop an MTW Family Program to furnish comprehensive family self-sufficiency services to eligible MTW families.
- Establish a Quality of Life Program to promote a living environment that fosters community values, encourages resident participation and positive peer group pressure, and reinforces the responsibilities of public housing residents, voucher participants, voucher landlords, and PHA to one another and to the broader community.



- Establish efficient operating procedures and implement cost-saving strategies.

Under the direction of President and Chief Executive Officer, Kelvin A. Jeremiah, PHA has continued and expanded the use of MTW flexibility in promoting PHA's long-term strategic objectives as described in the Strategic Directions Plan first discussed in the FY 2015 Annual Plan. PHA's MTW activities continue to be guided by twelve priority areas identified in the Strategic Directions Plan, which build on the original MTW objectives. PHA has continued to sharpen its focus on improving performance in core business operational areas including property management, maintenance services and resident services and on expanding partnerships with the City, non-profit agencies, philanthropic partners and other community stakeholders.

PHA and the City of Philadelphia collaborated on the development of an Assessment of Fair Housing (AFH) Plan, which was accepted by HUD in February 2017. The AFH Plan calls for a balanced approach to fair housing planning, one that encompasses: preservation of existing affordable housing resources; development of new affordable housing throughout the City including in low poverty areas; investments in distressed areas to remove barriers and expand opportunities related to education, job creation and transportation; expansion of PHA's HCV Mobility program to support movement of voucher holders to high opportunity areas in Philadelphia and beyond the city boundaries; enhancements to ongoing fair housing outreach, education and enforcement efforts; implementation of an ongoing local and regional dialogue and planning on fair housing issues; and, ongoing efforts to ensure that all citizens have open and fair access to information on housing programs and services. The AFH goals and strategies are reflected in PHA's FY 2022 MTW Annual Plan.

### **FY 2022 MTW Goals and Objectives**

In FY 2022 and beyond, PHA plans to continue to substantially transform its properties and programs, and to support the revitalization of Philadelphia's neighborhoods, by leveraging MTW funding and utilizing flexibility provided by the MTW Agreement in virtually every area of agency operations including conversions of public housing to project-based assistance under the Rental Assistance Demonstration program. Also, in response to the COVID-19 pandemic, PHA will continue to closely monitor and make any and all necessary adjustments to maintenance and operational practices and policies to safeguard the health and safety of residents and staff.

PHA will implement a coordinated, comprehensive program of capital improvements, housing and neighborhood development activities, maintenance and management initiatives, and resident supportive services in FY 2022. As PHA's funding for the period is unknown as of the publication date of the MTW Annual Plan, the activities described herein may be modified based on actual funding levels.

MTW activities are defined by HUD as only those activities that specifically require MTW authority or Block Grant flexibility to implement. Highlights of PHA's planned MTW activities include:

- **"6 in 5" Program** – The "6 in 5" initiative encompasses an array of initiatives to develop, acquire or preserve affordable housing in the City of Philadelphia including PHA's Unit Based

Leasing and Development Program, Rental Assistance Demonstration (RAD) Program conversions and transfer of assistance developments, and the Partnership Initiative. It involves a range of strategies including PHA-developed projects that provide for redevelopment and/or replacement of obsolete properties; initiatives to ensure the long-term affordability of Low Income Housing Tax Credit (LIHTC) properties; and partnerships with the City, non-profit agencies and local developers on new construction, acquisition and substantial rehabilitation projects. In FY 2022, PHA will continue to collaborate with partners to develop five (5) new public housing developments, with a total of 182 units (*Table 1*). An estimated \$76.5 million in other funds will be leveraged by these projects. Under the MTW Unit Based Leasing and Development Program (UBV), PHA plans to enter into long-term subsidy contracts for an additional 1,104 units in FY 2022, a figure that includes planned RAD conversions and other development initiatives (*Table 3*). PHA leverages MTW Block Grant and other non-MTW funding to support many of these development projects. In addition to utilizing MTW Block Grant funding, PHA incorporates MTW flexibility in admissions, continued occupancy and other areas.

- ***Neighborhood Transformation at Blumberg/Sharswood*** – PHA will continue to implement the Blumberg/Sharswood Choice Neighborhoods Transformation Plan in FY 2022, spurred on by a \$30 million Choice Neighborhoods Implementation grant awarded to PHA in FY 2021. The overall Plan involves construction or rehabilitation of 1200 affordable and market-rate units, including 420 homeownership units and replacement housing for the distressed Blumberg Apartments public housing development; revitalization of commercial corridors including construction of a new neighborhood supermarket; a newly constructed PHA headquarters building; creation of new recreational facilities and green space; and, the establishment of a multipurpose neighborhood health and service center and high performing high school. Construction and occupancy of 3 phases is complete. Construction and occupancy of the new PHA Headquarters Building is complete. Rehab of the Vaux Community Building is complete, and is now the site of PHA’s new Workforce Center, a Section 3 Resource Center, a neighborhood high school operated by Big Picture Schools, a new nurse-managed health clinic operated by Temple University School of Public Health and other community services. Substantial housing construction activity is planned in FY 2022 by PHA and its development partner (Hunt-Pennrose) including the projected completion of 59 rental units and construction starts on 300 additional rental units; the start of construction of 50-60 homeownership units at on and off-site locations; and, completion of construction at the mixed housing and commercial use development undertaken by Mosaic Development. Construction and occupancy are also projected to be completed at two other partner developments (Harlan Street and Reynolds School). Finally, PHA will also continue to support after school and supportive service programming for low-income youth attending the new Big Picture Philadelphia High School in the Vaux Community Building.
- ***Norris Homes/North Central Philadelphia Neighborhood Transformation*** – PHA will continue to partner with the City of Philadelphia, public housing residents and other partners in FY 2022 to implement a Choice Neighborhood Transformation Plan in the North Central Philadelphia neighborhood that will result in extensive community improvements and construction of 267 rental and 30 homeownership units, of which 147 will be replacement housing. The first two rental phases consisting of a total of 139 units are complete and

occupied. Construction of a community center was also completed as part of the second phase. Construction of the third rental phase consisting of 133 mixed income rental units is projected to be completed in FY 2022. The last phase (homeownership) is projected to commence construction in FY 2022.

- ***Rental Assistance Demonstration (RAD)*** – In FY 2022, PHA will continue its efforts to preserve existing public housing developments, reposition the scattered site portfolio and expand housing opportunities through the Rental Assistance Demonstration (RAD) program. PHA utilizes its MTW Block Grant and MTW programmatic flexibility to support RAD conversions. This includes transferring subsidies through the RAD “transfer of assistance” provision from vacant, non-viable scattered sites to new projects developed throughout the City by PHA and other development partners. Overall, PHA projects that 1,900 units at both existing public housing sites and new transfer of assistance sites will have closed under the RAD program by the end of FY 2021 (*Table 13*). In FY 2022, PHA plans to convert an additional 786 public housing units (including scattered site units that are currently vacant and uninhabitable) to project-based assistance through RAD (*Table 12*). PHA has incorporated the required RAD Significant Amendment information for two additional new construction phases as part of the Sharswood/Blumberg Transformation Plan, as well as the New Courtland at Henry Avenue Tower transfer of assistance project as an appendix to this Annual Plan.
- ***Workforce Development, Youth Development & Other Supportive Services*** – PHA will continue to provide youth development, adult education, employment and training, financial literacy and nutritional services made possible through MTW Block Grant funding. To meet PHA’s long-term goal of supporting resident economic independence, the PHA Workforce Development Program at the Vaux Community Building will continue to offer a “one stop shop” for job readiness, job training and placement, homeownership and other related services. PHA will also continue its support for families and children, providing afterschool and preschool programs as well as summer camps and employment for youth through the Summer Jobs program. These initiatives all leverage MTW Block Grant funding to secure additional public and private funding. Through funding from the CARES Act, PHA has expanded and adapted supportive services to meet the needs that have emerged as a result of the COVID-19 pandemic. These services include providing internet access for PHA families with school-age children as well as support for early learning interventions. Through its FSS partner, Clarifi, PHA has established a hardship fund to provide financial support for medical and childcare needs to PHA families. As funding permits, PHA will continue to provide services in FY 2022 to support PHA families through the unique challenges presented by the pandemic. A summary of PHA’s MTW and Non-MTW funded resident services programs is included in the Annual Plan (*Table 11*).
- ***Sponsor-Based Shared Housing Pilot*** - PHA will continue to implement a new pilot program to expand housing options for homeless individuals and other hard to serve special populations, which builds on and enhances the ongoing collaboration between the City and PHA to reduce homelessness through the “Blueprint to End Homelessness” initiative. The pilot program is anticipated to provide 35 housing opportunities in FY 2022.

- ***HCV Mobility Program*** – The overall goal of PHA’s Mobility Program is to encourage voucher holders to find housing and jobs in areas that provide higher economic, educational, and social mobility opportunities both within and outside of the City of Philadelphia. In FY 2022, the Housing Opportunity Program will provide a broad range of supportive services, housing counseling, and other efforts to promote the successful transition of families to higher opportunity areas. With over 300 participants served since implementation, PHA anticipates providing services to fifty (50) new participants in FY 2022 through the Housing Opportunity Program.
- ***Homeownership*** – PHA will continue to expand and consolidate the existing Section 5h and HCV Homeownership programs with new homeownership initiatives that provide additional financing support for first-time homeowners. To support neighborhood revitalization and opportunities for homeownership, PHA also plans to develop 60 new homeownership units in FY 2022. Soft-second mortgage and down payment assistance will be offered to eligible participants, in addition to homeownership counseling and support. In FY 2022, PHA plans to further expand the homeownership opportunities and leverage FHA’s 203(k) Rehabilitation program to encourage eligible participants to purchase and rehabilitate selected Public Housing scattered site units.
- ***Second Chance Initiative*** – PHA will continue to implement a voucher pilot program to provide supportive services and housing subsidies to formerly incarcerated returning citizens that are active participants in good standing with the Eastern District Federal Court Supervision to Aid Reentry (STAR) Program and Mayor’s Office of Reintegration Services (RISE) Program. Upon HUD approval, PHA will provide for extensions to the two-year program term for STAR/RISE participants impacted by the economic and health emergencies caused by the COVID-19 pandemic. The program also involves a partnership with the Pennsylvania First Judicial Court’s MENTOR program. This pilot initiative allows twenty (20) qualified returning citizens who are referred by and working with the MENTOR program to move in with existing PHA public housing households. The PHA household must be in good standing and willing to add a MENTOR program participant to the lease. This will help to re-unite families, prevent homelessness and, hopefully, interrupt the cycle of recidivism.
- ***Family Self-Sufficiency*** – PHA will continue to implement a local MTW Family Self-Sufficiency (FSS) program that streamlines program requirements and expands the program. In FY 2022, PHA will implement changes to the MTW FSS program to modify employment requirements and encourage adult family members to seek and maintain employment. PHA anticipates adding 100 new families to the MTW FSS program in FY 2022, bringing the total number of families served to 400.
- ***Nursing Home Transition*** – The Nursing Home Transition Program provides housing opportunities for persons with disabilities who are transitioning from nursing home to community-based settings.
- ***Rent Simplification and Program Streamlining Initiatives*** – PHA will continue to implement previously approved MTW initiatives that simplify program administration and provide incentives for economic self-sufficiency. Upon approval, PHA may implement additional

changes in FY 2022, including the application of simplification and streamlining policies to households who reside in housing operated by PAPMC and the establishment of exception payment standards for certain units in the HCV program. PHA will also modify existing MTW rent and recertification policies to address the challenges that participants have faced as a result of the COVID-19 pandemic. This includes temporarily lifting the limit on voluntary interim recertifications, which will allow participants who have experienced a job loss or reduction in income to request rent reduction regardless of past requests for interim recertification.

- ***Emergency Waivers*** - The COVID-19 outbreak threatens the lives of many Americans and the livelihoods of many more. It is an urgent health crisis of unprecedented scale, and one that is disproportionately impacting low-income families. The outbreak of COVID-19 also places additional burdens on housing authorities who are working tirelessly to respond to the needs of their participants while also maintaining compliance with program requirements. In FY 2022 PHA will use its MTW authority to establish an emergency waivers activity which addresses the burdens placed on all stakeholders. PHA initially proposed this activity as part of a Board approved amendment to the FY 2021 MTW Annual Plan; however, based on subsequent discussions with HUD, PHA withdrew the FY 2021 Plan Amendment. Accordingly, PHA is proposing the Emergency Waiver activity as part of the FY 2022 Annual Plan.

PHA will periodically review and revise ongoing initiatives as needed in response to current conditions and priorities and to take advantage of new/emerging opportunities.

### **Background on the MTW Annual Plan**

As part of each year's MTW planning process, PHA provides opportunities for residents, PHA staff and the broader community to review the proposed goals, objectives and activities, and to offer feedback. PHA conducted a virtual meeting with resident leadership to discuss its contents and provide opportunities for resident input. PHA posted the draft Plan on its website and provided a thirty-day public comment period to allow for resident and general public review. PHA also conducted a virtual public hearing and obtained Board of Commissioners approval prior to submission of the Plan to HUD. See Section VI and Appendix A for additional information.

## II. GENERAL OPERATING INFORMATION

### A. Housing Stock Information

#### i. *Planned New Public Housing Units*

PHA plans to add 182 units at five (5) new developments to its public housing inventory in FY 2022 as summarized in Table 1. PHA competitively selected the developments to receive public housing operating subsidy through a Request for Proposals (RFP) under PHA's Unit Based Development and Leasing (UBV) program. All planned public housing developments will be undertaken by third party developer partners. The actual number of new public housing units may vary depending on several variables including changes to financing plans and construction schedules, receipt of Low Income Housing Tax Credits, HUD processing timetables and other factors. PHA will continue to comply with all applicable environmental requirements, and coordinate environmental review activities with the HUD Field Office for these developments. PHA may issue a new Request for Proposals (RFP) during FY 2022 and may select additional developments for receipt of public housing Annual Contributions Contract(s) as a result of that or prior RFP(s), subject to approval of the PHA Board of Commissioners. Due to changes in development plans and schedules, planned developments shown in Table 1 may also appear in prior or subsequent Annual Plans.

**Table 1: Planned New Public Housing Units in FY 2022**

AMP Name/#*	Bedroom Size						Total Units**	Population Type	# of UFAS Units	
	0/1	2	3	4	5	6+			Fully Accessible	Adaptable
Allegheny West Plaza	45						45	Senior 62+	12	
Be a Gem Crossing	7	23	11				41	Family/ General	6	
Mill Redevelopment A & Indiana	3	26	7				36	Family	7	
Rafael Porrata Doria Place	30						30	Senior 55+/ Disabled	15	15
West Mill Place	11	11	8				30	Family, Other	4	26
<b>Total Public Housing Units to be Added in Plan Year</b>							<b>182</b>		<b>44</b>	<b>41</b>

\*AMP numbers have not yet been assigned.

\*\*Refers to total public housing units. Actual total unit count may vary and include other types of units including market, Project Based Voucher, etc.

#### ii. *Planned Public Housing Units to Be Removed from Inventory*

In FY 2022, PHA plans to demolish and/or dispose of a projected 886 units as summarized in Table 2. The planned demolition and disposition initiatives are related to PHA's revitalization program and ongoing portfolio assessment and repositioning efforts including conversion of public housing units to project-based assistance under the Rental Assistance Demonstration (RAD) program. While Table 2 provides an estimate of the number of units to be removed from the public housing inventory during the Plan Year, the actual number may vary depending on the timetables for HUD and City of Philadelphia approvals, project financing, RAD closings and other factors.

Due to variances in development schedules and changes in development priorities, units listed in Table 2 may include units listed in prior year Annual Plans for which disposition has not yet occurred.

**Table 2: Planned Public Housing Units to Be Removed in FY 2022**

PIC Dev.#/AMP	PIC Dev. Name	# of Units to be Removed	Explanation for Removal
PA2-055	Fairhill Apartments	110	Partial conversion of existing public housing development
PA2-031	Bartram Village	75	Partial conversion of existing public housing development
PA2-039	West Park Apartments	110	Partial conversion of existing public housing development
PA2-132	Suffolk Manor	137	Conversion of existing PAPMC public housing development
PA2-137	Cambridge I	44	Conversion of existing PAPMC public housing development
PA2-129	Cambridge II	40	Conversion of existing PAPMC public housing development
PA2-147	Cambridge III	40	Conversion of existing PAPMC public housing development
PA2-901	Scattered Sites Haddington	26	RAD Transfer of Assistance
		2	Disposition of Scattered Properties
PA2-902	Scattered Sites Mantua	13	RAD Transfer of Assistance
		10	Disposition of Scattered Properties
PA2-903	Scattered Sites Kingsessing	15	RAD Transfer of Assistance
		3	Disposition of Scattered Properties
PA2-904	Scattered Sites Germantown	23	RAD Transfer of Assistance
		3	Disposition of Scattered Properties
PA2-905	Scattered Sites Fairhill Square	9	RAD Transfer of Assistance
		1	Disposition of Scattered Properties
PA2-906	Scattered Sites Francisville	0	RAD Transfer of Assistance
		4	Disposition of Scattered Properties
PA2-907	Scattered Sites Ludlow	23	RAD Transfer of Assistance
		18	Disposition of Scattered Properties
PA2-908	Scattered Sites Susquehanna	72	RAD Transfer of Assistance
		0	Disposition of Scattered Properties
PA2-909	Scattered Sites Strawberry Mansion	31	RAD Transfer of Assistance
		12	Disposition of Scattered Properties
PA2-910	Scattered Sites Oxford Jefferson	18	RAD Transfer of Assistance
		47	Disposition of Scattered Properties
TOTAL		886	

*\*Timing for removal of units related to RAD conversions may vary and extend beyond the Fiscal Year. RAD TOA numbers include those identified for transactions and those not yet identified. Addresses for scattered site units planned for demo/dispo have been included in Appendix D to this Plan.*

PHA has submitted applications to HUD to dispose of two (s) administrative building properties that are in excess of its needs due to the construction of the Agency's consolidated headquarters:

- 3440 Bartram Avenue
- 1800 S. 32<sup>nd</sup> Street

PHA intends to proceed with the dispositions of the above-listed property in FY 2022 subject to HUD approvals. Also in FY 2022, PHA plans to submit applications to HUD for disposition of two additional administrative buildings:

- 3100 Penrose Ferry Rd
- 2012 Chestnut Street

PHA will sell or lease the administrative properties at fair market value based on an assessment of which option will generate the greatest benefit to PHA. PHA believes that the dispositions are in the best interest of PHA, its residents, and the City of Philadelphia. Finally, PHA intends to submit a disposition application to transfer property in Sharswood to the North Philly Peace Park of CultureTrust Greater Philadelphia to support the creation of an Urban Ecology Campus and Educational Pavilion.

### *iii. Planned New Project-Based Voucher Leasing*

PHA also provides project-based voucher subsidies to non-profit sponsors and other private property owners through its UBV Program. Table 3 provides details on new UBV developments that PHA plans to commit to subsidize with vouchers during the Plan Year. This includes RAD conversion developments that PHA projects to be newly placed under commitment or contract in FY 2022. Overall, PHA projects that 1,104 additional units will be placed under commitment or contract in FY 2022. PHA may issue a new Request for Proposals (RFP) during FY 2022, and may select additional developments for receipt of unit-based vouchers as a result of that or prior RFP(s), subject to approval of the PHA Board of Commissioners. Actual contract/leasing figures may vary based on multiple factors, including contract terminations or suspensions, new and additional projects approved by the PHA Board during the Plan year, HUD RAD processing timetables and other considerations. Due to changes in development plans and schedules, planned developments shown in Table 3 may also appear in prior or subsequent Annual Plans.

**Table 3: New Housing Choice Vouchers to be Project-Based in FY 2022**

Property Name	# of Vouchers to be Project-Based	RAD?	Description of Project
27th & Susquehanna	78	Yes	New construction in Strawberry Mansion at 27 <sup>th</sup> & Susquehanna for low-income families sponsored by Susquehanna Net Zero Housing LP.
Fairhill Apartments Initial Phase	110	Yes	Partial conversion of existing public housing development sponsored by PHA.
Harlan Street	22	Yes	New construction in the Sharswood neighborhood sponsored by Michaels Development.
Harrison Plaza	112	Yes	Conversion of tower in existing public housing development sponsored by PHA.



Property Name	# of Vouchers to be Project-Based	RAD?	Description of Project
Hunt Sharswood Phase 1	30	Yes	New construction, mixed income development with 60 total units developed by Hunt-Pennrose as part of Sharswood CNI Plan
Liddonfield	150	No	New construction for seniors in Northeast Philadelphia sponsored by New Courtland. Supportive services are provided.
New Courtland at Henry Ave	40	Yes	Rehabilitation of Henry Ave tower for seniors sponsored by New Courtland. Supportive services to be provided.
Norris Apartments Phase V	45	Yes	Choice Neighborhood RAD conversion sponsored by PHA.
Norris LP	51	Yes	Conversion of existing PAPMC public housing development sponsored by PHA.
Queen Lane	55	Yes	Conversion of existing PAPMC development sponsored by PHA.
Queen Row	43	Yes	Conversion of existing public housing development sponsored by PHA.
Reynolds School	49	Yes	Adaptive reuse to convert elementary school into housing for homeless veterans sponsored by HELP USA. Supportive services to be provided.
School of Nursing – Project HOME	50	No	Rehabilitation of former nursing school building for homeless individuals sponsored by Project HOME. Supportive services to be provided.
Sharswood II	30	Yes	New construction in the Sharswood neighborhood sponsored by Hunt. Supportive Services to be provided.
Sharswood III	95	Yes	New construction in the Sharswood neighborhood sponsored by Hunt.
Strawberry Mansion Village	34	No	New construction in the Strawberry Mansion neighborhood sponsored by Pennrose. Supportive services to be provided.
West Park Apartments Initial Phase	110	Yes	Partial conversion of existing public housing development sponsored by PHA.
	<b>1,104</b>	<b>Planned Total Vouchers to be Newly Project-Based</b>	

*iv. Planned Existing Project Based Vouchers*

In addition to planned new project-based vouchers, PHA will continue to provide voucher-based operating support for a large portfolio of existing units under contract in the UBV Program. Table 4 provides details on those UBV developments that are currently under contract, and that PHA projects will be under contract throughout FY 2022. As noted, there are 3,705 units in this category. Actual figures may vary depending on several factors including contract terminations, unit additions and subtractions.

**Table 4: Planned Existing Project-Based Vouchers in FY 2022**

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
1315 North 8th Street	25	Leased/Issued	Yes	New construction of 30 units of affordable housing targeted for youths aging out of foster care in the West Poplar neighborhood (homeless) sponsored by Project HOME. Supportive services are provided.
2415 N Broad St	88	Leased/Issued	Yes	New construction in North Philadelphia serving homeless individuals, sponsored by Project Home. Supportive services are provided.
4050 Apts	20	Leased/Issued	No	New Construction site for Starving Artists in West Philadelphia sponsored by People's Emergency Center. Supportive services are provided.

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
46th St	4	Leased/Issued	No	Existing site for low-income families in South Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
4th & Diamond	32	Leased/Issued	No	Existing site for women and their families in North Philadelphia sponsored by Women's Community Revitalization Project. Supportive services are provided.
5317 15th St	1	Leased/Issued	No	Existing site for low-income families in South Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
7th & Ritner	5	Leased/Issued	No	Existing site for low-income families in South Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
810 Arch St	70	Leased/Issued	No	Existing site for Homelessness in Center City Philadelphia sponsored by Project Home. Supportive services are provided.
Academy Rd	18	Leased/Issued	No	Existing site for low-income families in Roxborough section of Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Anna's House	12	Leased/Issued	No	Existing site for homeless/mental health individuals in South Philadelphia sponsored by CATCH. Supportive services are provided.
Arch V Temple	49	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Mission First Housing Group.
Arch VI Temple	40	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Mission First Housing Group.
Arch VII LIH Walnut	14	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Art Apartments	30	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Pine Lake Management Associates, LP.
Ascension Manor	3	Leased/Issued	No	Existing site for low-income seniors in North Philadelphia sponsored by Liberty Resources. Supportive services are provided.
Belmont I	25	Leased/Issued	No	New Construction site for the disabled in West Philadelphia sponsored by Inglis House. Supportive services are provided.
Belmont II	15	Leased/Issued	No	New Construction site for the disabled in West Philadelphia sponsored by Inglis House. Supportive services are provided.
Benner/Frankford	8	Leased/Issued	No	Existing site for low-income families in South Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Bernice Elza	6	Leased/Issued	No	Existing site for homeless emancipated teens in West Philadelphia sponsored by Peoples Emergency Center. Supportive services are provided.
Bethesda Project Bainbridge	20	Leased/Issued	No	Existing site for homeless/mental health individuals in South Philadelphia sponsored by Bethesda Project. Supportive services are provided.
Bethesda Project South	4	Leased/Issued	No	Existing site for homeless/mental health individuals in South Philadelphia sponsored by Bethesda Project. Supportive services are provided.
Bethesda Project Spruce	13	Leased/Issued	No	Existing site for homeless/mental health individuals in South Philadelphia sponsored by Bethesda Project. Supportive services are provided.
Bigham Place	7	Leased/Issued	No	Existing site for Homeless families in Mantua sponsored by People's Emergency Center. Supportive services are provided.

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
Blakiston St	7	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group.
Blumberg	6	Leased/Issued	No	New Construction for low-income families in North Phila sponsored by Philadelphia Housing Authority.
Blumberg 83 Phase III	83	Leased/Issued	Yes	New construction in Blumberg/Sharswood neighborhood serving low-income families sponsored by PHA.
Blumberg Phase I	51	Leased/Issued	Yes	New construction in Sharswood neighborhood serving low-income families including 51 RAD and 6 other project-based vouchers sponsored by PHA.
Blumberg Phase I	6	Leased/Issued	No	New construction in Sharswood neighborhood serving low-income families including 51 RAD and 6 other project-based vouchers sponsored by PHA.
Blumberg Senior	94	Leased/Issued	Yes	New construction of an existing site for seniors sponsored by PHA. Supportive services are provided.
Boriquen	17	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Boriquen Associates II Limited. Supportive services are provided.
Brentwood Parkside	22	Leased/Issued	No	Existing site for very low-income seniors and families in West Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Cantrell Place	40	Leased/Issued	Yes	Substantial rehabilitation development in South Philadelphia for seniors, sponsored by Presbys Inspired Life. Supportive services are provided.
Casas En La Plaza	29	Leased/Issued	Yes	Rehabilitation of existing family units in North Central Philadelphia, sponsored by Norris Square Community Alliance.
Centennial Village	23	Leased/Issued	No	New Construction for low-income families, seniors, disabled in West Philadelphia sponsored by Community Ventures. Supportive services are provided.
Chatham Court Apts	18	Leased/Issued	No	Existing site for low-income families in West Philadelphia sponsored by Ingerman. Supportive services are provided.
Chestnut St	6	Leased/Issued	No	Existing site for low-income families in the West Philadelphia sponsored by Mission First Housing Group.
Cloisters III	18	Leased/Issued	No	Existing site for homeless individuals in West Philadelphia sponsored by Cloisters III Housing Partnership. Supportive services are provided.
CNI Norris/North Central Phase III	28	Leased/Issued	Yes	New construction replacement of existing family public housing site sponsored by PHA.
Conklin St	3	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group.
Courtyard at Riverview	470	Leased/Issued	Yes	Rehabilitation of existing housing serving low-income families and seniors, sponsored by Michaels Organization.
Dignity Boss	8	Leased/Issued	No	Existing site for women of domestic abuse with children in Germantown/Mt Airy sponsored by Community For Dignity & Fairness. Supportive services are provided.
Dignity Nedro	4	Leased/Issued	No	Existing site for women of domestic abuse with children in Northwest Philadelphia sponsored by Community For Dignity & Fairness. Supportive services are provided.
Dignity-1	10	Leased/Issued	No	Existing site for women of domestic abuse with children in Germantown, sponsored by Community For Dignity & Fairness Supportive services are provided.
Dignity-15	4	Leased/Issued	No	Existing site for women of domestic abuse with children in Germantown, sponsored by Community For Dignity & Fairness. Supportive services are provided.

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
Dignity-21	11	Leased/Issued	No	Existing site for women of domestic abuse with children in Germantown, sponsored by Community For Dignity & Fairness. Supportive services are provided.
Dignity-33	16	Leased/Issued	No	Existing site for women of domestic abuse with children in Germantown, sponsored by Community For Dignity & Fairness. Supportive services are provided.
Dignity-4	3	Leased/Issued	No	Existing site for women of domestic abuse with children in Germantown, sponsored by Community For Dignity & Fairness. Supportive services are provided.
Ditman St	10	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Dunlap School	35	Leased/Issued	No	Existing site for seniors in North Philadelphia sponsored by Dunlap Management Partners LP. Supportive services are provided.
Edgewood Manor	33	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Edgewood Manor II Lap. Supportive services are provided.
Elders Place I	43	Leased/Issued	No	Existing senior site in the Germantown section of Philadelphia sponsored by Penn Housing LLC. Supportive services are provided.
Elders Place II	38	Leased/Issued	No	Existing senior site in the Germantown section of Philadelphia sponsored by Penn Housing LLC. Supportive services are provided.
Fattah Homes I	6	Leased/Issued	No	Existing site for homeless families with disability in West Philadelphia sponsored by Peoples Emergency Center. Supportive services are provided.
Fattah Homes II	6	Leased/Issued	No	Existing site for Homeless families in Mantua sponsored by People's Emergency Center. Supportive services are provided.
Fourth St Access	24	Leased/Issued	No	Existing site for low-income families in North Philadelphia. Project sponsor is Mission First Housing Group. Supportive services are provided.
Francis House	10	Committed	No	New construction for seniors in Northeast Philadelphia sponsored by St Ignatius. Supportive services are provided.
Freedom Village	16	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Freedom Village LP.
Gaudenzia Shelton Court	19	Leased/Issued	No	Existing site for homeless low-income individuals in East Mt Airy, sponsored by Gaudenzia Foundation Inc. Supportive services are provided.
Gordon St	21	Leased/Issued	No	New construction for low-income families sponsored by Philadelphia Housing Authority.
Haddington III	48	Leased/Issued	Yes	New construction in West Philadelphia for low-income families, sponsored by 1260 Housing Development Corp. Supportive services are provided.
Help I	14	Leased/Issued	No	Existing site for veterans in West Philadelphia sponsored by HELP USA. Supportive services are provided.
Help II	50	Leased/Issued	No	Existing site for veterans in West Philadelphia sponsored by HELP USA. Supportive services are provided.
HELP IV	15	Leased/Issued	No	Existing site for veterans in West Philadelphia sponsored by HELP USA. Supportive services are provided.
HELP V	37	Leased/Issued	Yes	New construction in Northern Liberties section of Philadelphia serving veterans and senior veterans, sponsored by HELP USA. Supportive services are provided.

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
Hope Bridge Ogden	4	Leased/Issued	No	Existing site for homeless individuals in West Philadelphia sponsored by Methodist Family Services of Philadelphia. Supportive services are provided.
Hope Bridge Vine St	20	Leased/Issued	No	Existing site for homeless individuals in West Philadelphia sponsored by Methodist Family Services of Philadelphia. Supportive services are provided.
Imani Homes I	24	Leased/Issued	No	Existing site for homeless families in West Philadelphia sponsored by Methodist Family Services of Philadelphia. Supportive services are provided.
Imani Homes II	6	Leased/Issued	No	Existing site for homeless individuals in West Philadelphia sponsored by Methodist Family Services of Philadelphia. Supportive services are provided.
Imani Homes III	6	Leased/Issued	No	Existing site for homeless individuals in West Philadelphia sponsored by Methodist Family Services of Philadelphia. Supportive services are provided.
Imani Homes IV	8	Leased/Issued	No	Existing site for homeless individuals in West Philadelphia sponsored by Methodist Family Services of Philadelphia. Supportive services are provided.
Imani Homes V	11	Leased/Issued	No	Existing site for homeless individuals in West Philadelphia sponsored by Methodist Family Services of Philadelphia. Supportive services are provided.
Impact Veterans	8	Leased/Issued	No	Existing site for Veteran Families in North Philadelphia sponsored by Impact Services. Supportive services are provided.
INB Mascher	12	Leased/Issued	No	Existing site for women and their families in North Philadelphia sponsored by Women's Community Revitalization Project. Supportive services are provided.
Inglis House	17	Leased/Issued	No	Existing site for the disabled sponsored by Inglis House. Supportive services are provided.
Inglis House-Elmwood	40	Leased/Issued	No	Existing site for the disabled sponsored by Inglis House. Supportive services are provided.
Jackson St	2	Leased/Issued	No	Existing site for low-income families in the West Philadelphia sponsored by Mission First Housing Group.
Jannie's Place	17	Leased/Issued	No	Existing site for homeless individuals and families in the Mantua neighborhood of West Philadelphia sponsored by People's Emergency Center. Supportive services are provided.
JBH Homes	15	Leased/Issued	No	Existing site for homeless with special needs in the Fairmount area of Philadelphia sponsored by Project Home. Supportive services are provided.
Kate's Place	35	Leased/Issued	No	Existing site for singles and people with disabilities in the Center City area of Philadelphia sponsored by Peoples Emergency Center. Supportive services are provided.
Kendrick/Gillespie St	11	Leased/Issued	No	Existing site for low-income families in Holmesburg section of Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Keystone St	6	Leased/Issued	No	Existing site for families in Northeast Philadelphia sponsored by Mission First Housing Group.
Larchwood St	4	Leased/Issued	No	Existing site for low-income families in Spruce Hill section of Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Lehigh Park I	49	Leased/Issued	Yes	Rehabilitation of existing housing serving low-income families, sponsored by HACE. Supportive services are provided.
Lehigh Park II	25	Leased/Issued	No	Existing site for families, elderly or disabled sponsored by HACE. Supportive services are provided.

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
Liberty at Disston	5	Leased/Issued	No	Nursing home transition in Northeast Philadelphia sponsored by Liberty Resources. Supportive services are provided.
Liberty Resource	2	Leased/Issued	No	Existing site with a preference for disabled seniors in West Philadelphia sponsored by Liberty Resources.
Liberty Welsh	2	Leased/Issued	No	Nursing home transition in Northeast Philadelphia sponsored by Liberty Resources. Supportive services are provided.
Lindley Court	11	Leased/Issued	No	Rehabilitation site in Logan for seniors sponsored by Presby Inspired Life. Supportive services are provided.
Los Balcones	21	Leased/Issued	No	Existing site for low-income women and families in North Philadelphia sponsored by Norris Square Association.
Martin St	7	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Monument Mews	60	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Mission First Housing Group.
Monument Village	11	Leased/Issued	No	Existing site for single women in West Philadelphia sponsored by Methodist Homes. Supportive services are provided.
Morton St	2	Leased/Issued	No	Existing site for low-income families in Germantown Philadelphia sponsored by Mission First Housing Group.
MPB School Apartments	16	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Mission First Housing Group.
Mt Vernon II	15	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Mt Vernon LP.
Mt. Vernon I	15	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Mt Vernon LP.
New Courtland at Allegheny	40	Leased/Issued	No	Existing site for low-income seniors in North Philadelphia sponsored by New Courtland. Supportive services are provided.
New Courtland at Cliveden	32	Leased/Issued	No	Existing site for low-income seniors in Germantown sponsored by New Courtland. Supportive services are provided.
New Courtland at St Barts	42	Leased/Issued	Yes	New construction in Northeast Philadelphia for seniors, sponsored by New Courtland. Supportive services are provided.
Norris CNI Phase II	74	Leased/Issued	Yes	New construction family public housing replacement units sponsored by PHA.
NPCH - Community Building	16	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by NPCH Associates.
Oakdale St	12	Leased/Issued	No	New construction site for low-income families sponsored by Philadelphia Housing Authority.
Osage Ave	2	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Parkside 10	41	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Mission First Housing Group.
Parkside 11	8	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Mission First Housing Group.
Paseo Verde	19	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Transit Village Affordable Housing LP.
Patriot House	15	Leased/Issued	No	Existing site for homeless individuals in South Philadelphia sponsored by CATCH. Supportive services are provided.

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
Penrose	10	Leased/Issued	No	Existing site for homeless individuals in South Philadelphia sponsored by CATCH. Supportive services are provided.
Plymouth Hall	53	Leased/Issued	Yes	Existing site for seniors in North Philadelphia, sponsored by PHA.
Powelton Heights	30	Leased/Issued	No	Existing site for seniors in West Philadelphia sponsored by Mission First Housing Group.
Preston St	7	Leased/Issued	No	Existing site for low-income families in the West Philadelphia area sponsored by Mission First Housing Group.
Ray's Place	17	Leased/Issued	No	Existing site for homeless persons with a serious mental illness in North Philadelphia sponsored by Project Home. Supportive services are provided.
Reed St	8	Leased/Issued	No	Existing site for low-income families in South Philadelphia sponsored by Mission First Housing Group.
Regent Terrace	80	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Regent Terrace Housing Partnership.
Rhawn St	11	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Roberto Clemente House	38	Leased/Issued	Yes	Substantial rehabilitation development in North Philadelphia serving low-income families, sponsored by Nueva Esperanza. Supportive services are provided.
Sandy's/Catherine House	3	Leased/Issued	No	Existing site for homeless individuals in South Philadelphia sponsored by CATCH. Supportive services are provided.
Sarah Allen IV	2	Leased/Issued	No	Existing site for low-income families in West Philadelphia sponsored by Friends Rehab.
Sarah Allen V	3	Leased/Issued	No	Existing site for low-income families in West Philadelphia sponsored by Friends Rehab.
Sarah Allen Community Homes	1	Leased/Issued	No	Existing site for low-income families in West Philadelphia sponsored by Friends Rehab.
Sartain School	35	Leased/Issued	No	Existing site for seniors in North Philadelphia sponsored by Sartain School Venture.
Sheff/Wingate St	8	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group.
Sheila D Brown Women's Center	9	Leased/Issued	No	Existing site for women with behavioral disabilities in South Philadelphia sponsored by Mission First Housing Group.
SIL Program	13	Leased/Issued	No	Existing site for individuals with mental health/chemical dependency in Roxborough. Supportive services provided. Sponsored by Inter Community Action
South 55th St LP	18	Leased/Issued	No	Existing site for diverse tenants in West Philadelphia sponsored by Ingerman.
South Phila Scattered	19	Leased/Issued	No	Existing site for low-income families in Northeast Philadelphia sponsored by Mission First Housing Group.
Spring Garden	9	Leased/Issued	No	Existing site for homeless families with disability in West Philadelphia sponsored by Peoples Emergency Center. Supportive services are provided.
Spruce St	3	Leased/Issued	No	Existing site for low-income families in South Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
St John Neumann	52	Leased/Issued	Yes	New construction in South Philadelphia serving seniors, sponsored by Archdiocese of Philadelphia.
Strawberry Mansion	55	Leased/Issued	Yes	New construction in North Philadelphia for low-income families, sponsored by PHA.

Property Name	# of Project-Based Vouchers	Planned Status at End of Year	RAD?	Description of Project
Susquehanna Apt	47	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Susquehanna Apts LP.
Susquehanna Square	37	Committed	Yes	New Construction development in North Philadelphia serving low income families sponsored by Community Ventures.
Thompson St	20	Leased/Issued	No	Existing site for very low-income families in Center City and West Philadelphia sponsored by Mission First Housing Group. Supportive services are provided.
Tillmon Villanueva	38	Leased/Issued	No	Existing site for women and their families in North Philadelphia sponsored by Women's Community Revitalization Project. Supportive services are provided.
Tioga Family Center	24	Leased/Issued	No	Existing site for homeless low-income individuals in East Mt Airy sponsored by Gaudenzia Foundation Inc. Supportive services are provided.
Tioga Gardens	17	Leased/Issued	No	Existing site for very low-income families in North Philadelphia sponsored by Tioga Gardens Associates.
Walnut Park Plaza	224	Leased/Issued	No	Existing site for low-income seniors in West Philadelphia sponsored by Walnut Park Associates LLC.
Walnut Park Plaza (ADA)	3	Leased/Issued	No	Existing site for low-income seniors in West Philadelphia sponsored by Walnut Park Associates LLC.
Walnut St	15	Leased/Issued	No	Existing site for very low-income families in West Philadelphia sponsored by Mission First Housing Group.
WCRP TNI 1	12	Leased/Issued	No	Existing site for women and their families in North Philadelphia sponsored by Women's Community Revitalization Project. Supportive services are provided.
WCRP TNI 2	9	Leased/Issued	No	Existing site for women and their families in North Philadelphia sponsored by Women's Community Revitalization Project. Supportive services are provided.
WCRP-Grace	36	Leased/Issued	No	Existing site for women and their families in North Philadelphia sponsored by Women's Community Revitalization Project. Supportive services are provided.
Witherspoon Senior Apts	40	Leased/Issued	Yes	New construction in West Philadelphia serving seniors, sponsored by Presbys Inspired Life. Supportive services are provided.
	<b>3,705</b>	<b>Planned Total Existing Project-Based Vouchers</b>		

v. *Planned Other Changes to Housing Stock*

In FY 2022, PHA's development efforts under the "6 in 5", RAD and other development initiatives will continue to be guided by development principles approved by the PHA Board in September 2012. The development principles provide the framework for future development activities undertaken with public and private partners; clarifies the selection and review processes; and, provides guidance on PHA's commitment to Section 3 jobs, sustainable development, defensible space principles, and other important issues. In light of funding constraints, PHA's policy also emphasizes the importance of achieving maximum leverage with limited public funds.

PHA's development efforts also support the goals established in the Assessment of Fair Housing Plan jointly issued by the City and PHA and accepted by HUD in February 2017. These goals emphasize the importance of a balanced approach to fair housing including preservation of existing housing, development of new affordable rental and homeownership housing, investments to



improve the quality of life in distressed neighborhoods, and mobility initiatives to support housing in high opportunity areas.

Working in collaboration with the City of Philadelphia, PHA will continue to further the shared goal of creating significant new affordable housing opportunities citywide. Table 5 provides a summary of other housing and neighborhood revitalization activities currently planned by PHA, including initiatives in support of the City of Philadelphia’s affordable rental and homeownership goals. Additional initiatives may be added during the Plan year, subject to Board approval and any applicable HUD approvals, which may include acquisitions, housing and/or commercial development and other activities in support of PHA’s Strategic Directions Plan. In addition, Appendix C includes PHA’s Asset Management Table, which is periodically updated to provide an overview of planned or potential development, disposition, refinancing, conversion and/or homeownership activities at PHA sites.

**Table 5: Other Planned Activities**

Site	Description of Project
Brooklyn Heights	PHA is negotiating the acquisition (PRA) of land in the Mill Creek neighborhood to develop approximately 32 units.
Gordon Street Phase II (Strawberry Mansion)	PHA has selected a partner for the second phase development to support up to 70 rental units adjacent to the newly developed Gordon Apartments.
Falls Ridge	PHA listed the property for sale at fair market value and accepted an offer proposing construction of approximately 150 market rate units. Closing on the transaction is projected for calendar year 2020.
Sharswood Development	PHA has designated Hunt Companies as developer for certain off-site parcels in the Sharswood community. PHA and Hunt have developed a plan for additional housing development in support of the CNI Transformation Plan goals. PHA and Hunt Companies jointly applied for a Choice Neighborhood Implementation grant in November 2019 and was awarded a \$30,000,000 grant. PHA will issue several development partner RFP’s for the homeownership phases.
2012 Chestnut Street	PHA entered into a development agreement with a private developer (Alterra Property Group) to develop the vacant, former PHA headquarters site at 2012 Chestnut Street into up to 200 units of housing of which 20% will be targeted to households with incomes at or below 80% of Area Median Income. The development will also include 7,000 square ft. of commercial space. The developer was chosen through an RFP process. The developer is in the predevelopment stage, with construction anticipated to start once the financing plan is finalized.
Bartram Village	PHA entered into a predevelopment agreement with Pennrose Properties to evaluate the redevelopment of Bartram Village. PHA was awarded Choice Neighborhoods Planning grant funds for Bartram Village and the surrounding Kingsessing neighborhood to support the development of a comprehensive Transformation Plan. PHA submitted the CNI Transformation Plan to HUD and HUD accepted the Plan in April 2020. Implementation of “action activities” funded under the CNI Planning Grant are scheduled to commence in FY 2021. PHA continues working with its development partner to secure funding to implement the initial phases of the Transformation Plan, and to plan for a future CNI Implementation Grant application.
Vaux Community Building	PHA completed Phases 1 and 2 of renovations of the Vaux Community Building, which has received EnVision Center designation by HUD. In April 2020, PHA opened a new Workforce Center to provide comprehensive employment and training services to PHA and community residents. Partners including the Temple University Nursing Clinic are also providing services in the facility. Big Picture Philadelphia continues to operate a high school at the Vaux Community Building.
Fairhill Acquisition, Redevelopment	PHA intends to acquire publicly and privately owned parcels in the neighborhood adjacent to Fairhill Apartments in connection with the redevelopment of the site.
Harrison Plaza	PHA intends to redevelop the existing high-rise building part of the Harrison Plaza conventional site into a senior preference building and will utilize the RAD program as part of the redevelopment.
West Park Apartments	PHA issued a developer partner RFP to work with on a comprehensive redevelopment plan to redevelop the campus which could include mixed use development.

vi. *General Description of Planned Capital Expenditures*

PHA's capital planning and development strategies are designed to support, rehabilitate, and modernize existing PHA sites and to revitalize neighborhoods throughout the City. Coordination with the City of Philadelphia's neighborhood revitalization efforts continues to be a priority for PHA. PHA works to leverage its limited PHA resources with other resources such as Low Income Housing Tax Credits, private equity, and state and local funding sources. Utilization of MTW Block Grant funding and programmatic flexibility remains a critical element in PHA's modernization and development efforts.

PHA has prepared a Five Year Capital and Development Plan, and maintains updated physical needs assessments for all PHA developments. Capital needs continue to dramatically exceed available funding.

Table 6 provides information on PHA's planned capital and development projects for which expenditures may be made during FY 2022. It includes projects funded from MTW Block Grant and other sources. PHA is required to submit this Annual Plan in advance of receipt of federal funding information for the fiscal year. In light of the uncertainty of future funding, the information on Table 6 is preliminary and subject to change based on actual funding and other factors. Actual obligations and expenditures may vary based on factors such as construction schedules, timing of HUD and local approvals, availability of leveraged funding and new and emerging repair needs. Note that capital projects are often implemented over multiple years and may involve multiple funding sources.

**Table 6: Planned Capital Expenditures in FY 2022**

Project Type	Site Name	Project Description	Total Estimated Budget
Capital Improvements	Abbottsford Homes	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Abbottsford Homes	Sitework - Playground Replacement	\$95,000
Capital Improvements	Arch Homes	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Arlene Homes	504 Site Modifications / Fair Hsg	\$55,000
Capital Improvements	Cecil B. Moore	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Champlost Homes	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	College View	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Fairhill Apartments	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Fairhill Square	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Francisville	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Germantown/Hunting Park	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Haddington Homes	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Haddington SS	504 Site Modifications / Fair Hsg	\$75,000

Project Type	Site Name	Project Description	Total Estimated Budget
Capital Improvements	Harrison Plaza	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Hill Creek	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Hill Creek	Sitework - Tree Removal	\$35,000
Capital Improvements	Johnson Homes	504 Site Modifications / Fair Hsg	\$55,000
Capital Improvements	Kingsessing	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Ludlow	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Mantua	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Morton Homes	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Oxford Jefferson	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Oxford Village	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Queen Lane Apartments	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Raymond Rosen	504 Site Modifications / Fair Hsg	\$55,000
Capital Improvements	Raymond Rosen	Sitework - Tree Removal	\$35,000
Capital Improvements	Richard Allen II	504 Site Modifications / Fair Hsg	\$55,000
Capital Improvements	Richard Allen II	Sitework - Playground Replacement	\$85,000
Capital Improvements	Scattered Sites 901-910	Carpentry	\$400,000
Capital Improvements	Scattered Sites 901-910	Heating Upgrades	\$100,000
Capital Improvements	Scattered Sites 901-910	Roof Repairs / Replacement	\$2,300,000
Capital Improvements	Scattered Sites 901-910	Scattered Site Demolition	\$823,000
Capital Improvements	Scattered Sites 901-910	Sitework - Concrete Repairs	\$300,000
Capital Improvements	Scattered Sites 901-910	Sitework - Painting	\$200,000
Capital Improvements	Scattered Sites 901-910	Sitework - Tree Removal	\$250,000
Capital Improvements	Scattered Sites 901-910	Sitework - Window Replacement	\$100,000
Capital Improvements	Spring Garden Apartments	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Strawberry Mansion	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Susquehanna	504 Site Modifications / Fair Hsg	\$75,000
Capital Improvements	Whitehall Apartments	504 Site Modifications / Fair Hsg	\$30,000
Capital Improvements	Wilson Park	504 Site Modifications / Fair Hsg	\$55,000
Capital Improvements	PHA Wide	Sitework - Painting	\$1,100,000
Capital Improvements	Bartram Village	Electrical Upgrades	\$400,000
Capital Improvements	Spring Garden	Electrical Upgrades	\$300,000
Capital Improvements	Oxford Village	Sanitary repairs	\$800,000
Capital Improvements	Collegeview	Carpentry	\$140,000
Capital Improvements	Wilson Park	Electrical upgrades	\$80,000
Capital Improvements	Wilson Park	Electronic door replacement	\$220,000
Capital Improvements	PHA Winde	Parging	\$600,000

Project Type	Site Name	Project Description	Total Estimated Budget
ECM	Holmecrest Homes	EPC PHASE II FY 2020	\$216,577
ECM	Fairhill Apartments	EPC PHASE III FY 2022	\$1,104,977
ECM	College View	EPC PHASE II FY 2022	\$74,560
ECM	Bentley Hall	EPC PHASE II FY 2022	\$132,551
ECM	Cecil B. Moore	EPC PHASE II FY 2022	\$68,787
ECM	Johnson Homes	EPC PHASE IV FY 2022	\$3,044,041
ECM	Raymond Rosen	EPC PHASE IV FY 2022	\$2,892,480
ECM	Wilson Park	EPC PHASE IV FY 2022	\$917,000
ECM	Hill Creek	EPC PHASE IV FY 2022	\$205,171
ECM	Hill Creek	EPC PHASE IV FY 2022	\$655,000
ECM	Champlost Homes	EPC PHASE IV FY 2022	\$14,561
ECM	Champlost Homes	EPC PHASE IV FY 2022	\$44,499
ECM	Haverford Homes	EPC PHASE IV FY 2022	\$10,369
ECM	Holmecrest Homes	EPC PHASE IV FY 2022	\$110,000
Modernization	Scattered Sites 901-910	Scattered Sites - Rehab	\$6,000,000
New Development	Blumberg	HUNT Phase Home Ownership	\$32,500,000
New Development	Blumberg	PHA Homeownership	\$11,764,000
New Development	Blumberg	PHA Rental Phase I	\$26,207,272
New Development	Hartranft	Hartranft Community Center	\$5,000,000
New Development		Future Acq. 1917 Oxford	\$4,000,000
RAD	Cambridge I	Cambridge I Conversion	\$6,000,000
RAD	Cambridge II	Cambridge II Conversion	\$6,000,000
RAD	Cambridge III	Cambridge III Conversion	\$6,600,000
RAD	Fairhill Apartments	Fairhill - PHASE 1	\$45,600,000
RAD	Fairhill Apartments	Fairhill - PHASE 1 Demo	\$5,000,000
RAD	Suffolk Manor	Suffolk Manor Conversion	\$14,000,000
RAD	Richard Allen III LP	Richard Allen III Conversion	\$20,952,733
<b>TOTAL</b>			<b>\$208,922,578</b>

Table 6A below is provided for informational purposes. It is a current list of additional planned capital projects and total budget estimates. This includes projects expected to be implemented in future years, but for which expenditures are not likely to begin in FY 2022. The listing of proposed projects and estimated budgets is preliminary and subject to change.

**Table 6A: Additional Planned Capital Projects and Estimated Budget**

Project Type	Site Name	Project Description	Total Estimated Budget
Capital Improvements	Johnson Homes	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Richard Allen II	504 Site Modifications / Fair Hsg	\$45,000
Capital Improvements	Raymond Rosen	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Wilson Park	504 Site Modifications / Fair Hsg	\$45,000
Capital Improvements	Harrison Plaza	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Arch Homes	504 Site Modifications / Fair Hsg	\$45,000
Capital Improvements	Spring Garden Apartments	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Queen Lane Apartments	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Hill Creek	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Abbottsford Homes	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Oxford Village	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Whitehall Apartments	504 Site Modifications / Fair Hsg	\$45,000
Capital Improvements	Haddington Homes	504 Site Modifications / Fair Hsg	\$45,000
Capital Improvements	Champlost Homes	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Morton Homes	504 Site Modifications / Fair Hsg	\$25,000
Capital Improvements	Fairhill Apartments	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	College View	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Cecil B. Moore	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Arlene Homes	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Haddington SS	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Mantua	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Kingsessing	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Germantown/Hunting Park	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Fairhill Square	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Francisville	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Ludlow	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Susquehanna	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Strawberry Mansion	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Oxford Jefferson	504 Site Modifications / Fair Hsg	\$50,000
Capital Improvements	Scattered Sites 901-910	Carpentry	\$400,000
Capital Improvements	Scattered Sites 901-910	Heating Upgrades	\$100,000
Capital Improvements	Bentley Hall	Roof Repairs / Replacement	\$1,000,000
Capital Improvements	Scattered Sites 901-910	Roof Repairs / Replacement	\$800,000
Capital Improvements	Raymond Rosen	Sitework - Tree Removal	\$40,000
Capital Improvements	Hill Creek	Sitework - Tree Removal	\$50,000
Capital Improvements	Scattered Sites 901-910	Sitework - Tree Removal	\$250,000
Capital Improvements	Scattered Sites 901-910	Sitework - Window Replacement	\$200,000

Project Type	Site Name	Project Description	Total Estimated Budget
Capital Improvements	Harrison Plaza	Water Penetration	\$3,700,000
ECM	Cecil B. Moore	EPC PHASE II FY 2020	\$262,000
ECM	Arlene Homes	EPC PHASE II FY 2020	\$54,741
ECM	Cassie L Holley	EPC PHASE III FY 2021	\$135,450
ECM	Katie B Jackson	EPC PHASE IV FY 2022	\$26,729
ECM	Emlen Arms	EPC PHASE IV FY 2022	\$52,400
ECM	Richard Allen II	EPC PHASE V FY 2023	\$64,804
ECM	Raymond Rosen	EPC PHASE V FY 2023	\$749,155
ECM	Wilson Park	EPC PHASE V FY 2023	\$1,407,266
ECM	Spring Garden Apartments	EPC PHASE V FY 2023	\$9,488
ECM	Queen Lane Apartments	EPC PHASE V FY 2023	\$36,851
ECM	Oxford Village	EPC PHASE V FY 2023	\$104,725
ECM	Whitehall Apartments	EPC PHASE V FY 2023	\$37,392
ECM	Haverford Homes	EPC PHASE V FY 2023	\$31,952
ECM	Katie B Jackson	EPC PHASE V FY 2023	\$144,100
ECM	Holmecrest Homes	EPC PHASE V FY 2023	\$895,893
ECM	Gladys B Jacob	EPC PHASE V FY 2023	\$144,100
ECM	Morton Homes	Insulation- Pipe	\$607,044
ECM	Parkview Apartments	Hybrid heating /DHW condensing water heater	\$474,472
ECM	PHA Wide	BAS/SCADA	\$400,000
Modernization	Scattered Sites 901-910	Scattered Sites - Rehab	\$6,000,000
New Development	Blumberg	Blumberg Recreation Field (HOLD)	\$15,000,000
New Development	Blumberg	Hunt Phase II	\$24,404,201
New Development	Blumberg	Hunt Phase III	\$65,864,233
New Development	Blumberg	PHA Rental Phase II	\$22,881,331
New Development	Walton	Walton School	\$26,000,000
RAD	GGFE Phase I	Greater Grays Ferry Phase I Conversion	\$31,585,000
RAD	Blumberg	Harlan Street	\$24,500,000
RAD	LEB I	Millcreek Lucien E. Blackwell I	\$12,000,000
RAD	Bartram Village	Bartram, Phase 1	\$48,032,100
RAD	Fairhill Apartments	Fairhill - Phase 2	\$32,800,000
RAD	West Park Apts	Westpark Apts. Phase 1	\$43,600,000
RAD	West Park Plaza	Westpark Plaza	\$9,750,000
RAD	LEB II	Millcreek Lucien E. Blackwell II	\$12,000,000
<b>TOTAL</b>			<b>\$387,995,427</b>

## B. Leasing Information

PHA's Public Housing inventory includes units for families, seniors, and people with disabilities located at conventional and scattered site properties. It also includes properties managed by Alternatively Managed Entities (AMEs) and the Philadelphia Asset and Property Management Corporation (PAPMC). PHA's inventory includes some units that are not available for occupancy because: (i) they have been approved for demolition or disposition but the demolition or disposition has not yet taken place; (ii) they have been scheduled for significant levels of modernization; (iii) they are utilized for administrative or resident services purposes; or (iv) they are eligible for other HUD-authorized exclusions. While PHA is planning to add additional public housing units, the overall size of the public housing inventory continues to decline (and the HCV inventory continues to increase) as units are converted to project-based assistance under RAD.

The Housing Choice Voucher program inventory changes from year to year and includes MTW tenant-based vouchers as well as vouchers authorized by HUD for special purposes such as the Veterans Affairs Supportive Housing Program, Family Unification Program, SRO Moderate Rehab and Mainstream programs. PHA utilizes vouchers to support the Unit Based Voucher program, through which PHA provides long-term subsidy contracts with non-profit and other sponsors. Periodically, HUD issues Enhanced Vouchers and Tenant Protection Vouchers (TPV) for PHA to administer. As allowed by the MTW Agreement, PHA incorporates Enhanced and Tenant Protection Vouchers into the MTW block grant when eligible.

### *i. Planned Number of Households Served*

Table 7 provides information on households living in "MTW units" that PHA plans to serve during FY 2022. This includes all households residing in PHA public housing units as well as HCV MTW households. All of PHA's public housing units are "MTW units". The actual number of households served may vary from that listed on the tables. The conversion of public housing to project-based assistance under RAD began in FY 2017 and will continue in FY 2022 and beyond. RAD vouchers are included in the total "Federal MTW Voucher (HCV) Units to be Leased" shown in Table 7. The number of public housing and HCV families served may be affected by the RAD conversion schedule.

**Table 7: Planned Number of MTW Households Served in FY 2022**

<b>Planned Number of Households Served Through:</b>	<b>Planned Number of Unit Months Occupied/Leased</b>	<b>Planned Number of Households to be Served</b>
MTW Public Housing Units Leased	142,692	11,891
MTW Housing Choice Vouchers (HCV) Utilized*	219,252	18,271
Local, Non-Traditional: Tenant-Based	0	0
Local, Non-Traditional: Property-Based	456	38
Local, Non-Traditional: Homeownership	0	0
<b>Planned Total Households Served</b>	<b>360,156</b>	<b>30,200</b>

\* Includes 1,433 RAD vouchers

**Table 7A: MTW Local, Non-Traditional Programs**

Local, Non-Traditional Category	MTW Activity/Number	Planned Number of Unit Months Occupied/Leased	Planned Number of Households to be Served
Tenant-Based	N/A	0	0
Property-Based	Shared Housing/MTW 2020-2*	456	38
Homeownership	N/A	0	0

\*Planned number of units and unit months are preliminary estimates for MTW Activity 2020-2 and assumes 38 units will be leased for the year.

Although not required by HUD, PHA has included Table 7B, which identifies non-MTW households served through Special Purpose Voucher programs. PHA will apply MTW policies to Special Purpose vouchers including Mainstream vouchers unless inconsistent with Appropriations Act requirements or the requirements of the applicable NOFA. If a conflict occurs, the Appropriations Act and/or this funding notice govern.

**Table 7B: Planned Number of Non-MTW Households Served in FY 2022**

Non-MTW Program to be Served Through:	Planned Number of Unit Months Occupied/Leased	Planned Number of Households to be Served
Mainstream	4,140	345
FUP	900	75
VASH	9,444	787
VASH Project Based	168	14
Moderate Rehab	2,436	203
SRO	3,552	296
<b>Total Households Projected to be Served</b>	<b>20,640</b>	<b>1,720</b>

*ii. Discussion of Issues and Possible Solutions Related to Leasing*

Housing Program	Description of Anticipated Leasing Issues and Possible Solutions
MTW Housing Choice Voucher	<p>Leasing of HCV units in opportunity areas continues to be a high priority. PHA implemented the Housing Opportunity Program (HOP) in August 2013 to enhance its mobility initiatives. Mobility program staff conduct outreach and marketing and provide voucher holders with housing counseling and training before, during and after moves.</p> <p>PHA has established a target utilization of 85% for MTW vouchers for FY 2022. PHA currently has 500 new voucher holders engaged in housing search activities. PHA implemented the following activities to support higher utilization levels: 1) pulled approximately 3,000 applicants from the current waiting list with plans to pull an additional 2,000 applicants by the end of April 2021 and, subject to applicant response and PHA eligibility determination, issue vouchers to eligible households from this pool; 2) issued a Request for Proposals for the Unit Based Voucher program to attract projects that are currently underway or recently developed or rehabilitated; 3) Partnered with the City of Philadelphia's Office of Homeless Services to issue additional vouchers to homeless families and individuals pursuant to the Blueprint program; and, 4) Implement a series of landlord incentives designed to increase the supply of units available for leasing. These incentives will include time-limited signing bonuses for owners who submit a Request for Tenancy Approval (RFTA) and lease up a new HCV unit by April 30, 2021 (\$500 bonus) or by May 31, 2021 (\$300 bonus); Housing Opportunity Program (HOP) area signing bonus of \$1,000 for owners who submit a RFTA and lease a new unit in an opportunity area (must have poverty rate of &lt;20% and meet other criteria related to jobs, educational and other opportunities); and, payments of up to \$3,000 for HOP area owners to cover vacancy turnaround expenses above and beyond normal wear and tear and not covered by the security deposit, provided that the owner agrees to lease the unit again to another HCV participant.</p>

## C. Waiting List Information



PHA administers waiting lists in accordance with the HCV Administrative Plan and Public Housing Admissions and Continued Occupancy Policy (ACOP) as applicable. Administration of site-based waiting lists for the Conventional and Scattered Site program areas is managed under the Public Housing Admissions Department to ensure consistent and efficient management of applicants on the various waitlists.

PHA operates its waiting lists in a nondiscriminatory manner that seeks to avoid unintended discriminatory effects. PHA affirmatively markets its sites in a variety of venues and periodicals to ensure that the public is aware of the availability of PHA housing. PHA treats all applicants in a non-discriminatory manner. PHA also monitors its waiting lists to determine if there are significant changes in the percentage of protected classes and, if there were, would determine whether its affirmative marketing methods should be modified.

*i. Waiting List Information Anticipated*

Table 8 provides information on PHA’s waiting lists in the format required by HUD.

**Table 8: Waiting List Information Projected for Beginning of FY 2022\***

Waiting List Name	Description	Number of Households on Waiting List	Waiting List Open, Partially Open or Closed	Plans to Open the Wait List During the Fiscal Year
MTW Public Housing Units	First Available and Site-Based	14,045	Partially Open	Yes, if needed***
MTW Public Housing Units **	Site-Based	34,140	Open	Yes
MTW Housing Choice Voucher Program	Community-Wide	13,519	Closed	No
PBV/PHA Owned	Site-Based	16,945	Open	Yes

*\*Reflects waiting list data as of September 2020. \*\*Units funded with LIHTC and managed by PAPMC \*\*\*PHA may open the scattered site site-based waiting lists in conjunction with implementation of modified admissions preferences if necessary to ensure a ready pool of qualified applicants.*

*Notes on Waiting Lists*

- As specified in the ACOP, PHA’s Public Housing wait list combines site-based, first available, and centrally managed wait list features. Public Housing developments have site-based waiting lists that are centrally managed by the Public Housing Admissions Department. This change was made to ensure consistent and efficient management of applicants on the various waitlists. Applicants may select specific sites or “first available” unit citywide. Centrally managed waitlists, administered by the Admissions Department, also include applicants that require a wheelchair accessible unit and those with a preference designation such as the Blueprint program.
- Public Housing wait lists are currently only open to applicants that require wheelchair accessible units; applicants aged 55 and older; and applicants referred to PHA from external agencies with whom PHA has a referral agreement as described in the ACOP (i.e. Blueprint to End Homelessness and others).

- The HCV wait list is closed except for applicants who qualify for admission under HUD’s Special Purpose Voucher programs including VASH and Mainstream, as well as applicants referred to PHA from external agencies with whom PHA has a referral agreement as described in the Administrative Plan. Under the Unit Based Program, site-based waitlists are managed and maintained by individual owners. PHA approves the site-based waitlists and tenant selection plan for each Unit Based development.

*ii. Planned Changes to Waiting List in FY 2022*

Waiting List	Description of Planned Changes
Public Housing	<ul style="list-style-type: none"> <li>• Site based waiting lists will be established for new public housing developments prior to initial occupancy in accordance with the PHA Admissions and Continued Occupancy Policy.</li> </ul>
MTW Housing Choice Voucher Program	<ul style="list-style-type: none"> <li>• Site based waiting lists will be established for new Unit Based Voucher developments, including new RAD developments, in accordance with the PHA Administrative Plan.</li> </ul>

### **III. PROPOSED MTW ACTIVITIES**

PHA proposed one new activity (“Emergency Waivers”) as part of a Board approved amendment to the FY 2021 MTW Annual Plan; however, based on subsequent discussions with HUD, PHA withdrew the FY 2021 Plan Amendment. Accordingly, PHA is proposing the Emergency Waiver activity as part of the FY 2022 Annual Plan.

## PROPOSED ACTIVITY 2022-1: EMERGENCY WAIVERS

### Activity Description

The COVID-19 outbreak threatens the lives of many Americans and the livelihoods of many more. It is an urgent health crisis of unprecedented scale, and one that is disproportionately impacting low-income families. The outbreak of COVID-19 also places additional burdens on housing authorities who are working tirelessly to respond to the needs of their participants while also maintaining compliance with program requirements. While the Coronavirus Aid, Relief and Economic Security (CARES) Act provides the U.S. Department of Housing and Urban Development (HUD) with broad authority to waive or establish alternative requirements for numerous statutory and regulatory requirements for the Public Housing program and Housing Choice Voucher (HCV) programs, the duration of this pandemic remains unknown and the backlog of transactions, inspections and delayed reporting requirements grows. Accordingly, PHA will use its MTW authority to establish an emergency waivers activity which addresses the burdens placed on all stakeholders. PHA proposes to establish the following emergency waivers in response to economic and health related emergencies and natural disasters as declared by the Mayor or his/her designee including the authority to determine when to place and lift the waivers.

1. **Delayed Reexaminations:** PHA will waive the requirement to conduct a reexamination of family income and composition at least annually. Currently PHA completes reexaminations on a biennial basis for Public Housing (PH) and Housing Choice Voucher (HCV) program households and on a triennial basis for PH households on ceiling rents and PH and HCV elderly/disabled households on fixed incomes. Where reexaminations have been delayed, PHA will complete the reexamination no later than the anniversary month of the following year. The next reexamination will be scheduled on the same anniversary month using the applicable reexam frequency for the family. For example, if a biennial reexam was due on July 2020, PHA would complete the reexam by July 2021. The next scheduled biennial reexam would take place in July 2023. This waiver applies to the PH and HCV programs.
2. **Verification of Income:** PHA will waive the requirements of the verification hierarchy and continue to use Enterprise Income Verification (EIV) to confirm tenant income at both interim and regular recertifications, unless specifically waived by HUD. This waiver applies to the PH and HCV programs.
3. **Increase in Payment Standard:** PHA will waive the requirement to apply the increased payment standard back to the regular effective date for delayed regular reexaminations. Instead, during periods of declared emergencies, PHA will apply the increased payment standard at the next interim reexamination after the effective date of the increased payment standard. If PHA completes a reexam late, PHA will apply the payment standard in effect on the effective date of the delayed regular reexamination. This waiver applies to the HCV program.

4. **Delayed Regular HQS Inspections:** PHA will waive the requirement for completion of regular HQS inspections at least biennially. Where a regular HQS inspection has been delayed, PHA will complete the HQS inspection no later than the anniversary month of the following year. The next HQS inspection will be scheduled on the same anniversary month using the applicable inspection frequency for the unit. For example, if an HQS inspection was due on July 2020, PHA would complete the inspection by July 2021. The next scheduled annual HQS inspection would take place in July 2022. PHA will continue to request a self-certification from the owner that no life threatening conditions exist in the unit. Additionally, PHA will continue to conduct complaint inspections. This waiver applies to the HCV program.
5. **Interim HQS Inspections:** PHA will waive the requirement to conduct re-inspections to confirm repair; however, PHA will require that the owner self-certify and provide documentation that a life-threatening deficiency has been corrected within 24 hours of notification and that a non-life-threatening deficiency has been corrected within 30 days of PHA notification. This waiver applies to the HCV program.
6. **HQS QC Inspections:** PHA will waive the requirement to conduct HQS quality control inspections and instead will suspend HQS quality control inspections until the emergency waiver has been lifted. This waiver applies to the HCV program.
7. **Homeownership HQS:** PHA will waive the requirement for the initial HQS inspection for homeownership units; however, an independent professional inspection will still be required. This waiver applies to the HCV Homeownership Program.
8. **Delayed PH Annual Self-Inspection:** PHA will waive the requirement to complete annual self-inspections of PH units. PHA will continue to respond to and address serious conditions that could jeopardize life or property. When the waiver is lifted, PHA will resume self-inspections beginning with the units which were inspected on the oldest date. This waiver applies to the PH program.
9. **FSS Contract of Participation:** PHA will waive the requirement regarding the maximum extension of an FSS Contract of Participation (COP). During periods of declared emergency, PHA may extend a family's COP, using the declared emergency as good cause of the need for extension. For households who were already in the two year extension period when the emergency was declared, PHA may extend their COP beyond the two year extension threshold. This waiver applies to the PH and HCV FSS program.

## **Statutory Objective**

This activity will reduce cost and achieve greater cost effectiveness in Federal expenditures. The time and labor cost related to completing the backlog of delayed transactions and inspections while maintaining current deadlines is such that it would place an onerous burden on the agency.

## **Implementation**

PHA will implement this policy upon approval of the MTW Plan.

## Metrics

<b>CE #1: Agency Cost Savings *</b>				
<b>Unit of Measurement</b>	<b>Baseline*</b>	<b>Benchmark*</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Total cost of task in dollars (decrease)	\$675,319	\$337,674		
<i>*The baseline reflects the cost of completion of all PH and HCV regular reexaminations for a one year period. The benchmark reflects the cost of completion of one half the number of PH and HCV regular reexaminations in a one year period.</i>				
<b>CE #2: Staff Time Savings</b>				
<b>Unit of Measurement</b>	<b>Baseline*</b>	<b>Benchmark*</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Total time to complete the task in staff hours (decrease).	22,761 Hours	11,381 Hours		
<i>**The baseline reflects the time expended on all PH and HCV regular reexaminations for a one year period. The benchmark reflects the time expended for one half the number of PH and HCV regular reexaminations in a one year period.</i>				

## Need/Justification for MTW Flexibility

With respect to public housing, this activity requires waiver of certain provisions of sections 3(a)(1) and 3(a)(2) of the 1937 Act, 24 CFR 902 Subpart B, 24 CFR 966.4, 960.206, 960.257, 960.259, 24 CFR 5.233 and 5.632 as found in the MTW Agreement Attachment C, Section C, Paragraphs 2, 4 and 11. With respect to HCV, this activity requires waiver of certain provisions of Section 8(o), Section 23 of the 1937 Act and 24 CFR 982.503, 982.516, 982.631, 984, 24 CFR Subpart I, 24 CFR 983 and 24 CFR 5.233 and 5.632 as found in the MTW Agreement Attachment C, Section D, Paragraphs 1, 2 and 5. These waivers are necessary to implement the various provisions of this activity so as to allow PHA to address the conditions presented by the declared emergencies.

#### **IV. APPROVED MTW ACTIVITIES**

This section of the Annual Plan summarizes and provides a status update on MTW activities that have been previously approved by HUD. Additional detail on approved MTW activities is included in prior Annual Plans. As required, this section also includes summary information on MTW activities that have been closed out or placed on hold by PHA. Initiatives are numbered to reflect the fiscal year in which the MTW was initially approved, i.e. MTW Activity 2011-1 was initially approved in FY 2011.

## **A. Implemented Activities**

### **ACTIVITY 2004-1: NEIGHBORHOOD DEVELOPMENT & REVITALIZATION INITIATIVES**

#### **Plan Year Approved, Implemented, Modified**

- Design Standards
  - Approved FY 2004
  - Implemented FY 2004
- Total Development Cost Limits and Housing Cost Caps
  - Approved FY 2004
  - Implemented FY 2004
- Streamlined Mixed-Finance Development Process
  - Approved FY 2004
  - Implemented FY 2004
- MTW Site and Neighborhood Standards
  - Approved FY 2004
  - Implemented FY 2004
- Streamlined Acquisition Process
  - Approved FY 2002
  - Implemented FY 2002
- Strategy for Development
  - Approved FY 2005
  - Implemented FY 2005

#### **Description/Update**

PHA will continue to use MTW authority to substantially increase housing choices for residents and applicants. PHA is continuing to implement an ambitious program of new construction, substantial rehabilitation, and modernization designed to revitalize PHA public housing developments, replace distressed housing lost to demolition and lack of capital funds, and improve Philadelphia's neighborhoods. Public housing development or redevelopment activities, and other new development, directly undertaken by PHA as developer are included under this initiative. To support these redevelopment activities, PHA continues to implement the following MTW components, which also support the Partnership Initiative and other MTW activities:

- *Design Standards* - PHA continues to implement reasonable and modest design standards for new construction and rehabilitation work that mirror current design trends and the 21st century needs of residents.



- *MTW Total Development Cost Limits and Housing Cost Caps* - PHA has established and maintains reasonable cost limits for development and redevelopment activities that replace HUD's Total Development Cost (TDC) limits and Housing Cost Caps (HCC).
- *Streamlined Mixed-Finance Development Process* - PHA is authorized to develop public housing through several financing methods, including the mixed-finance approach, which involves the use of private financing, Housing Choice Vouchers, and public housing development funds.
- *MTW Site and Neighborhood Standards* - PHA is authorized to implement alternate Site and Neighborhood Standards for its public housing and voucher programs, in lieu of those standards at 24 CFR § 941.202(b)-(d) and 24 CFR 983.57.
- *Streamlined Acquisition Process* - Subject to the provisions of the MTW Agreement, PHA is authorized to acquire sites without prior HUD approval, provided that the agency certifies that HUD site selection requirements have been met.
- *Strategy for Development* - PHA has adopted a Development-Asset Management Strategy for Public Housing that takes a comprehensive neighborhood-by-neighborhood and block-by-block approach to redeveloping, consolidating, rehabilitating, demolishing, and acquiring and disposing of scattered site units independently and in partnership with government and other local neighborhood-based organizations.

### **Planned Non-Significant Changes**

No non-significant changes are planned. PHA may submit updated MTW TDC/HCCs for HUD approval as part of a future Plan or Plan Amendment.

### **Planned Changes to Metrics/Data Collection**

No changes to metrics or data collection methods are planned.

### **Planned Significant Changes**

No significant changes are planned.

## **ACTIVITY 2004-2: SERVICE-ENRICHED HOUSING FOR SENIORS & PEOPLE WITH DISABILITIES**

### **Plan Year Approved, Implemented, Amended**

- Nursing Home Transition
  - Approved FY 2010
  - Implemented FY 2010
- Definition of Elderly
  - Approved FY 2004
  - Implemented FY 2004

### **Description/Update**

PHA will continue to collaborate with the Commonwealth of Pennsylvania and other local providers to develop and implement a range of service-enriched housing options for seniors and people with disabilities, including the following ongoing MTW program components:

- *Nursing Home Transition* – The Nursing Home Transition Initiative (NHTI) is a partnership with the Department of Public Welfare (DPW) that assists persons transitioning out of nursing homes with accessing affordable housing. As part of NHTI, PHA administers seventy-five (75) state-supported vouchers/housing opportunities for referrals of disabled consumers in need of low-income housing. NHTI families may be eligible for a preference for public housing or HCV.
- *Definition of Elderly* – An elderly person is defined as an individual who is at least 55 years old. An elderly family is defined as one with a head of household, co-head, spouse or sole member who is at least 55 years old.

### **Planned Non-Significant Changes**

No non-significant changes are planned

### **Planned Changes to Metrics/Data Collection**

PHA has updated the metrics for this activity to reflect the end of the NHTI portion of this activity.

### **Planned Significant Changes**

No significant changes are planned.

### **Metrics:**

No changes to metrics or data collection methods are planned.

### **ACTIVITY 2004-3: SIMPLIFICATION AND STREAMLINING OF RENT AND RECERTIFICATION PROCESSES FOR PUBLIC HOUSING AND HCV**

#### **Plan Year Approved, Implemented, Amended**

- Two and Three-Year Recertification/Limit on Interims
  - Approved FY 2004
  - Implemented FY 2004
- Ceiling Rents
  - Approved FY 2004
  - Implemented FY 2004
- Rent Calculation Method
  - Approved FY 2004
  - Implemented FY 2004
  - Modified FY 2017
- Payment Standards
  - Approved FY 2008
  - Implemented FY 2008
  - Amended FY 2018
- Reasonable Rent
  - Across-the-board Rent Increases
    - Approved FY 2008
    - Implemented FY 2008
  - Streamline Reasonable Rent Determinations
    - Approved FY 2005
    - Implemented FY 2005
- Utility Allowances
  - PGW CRP Program
    - Approved FY 2009
    - Implemented FY 2014
  - PECO Customer Assistance Plan Enrollment
    - Approved FY 2011
    - Not yet implemented
  - Interim Recertification Utility Allowance
    - Approved FY 2017
    - Implemented FY 2017

- Minimum HAP Payment
  - Approved FY 2019
  - Implemented FY 2019
  - Removed FY 2022
- Philadelphia Water Department's Tiered Assistance Program (TAP)
  - Approved FY 2019
  - Not yet implemented

## **Description/Update**

PHA will continue to implement a series of MTW initiatives in the public housing and/or HCV programs designed to simplify rent calculation and recertification, streamline administrative processes, and reduce paperwork burdens on residents and staff.

- *Two and Three-Year Recertification/Limit on Interims* – Public Housing and HCV, including UBVRAD require recertifications every two years, except for public housing residents choosing ceiling rents who are recertified every three years. Voluntary interim recertifications are restricted to one every six months, except for elderly and disabled households who are exempt from this restriction. PHA will process voluntary interim rent reductions if and when the reduction in income lasts for more than 30 days. In FY 2017, PHA began conducting recertifications every three years for elderly or disabled households on fixed incomes in both the HCV and public housing programs. PHA applies the biennial and triennial recertification policy to VASH participants.
- *Ceiling Rents* – PHA has established ceiling rents for its public housing developments, which are periodically updated. PHA tenants will continue to have the option of selecting either a ceiling rent or an income-base rent. PHA uses ceiling rents when calculating rent for mixed families. PHA notes that, pursuant to the HOTMA legislation and policies approved by the PHA Board in March 2019, ceiling rent policies will not apply to certain households who are “over-income” for twenty-four consecutive months. Over-income households are defined as those with household income at or greater than 120% of Area Median Income, and will be subject to an alternative rent beginning on or after April 2021. Additional details regarding this policy can be found in PHA's Admissions and Continued Occupancy Policy.
- *Rent Calculation Method* – PHA has established an alternative rent structure for the HCV (including UBVRAD) and public housing programs to motivate residents to work and accumulate savings. In FY 2017, PHA began allowing households with assets of \$50,000 or less to self-certify asset value and income from the assets. Asset income is excluded when the value of the household's asset is \$50,000 or less. Asset income for household assets valued at greater than \$50,000 is calculated by using the market value of the asset times the passbook savings rate. Also in FY 2017, PHA began excluding all full-time student earned income for family members other than the head, spouse or co-head and PHA discontinued verification of full-time student earned income as 100% of the income is excluded.

- *Payment Standards* – PHA has implemented a policy in the HCV program whereby the current payment standard is applied at regular recertification; however, this policy was modified due to required regulatory implementation of SAFMRs. Additionally, PHA approved payment standards up to 120% of the FMR to support leasing for existing voucher clients and/or new voucher holders who wish to move to areas with documented improved educational systems, job opportunities, social services and other opportunities in the expectation that over time their need for housing and other subsidies will abate or diminish.
- *Minimum HAP Payment* - Starting in FY 2019, PHA adopted a policy for tenant-based voucher units only whereby the HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner of \$50 or less. This allows PHA to provide assistance to a greater number of households by freeing up vouchers held by households with minimal assistance. This policy does not apply to the UBV Program.
- *Reasonable Rent*
  - PHA has implemented a reasonable rent policy for the HCV Program, including UBV/RAD, whereby reasonable rent determinations are completed at initial lease up, upon request for a rent increase, and at other times PHA deems it necessary to conduct a reasonable rent redetermination.
  - PHA may implement across-the-board rent increases or rent freezes for properties in the HCV Program. When and if an across-the-board rent increase is awarded, PHA will complete a reasonable rent determination at the time of the next annual HQS inspection and apply applicable policies related to reasonable rent when and if the rent is not reasonable.
- *Utility Allowances*
  - PHA is authorized to implement a revised utility allowance methodology that includes the following components:
    - HCV participants who are responsible for paying gas heat and who are eligible to participate in the PGW Customer Responsibility Program (CRP) have the gas portion of their utility allowances calculated using an alternative methodology. PHA may elect to implement this utility allowance program in public housing where applicable.
    - PHA will periodically, at its discretion, review HCV utility allowance schedules to determine if adjustments are required. Annual updates are not required.
    - Utility allowances may be phased out for residents with incomes at or above 80% of Area Median Income or public housing residents on ceiling rent.
    - PHA will review and modify public housing utility schedules periodically based on an assessment of available HUD funding and the requirements of the MTW Agreement and Plan.
  - PHA is also authorized to expand the utility allowance policy to require public housing and HCV tenants receiving either heat or electric utility allowances to enroll and participate in the PECO Customer Assistance Plan, LIHEAP and any other applicable programs that offer reduced rates, energy usage grants, or other financial incentives to low-income households.

- For HCV participants only, during an interim recertification, PHA will apply the utility allowance in effect on the effective date of the interim recertification; however, families on the Alternate Utility Allowance (UA) CRP Program will have their gas utility allowance updated at the time of interim recertification consistent with PHA's MTW UA policies. During an interim recertification, PHA will apply the payment standard in effect at the last regular recertification.
- PHA may further expand the utility allowance policy to require public housing and HCV tenants, whose incomes are at or below 150% of the Federal Poverty Level and who receive a utility allowance for water, to enroll and participate in the Philadelphia Water Department's Tiered Assistance Program (TAP). TAP provides customers with significant savings by offering a consistent bill based on their income. PHA will base the water utility allowance for eligible households on the amount charged under the TAP Program. Water charges range from 2% to 3% of gross income.

In FY 2022 PHA will continue to meet with owners and the Philadelphia Water Department to solicit interest in the TAP Program. In order to implement this program, owners have to authorize tenants to place payment responsibility for water in the tenant's name, which owners are reticent to do.

PHA adopted Small Area Fair Market Rents (SAFMR) beginning in FY 2019 with revisions to the groupings of SAFMR zip codes in FY 2020. These revisions were necessary to avoid negative financial impacts to both tenants and owners.

### **Planned Non-Significant Changes**

In FY 2022, PHA plans to implement the following non-significant changes:

#### Rent & Recertification Policies

In FY 2022, PHA may apply the applicable simplification and streamlining policies included in this activity to Public Housing households who are living in housing operated by PAPMC, subject to investor approval as needed.

#### Limit on Voluntary Interims

The COVID-19 pandemic has had a significant impact on low income families. Accordingly, PHA will modify this activity to temporarily lift the limit on voluntary interim rent reductions for non-exempt families during times of economic/health emergencies declared by the mayor or his/her designee. PHA will make determinations as to when to re-impose the limit.

#### Minimum HAP Payment

In FY 2022, PHA will reverse its MTW policy regarding program termination for families whose HAP payments are \$50 or less for 180 days. This policy has had a minimal impact since its implementation in FY 2019 and created an additional administrative burden for staff as participants often requested interim recertifications upon receiving notice of their upcoming termination. PHA

will remove the Minimum HAP Payment from this activity and follow regulatory guidelines regarding automatic termination of the HAP contract.

#### Small Area FMRs

A number of neighborhoods in the city of Philadelphia are undergoing significant revitalization. Property values and rents in these revitalized areas are increasing; however, SAFMRs are not always in concert with the pace of the revitalization. Additionally, there may be individual parts of an SAFMR area which have undergone revitalization; however, the SAFMR reflects the areas which have not been revitalized. For example, in one revitalized area, one side of the street is in one zip code and the other side of the street is in another. The SAFMRs for a 2 BR unit in the two zip codes are \$1,890 and \$940. While all of the units in the zip code with the lower SAFMR are not in the revitalized area, those that are, are at a significant disadvantage for inclusion in the HCV program as a result of the application of existing SAFMRs and payment standards which do not reflect market conditions. Accordingly, in FY 2022, PHA may establish exception payment standards for individual units within a SAFMR zip code and remove the 120% limitation. As with all other HCV units, PHA will include documentation in the file that the rent is reasonable when setting payment standards outside of the allowable range without HUD approval.

#### Verification and Calculation of Earned Income

In FY 2022 PHA will implement a revised method for verifying and calculating earned income. Specifically, PHA will verify and calculate earned income using the last four consecutive quarters in EIV. In cases where earned income is not in EIV or the tenant disputes the earned income calculation, PHA will seek third party verification to verify and calculate income and/or reconcile the difference. PHA will continue to use third party verification for unemployment as well as other sources of income not contained in EIV. Where the working family deduction is concerned, family members who report employment income will self-certify the number of hours they work each week. This policy applies to Public Housing only.

#### **Planned Changes to Metrics/Data Collection**

The metrics for CE #1 and CE #2 have been updated to reflect both the current hourly rate and the volume of certifications anticipated in FY 2022. Additionally, the metric for SS #8 has been updated to reflect a decrease in the number of households who are anticipated to transition to self-sufficiency. Please note that it remains difficult to determine the likely impact of COVID-19 on program participants and, as such, the ability to achieve benchmarks is uncertain.

#### **Planned Significant Changes**

No significant changes are planned.

#### **Metrics:**

CE #1: Agency Cost Savings *				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?

Total cost of task in dollars (decrease)	\$878,122 (estimate)	\$860,430		
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*\*Includes HCV and PH.*

**CE #2: Staff Time Savings \***

Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Total time to complete the task in staff hours (decrease).	56,110 hours (estimate)	29,000 hours		

*\*Includes HCV and PH.*

**SS #8: Households Transitioned to Self-Sufficiency\***

Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households transitioned to self-sufficiency (increase)*	0 households	180 households		

**\*\* For HCV, PHA defines a household that transitions to self-sufficiency as an HCV participant who exits the program as a result of being over-income or one that receives \$50 or less HAP subsidy but still qualifies as program participants. For public housing, PHA defines a household that transitions to self-sufficiency as a public housing household whose income is 80% or greater of Area Median Income.**

**NOTE: PHA believes that the above metrics do not accurately reflect the success of this activity as they do not account for unit/population turnover (i.e. households moving out and in over multiple years). The baselines set above reflect a snapshot in time and do not account for families leaving and being replaced by lower-income families resulting in the make-up of the populations being increasingly different over time.**



## **ACTIVITY 2004-4: UNIT-BASED LEASING AND DEVELOPMENT PROGRAM**

### **Plan Year Approved, Implemented, Amended**

- Approved FY 2004
- Implemented FY 2004
- Modifications in FY 2017, FY 2019

### **Description/Update**

Under PHA's Unit-Based Leasing and Development Program ("UBV" or the "Unit-Based Program"), PHA will continue to negotiate long-term subsidy contracts with for-profit and non-profit private sector housing providers based on property specific agreements. PHA prioritizes the selection of developments, which serve underserved populations and/or which incorporate supportive services on-site or nearby. Key features of PHA's UBV Program include:

- PHA's Site Selection Standards for the UBV Program comply with the alternate Site and Neighborhood Standards described at Attachment C, Section D (7)(c) to PHA's MTW Agreement.
- Rents to owners participating in the UBV Program funded with MTW HCV funds will not exceed the lowest of 110% of the applicable fair market rent, the reasonable rent, the rent requested by the owner or such other amount determined by PHA to be appropriate for the unit based upon the nature of the unit and the RFP from which the owner was selected. For example, in certain cases, PHA may determine that a shallow subsidy is more appropriate.
- Unless part of its "shallow" subsidy UBV Program, PHA will not attach or pay UBV assistance to units that are already receiving another form of subsidized housing operating assistance. With respect to a shallow subsidy UBV Program, PHA will not attach or pay UBV assistance to units receiving another form of subsidized operating assistance if the UBV assistance would be duplicative or would otherwise over-subsidize the unit. PHA may determine the effect of subsidy on rent to owners and the duplication of subsidy or excessive subsidy, subject to the requirements regarding subsidy layering as set forth in the HUD Reform Act of 1989.
- PHA may unit-base up to 100 percent of the dwelling units in any UBV project or building.
- PHA may select its own units for project-basing with UBV assistance without a competitive process. Pursuant to Attachment C, Section D (7)(a) of PHA's MTW Agreement, PHA may unit-base assistance at properties other than public housing properties owned directly or indirectly by PHA, including those owned by PHA affiliates or instrumentalities. For purposes of this selection method, a property that may be unit-based may be a former public housing property that has been converted to HCV assistance.

- Pursuant to Attachment C, Section D (1)(f) of PHA's MTW Agreement, under either the UBV Program or the Partnership Initiatives, PHA may attach or pay UBV assistance using HCV MTW funds to unit types currently prohibited by standard Section 8 regulations including, but not limited, to shared living facilities. Such units must comply with applicable alternate MTW Site and Neighborhood Standards. In February 2017, with the support of the local Veterans Administration, PHA requested HUD approval to enter into a HAP contract under the HUD VASH-PBV Program for an existing, 14-unit shared housing facility (Hancock Manor) operated by Impact Services. HUD accepted PHA's use of the existing MTW waiver related to shared living facilities in project-based developments for this VASH project. Subject to HUD approval and the support of the VA, PHA may apply MTW waivers related to shared housing facilities in project-based developments to future VASH projects.
- An owner of a unit assisted under the UBV Program with MTW HCV funds may elect to receive referrals from PHA's waiting list or to use a site-based waiting list for selection of tenants for a site. For owners using a site-based waiting list, PHA reviews and approves the tenant selection plan, and owners refer families to PHA for eligibility screening.
- A family residing in a UBV unit funded with MTW HCV funds may terminate the lease at any time after the initial term. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to PHA. Once a family terminates the lease, the family will no longer be part of the HCV or UBV Program. Pursuant to PHA's MTW flexibility, PHA does not provide UBV participant families who want to move with tenant-based assistance with a tenant-based HCV voucher, except where required under the RAD Program or otherwise offered by PHA as a reasonable accommodation, VAWA transfer or due to HQS failures under certain circumstances.
- While PHA's standard initial lease term for public housing and HCV is two years, PHA may allow a shorter term for UBV transitional housing units in order to facilitate the movement of families through the housing continuum and to obtain "permanent" housing more rapidly.
- PHA applies its MTW UBV policy to RAD developments and may project-base 100% of the units in a RAD UBV development.
- PHA is not subject to the requirement for an independent entity to approve AHAP/HAP contract terms, renewals of HAP contracts, rent determinations and inspection of PHA owned units.
- PHA applies the following MTW initiatives to the UBV/RAD Program: Rent Simplification, two and three year recertifications, limit on interim recertifications, alternative rent structure and reasonable rent.
- PHA may utilize local forms, which reflect PHA's MTW UBV policies and procedures as an alternative to HUD standard forms. For example, PHA will prepare a local PB HAP contract and PB Tenancy Addendum to reflect MTW policies including but not limited to, rent determination methods, recertification frequencies and right to move policies.

- PHA defines a UBV project as a single building, multiple contiguous or non-contiguous buildings, or multiple buildings on contiguous or non-contiguous parcels of land [all](#) with a single owner. A single family building is a building with no more than four dwelling units. PHA may elect to combine units that cumulatively meet the definition of a UBV project, but that are covered under more than one Housing Assistance Payments (HAP) Contracts, into a single HAP Contract. For such scattered site projects, PHA implements an alternative method to determine rent reasonableness whereby PHA bases the rent reasonableness determination for all units in the project that are within the same submarket area on the rent reasonableness determination made for a single unit of each bedroom size. For example, the rent reasonableness determination for all one-bedroom units in the project will be based on the rent reasonableness determination made for a single one-bedroom unit in the project provided that the units are in the same submarket area.

For mixed-finance closings for UBV units involving new public housing units, PHA may request HUD review and approval of certain waivers to current public housing regulations in the interest of increasing housing choice, promoting long-term project viability, and encouraging more third-party development. Specific waivers that may be requested include:

- PHA may elect to allow the owner of UBV units, including PHA if it is the owner, to utilize public housing operating subsidy and other MTW funds, to pay for debt service associated with the UBV development; and,
- Where PHA provides public housing operating subsidy as part of UBV assistance, separately or in combination with voucher or other MTW funds, PHA may have the Declaration of Restrictive Covenants modified to eliminate or change the standard ten-year affordability “tail.”

The specific details of each UBV agreement will be defined prior to closing and shall be subject to HUD review and approval, where applicable, as part of the mixed-finance transaction closing process.

In FY 2022, PHA plans to enter into UBV contracts for 17 UBV projects resulting in 1,104 UBV housing opportunities. The new UBV contracts include 7 RAD conversions of existing public housing; 8 RAD conversions involving new construction, rehabilitation, or adaptive reuse; 1 non-RAD new construction project in Northeast Philadelphia and 1 non-RAD rehabilitation of a former nursing school building. Additionally, PHA may issue requests for proposals, conduct evaluations and recommend additional units and developments for approval by the PHA Board.

See *Section II. General Operating Information* for listings of planned and current UBV developments.

### **Planned Non-Significant Changes**

In FY 2022, PHA will update the PBV HAP Contract, PBV Tenancy Addendum and PBV Statement of Family Responsibility Form for consistency with PHA’s MTW policies.

## Planned Changes to Metrics/Data Collection

Benchmarks have been updated to reflect projected UBV activity in FY 2022.

<i>HC #1: Additional Units of Housing Made Available *</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of new housing units made available for households at or below 80% AMI as a result of the activity (increase).	0 units	578 units		
<i>*HUD requires this metric to track only <u>newly constructed and/or rehabilitated</u> units that were put under HAP Contract during the Plan year. This excludes planned RAD conversions of existing public housing including PAPMC-managed units; however, it does include any newly constructed or substantially rehabilitated RAD conversion units.</i>				
<i>HC #5: Increase in Resident Mobility</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households able to move to a better unit and/or neighborhood of opportunity as a result of the activity (increase).	0 households	1,104 households		
<i>HC #7: Households Assisted by Services that Increase Housing Choice</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households receiving services aimed to increase housing choice (increase).	0 households	1,828 households		

## Planned Significant Changes

No significant changes are planned.

## ACTIVITY 2005-2: STREAMLINE THE ADMISSIONS AND TRANSFER PROCESS

### Plan Year Approved, Implemented, Amended

- MTW Transfers
  - Approved FY 2005
  - Implemented FY 2005
- HCV Waiting List
  - Approved FY 2012
  - Implemented FY 2012
- Public Housing Waiting List
  - Approved FY 2012
  - Implemented FY 2012

### Description/Update

PHA will continue to utilize MTW flexibility to implement policies designed to streamline the admissions and transfer policies for both Public Housing and HCV Programs:

- *MTW Transfers* - PHA may authorize a limited number of split-family transfers from Public Housing to the Housing Choice Voucher Program and vice versa. These transfers are referred to as MTW transfers. PHA provides for up to 50 Housing Choice Vouchers and 50 public housing units to be transferred back and forth between the Public Housing Program and the HCV Program. No more than 100 moves are authorized per fiscal year.
- *HCV Waiting List* - Once a family is leased under the HCV Program, the family may remain on the waiting lists for Tax Credit and public housing sites; however, PHA notifies the family that they will not be eligible for selection from the Tax Credit or public housing site waiting lists until the initial lease term has been completed.
- *Public Housing Waiting List* - Once a family is housed in public housing, the family will be removed from all other scattered site and conventional public housing waiting lists. However, a family may remain on the HCV and/or Tax Credit Site waiting lists. Additionally, PHA may require that the family sign an agreement whereby the family acknowledges that their name will be removed from all other scattered site and conventional public housing waiting lists and they will not be eligible for selection.

### Planned Non-Significant Changes

No non-significant changes are planned.

## Planned Changes to Metrics/Data Collection

The benchmarks for CE #1 and CE #2 have been updated to reflect the volume of transfers and hourly rates anticipated for FY 2022.

## Planned Significant Changes

No significant changes are planned.

<i>CE #1: Agency Cost Savings – MTW Transfers *</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Total cost of task in dollars (decrease).	Not available	\$3,338		
<i>*See also note under HC#5. Based on hourly rate of \$23</i>				
<i>CE #2: Staff Time Savings – HCV and Public Housing Waiting Lists *</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Total time to complete the task in staff hours (decrease).	Not available	12.5 hours HCV to PH (10 transfers)  100 hours PH to HCV (20 transfers)		
<i>Estimated average staff time to process PH to HCV transfer is 5 hours. Estimated average staff time to process HCV to PH transfer is 1.25.</i>				

## **ACTIVITY 2005-3: HCV PROGRAM EFFICIENCIES**

### **Plan Year Approved, Implemented, Amended**

- Restriction on Elective Moves
  - Approved FY 2008
  - Implemented FY 2008
- Criteria for Portability Moves
  - Approved FY 2013
  - Implemented FY 2013
- Development of Local Forms
  - Approved FY 2017
  - Implemented FY 2017

### **Description/Update**

PHA will continue to utilize MTW flexibility to implement efficiencies in the HCV Program designed to simplify processing and streamline administrative processes. This activity includes:

- *Restriction on Elective Moves* – Families are permitted to move within PHA's jurisdiction after the initial term of assisted occupancy and at the time of regular recertification.
- *Criteria for Portability Moves* – PHA has established criteria for all port-out moves. The criteria require that MTW voucher participants requesting to port-out provide a verified employment, education, safety, or medical/disability need to support their move to another jurisdiction.
- *Development of Local Forms* - PHA will prepare local forms, which reflect PHA's MTW policies and procedures.

### **Planned Non-Significant Changes**

In FY 2022 PHA will prepare local versions of the Tenant Based HAP contract and Tenancy Addendum to reflect PHA's approved MTW policies.

### **Planned Changes to Metrics/Data Collection**

No changes to metrics or data collection methods are planned.

### **Planned Significant Changes**

No significant changes are planned.

<b>CE #1: Agency Cost Savings *</b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Restriction on Elective Moves: Total cost of task in dollars (decrease).	\$25,259	\$55,631		
Criteria for Portability Moves: Total cost of task in dollars (decrease).	\$8,451	\$5,192		
<i>*PHA implemented this activity in FY 2007 and does not have baseline cost information available for that period. See CE#2 below for this activity for estimate of staff time savings (in hours) already achieved.</i>				
<b>CE #2: Staff Time Savings *</b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Restriction on Elective Moves: Total time to complete the task in staff hours (decrease).	1,614 hours (based on 1,291 moves in FY 14)	1,875 hours		
Criteria for Portability Moves: Total time to complete the task in staff hours (decrease).	540 hours (based on FY 12 port activity)	175 hours		
<i>*PHA implemented this activity in FY 2007 and does not have baseline information available for that period. Thus, the baseline reflects staff time savings already achieved. PHA has established a benchmark to continue the same or comparable level of staff time savings.</i>				



## **ACTIVITY 2011-1: PARTNERSHIP PROGRAMS INITIATIVE**

### **Plan Year Approved, Implemented, Modified**

- Approved FY 2011
- Implemented FY 2012
- Modified FY 2013 to incorporate specific components applicable to the youth aging out of foster care partnership with the Philadelphia Department of Human Services (DHS)

### **Description/Update**

PHA will continue to utilize MTW authority to expand public housing for special needs and other targeted groups in partnership with non-profit neighborhood groups, universities, state and local government, and other stakeholders. This flexible, services-oriented model allows PHA to leverage PHA and partner resources to provide public housing options and, where appropriate and feasible, related health care, educational, and/or other necessary services to low-income families and individuals. Authorized features of this initiative include, but are not limited to, the following:

- Admissions and continued occupancy requirements for the initiative may vary from standard public housing and will be determined for each project in order to promote seamless integration of the partner's subsidy sources with MTW block grant funds.
- Partnership initiatives must serve households earning 80% of AMI or below. PHA's MTW funds may not be used to subsidize households who are not low-income.
- PHA will leverage its funds with other partner resources in order to avoid duplicative services and payments and to maximize the value of funds invested in the Partnership Initiative.
- Potential models include, but are not limited to, domiciliary care for seniors and people with disabilities; housing options for youth, including those aging out of foster care; and permanent supportive housing.
- Budgets and agreements between PHA and its partners will adjust subsidy to allow for recoupment of PHA's capital investment as fee income where financially feasible, particularly in situations in which the partner's subsidy is intended to cover all or some of the housing costs.
- While each development is expected to have different features, programmatic components may include: preferences for specific target populations, including referrals from partner agencies; program contracts for participants that may include requirements for case management, participation in services, or other requirements; time limits on housing subsidies; modified occupancy standards; availability of stipends; and other components.

In FY 2022, PHA projects that 182 additional public housing units will be developed by PHA development partners at 5 sites. See Table 1 for additional detail on planned developments and units. The actual number of units that are developed and the development timetable may vary depending on final financing plans, construction schedules, HUD approval timetables and other factors. Due to changes to development financing and construction schedules, the projects listed in Table 1 may periodically include some projects that were listed in prior MTW Annual Plans, but which have not yet been built.

### Planned Non-Significant Changes

No non-significant changes are planned.

### Planned Changes to Metrics/Data Collection

Benchmarks have been updated to reflect projected FY 2022 housing production under this activity.

<i>HC #1: Additional Units of Housing Made Available *</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of new housing units made available for households at or below 80% AMI as a result of the activity (increase).	0	182		
* The HUD Standard Metrics for this activity will depend on the MTW flexibilities required and the type of service provided at each site. As additional agreements with developers and/or service providers are finalized, further HUD Standard Metrics may be added depending on the terms and necessary flexibilities of the agreements. None of the listed projects for FY 2022 require MTW waivers at present other than the use of MTW Block Grant funds				
<i>CE #4: Increase in Resources Leverage – ALL Planned FY 2022 Projects **</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Amount of funds leveraged in dollars (increase).	\$0	\$76.48 million		
** Represents projected total development costs of each development project as reported by PHA development partners.				

### Planned Significant Changes

No significant changes are planned.

## **ACTIVITY 2016-1: SECOND CHANCE INITIATIVE**

### **Plan Year Approved, Implemented, Amended**

- Approved FY 2016
- Implemented FY 2016
- Modified FY 2018
- Modified FY 2022

### **Description/Update**

PHA will continue to utilize MTW flexibility to support implementation of the Second Chance Housing Choice Voucher Pilot Program. The policy permits the provision of 10 tenant-based vouchers for active participants in good standing with two partner agencies – the Eastern District Federal Court Supervision to Aid Reentry (STAR) Program and the Mayor’s Office of Reintegration Services (RISE) Program. The STAR Program works in conjunction with Federal Probation and Parole, to offer returning citizens an opportunity to reduce their parole period by one year through participation in the Re-Entry Program. Each participant signs a contract with their parole officer to transition the oversight of their parole to the two federal judges that administer the STAR Program. The STAR Program collaborates with the local RISE Program to provide counseling, education, job training and job placement services. In the 2017 Annual Plan, PHA indicated that placements in public housing units may be offered to Second Chance participants in good standing at PHA’s option.

Housing assistance is available to the participants for a period of up to two years, at which point the objective is for participants to transition off the program to other affordable housing. However, PHA may allow Second Chance participants to transition to the HCV or Public Housing Program to continue their tenancy.

In FY 2018, PHA entered into a partnership with the Pennsylvania First Judicial Court’s MENTOR Program. This pilot initiative allows 20 qualified returning citizens who are working with the MENTOR Program to move in with existing PHA public housing households, provided that the PHA household is in good standing and is willing to add a MENTOR Program participant to the lease. This will help to re-unite families, prevent homelessness and, hopefully, interrupt the cycle of recidivism. While the pilot allows for return of 20 qualified citizens, enrollment in this program is based on referrals from the MENTOR Program.

### **Planned Non-Significant Changes**

In FY 2022, PHA will amend this activity and provide for extensions to the two year term for the STAR/RISE programs to address economic and health emergencies as declared by the Mayor or his/her designee. Extensions will be granted on a case-by-case basis and will be evaluated based

on the participant's individual circumstances which have been dictated by such declared emergency.

## Planned Changes to Metrics/Data Collection

Included below are the metrics that have been updated to reflect the volume of referrals anticipated in FY 2022.

<b>HC #5: Increase in Resident Mobility *</b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Number of households able to move to a better unit and/or neighborhood of opportunity as a result of the activity (increase).	0	10		
<i>*10 represent the STAR/RISE programs. Mentor program referrals cannot be forecasted.</i>				
<b>SS #1: Increase in Household Income</b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Average earned income of households affected by this policy in dollars (increase).	\$18,200 average earned income of participants	\$13,000		
<b>SS #3: Increase in Positive Outcomes in Employment Status *</b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Employed Full-Time*	10 participants	6		
	100% of participants	60%		
Enrolled in a Job Training Program	0 participants	2		
	0% of participants	20%		
Enrolled in an Education Program	0 participants	2		
	0% of participants	20%		
<i>*Represents participants in the STAR/RISE programs only. All participants in the STAR/RISE programs are required to be employed and maintain employment as a condition of participation; however, in the event they lose employment, they will be required to either obtain a new job or enroll in an educational or job training program as a condition of participation.</i>				
<b>SS #5: Households Assisted by Services that Increase Self-Sufficiency</b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Number of households receiving services aimed to increase self-sufficiency (increase).	0	10		
<b>SS #6: Reducing Per Unit Subsidy Costs for Participating Households *</b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Average amount of Section 8 and/or 9 subsidy per household affected by this policy in dollars (decrease).	\$430 upon implementation (2 participants)	\$750		
<i>* Represents STAR/RISE program participants only.</i>				

<i>SS #7: Increase in Agency Rental Revenue *</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
PHA rental revenue in dollars (increase).	\$439	\$215		
<i>*PHA does not have any rental revenue as all participants are in the HCV program. Total Tenant Payment is the metric. Represents STAR/RISE program participants only.</i>				
<i>SS #8: Households Transitioned to Self Sufficiency *</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households transitioned to self-sufficiency (increase).	0	2		
<i>*For this program purpose, PHA defines “self-sufficiency” as successfully completing the program and transitioning to other affordable housing. Represents STAR/RISE participants only.</i>				

## Planned Significant Changes

No significant changes are planned.

## ACTIVITY 2019-01: OPENING DOORS TO AFFORDABLE HOMEOWNERSHIP

### Plan Year Approved, Implemented, Amended

- Approved FY 2019
- Implemented in FY 2019

### Description/Update

PHA will continue to utilize MTW Block Grant funding and programmatic flexibility to expand first-time affordable homeownership initiatives to increase housing choice and the number of first time, low-income homebuyers. The program builds on the existing framework and consolidates PHA's HUD-approved 5h Homeownership Program, HCV Homeownership Program, other new development homeownership initiatives and homeownership readiness and counseling support under the management of PHA's Homeownership Department. Further, this activity expands PHA's existing programs to incorporate new types of assistance including lease-purchase and down payment assistance options.

In FY 2022, it is anticipated that 30 residents will purchase their scattered site units under the 5h program and 30 current voucher holders will utilize voucher assistance to purchase homes and then receive monthly Housing Assistance Payments to support housing costs for up to a fifteen (15) or thirty (30) year period. To date, PHA has assisted over 600 HCV participants to purchase their first homes. In addition to 5h and HCV homeownership opportunities, PHA anticipates the development of an additional 60 homeownership units in FY 2022, including units in the Norris and Sharswood communities. PHA will continue to work with residents to complete homeownership-counseling courses in partnership with HUD-approved housing counseling agencies.

The MTW Opening Doors to Affordable Homeownership Program (ODAHP) consolidates, streamlines and enhances these existing initiatives while modifying eligibility and post-purchase support criteria and adding new financing support mechanisms. Key features of the new program include:

#### *Program Components*

ODAHP participants work with PHA's Homeownership Department to review their financial status, credit standing and household goals. Participants are required to meet all eligibility requirements, including successful completion of approved homeownership counseling and financial literacy courses. Financing options available to program participants include:

- *Monthly voucher assistance:* Households may receive monthly Housing Assistance Payments assistance for up to 15 or 30 years. Generally, this assistance will cover the difference between up to 28% of adjusted household income and the projected monthly homeownership costs, subject to a cap that is equal to PHA's voucher payment standard. PHA's rent simplification policies will be utilized to calculate household adjusted income and tenant monthly payments. Households will be recertified on a biennial basis per PHA's

existing policy. Per PHA's MTW policy, assistance will be ended 180 days after a household income rises such that the PHA subsidy equals \$50 or less. Monthly voucher assistance may be used for private market units as well as for PHA scattered site units following sale. However, PHA will record a soft second mortgage on the title with a 15 or 30-year period, which is related to the voucher assistance term. In the event of a default, PHA will receive notification and attempt to work with the household to develop a financial workout plan to avoid foreclosure.

- *Down payment assistance:* In lieu of receiving monthly voucher assistance, ODAHP participants will be eligible for one-time down payment assistance up to a maximum of \$15,000 per household. Participants receiving down payment assistance will not be recertified. However, PHA will record a soft second mortgage on the title with a 20-year recapture period. In the event of a default, PHA will receive notification and attempt to work with the household to develop a financial workout plan to avoid foreclosure. If the default is not cured, PHA will recoup the down payment assistance amount, which will decrease 5% annually over the 20-year term.
- *Soft second mortgage option:* Up to a maximum of \$50,000 per household may be provided as a soft second mortgage, provided that the household is not receiving other PHA homeownership assistance. Participants receiving this assistance will not be recertified. However, PHA will record a soft second mortgage on the title with a 20-year recapture period. In the event of a default, PHA will receive notification and attempt to work with the household to develop a financial workout plan to avoid foreclosure. If the default is not cured, PHA will recoup the soft second mortgage amount, which will decrease 5% annually over the 20-year term.
- *Lease to purchase option:* PHA plans to implement lease to purchase options that can be implemented in private market rentals and scattered sites that are still part of PHA's public housing inventory. A portion of the tenant rent will be escrowed during the lease to purchase period and then applied to the down payment at the time of purchase. Lease to purchase participants will be recertified per PHA's existing policy.

As with the current 5h Program, all scattered site units are eligible for sale to ODAHP participants without requiring additional HUD disposition approval.

For the down payment assistance and soft second mortgage programs, PHA has established reasonable maximum limits of \$15,000 and \$50,000. These amounts were determined based on PHA's internal assessment of the level of assistance needed to ensure successful first time homeownership among current program participants given current Philadelphia housing market conditions. Note, however, that PHA will authorize only the minimum amount needed to close the affordability gap based on individual household circumstances. PHA will calculate the maximum mortgage payment allowed at 35% of adjusted monthly income, and total housing expenses at 38% of adjusted monthly income. The amount of down payment or soft second assistance to be provided by PHA will be calculated by PHA's Homeownership Opportunities Department staff based on a complete review of household finances. As part of this review, PHA staff will work to

maximize household eligibility for any other non-PHA down-payment and/or closing cost assistance programs.

PHA budgets approximately \$1.5 million in MTW Block Grant funds yearly to support the program. The number of households served will vary, depending on the mix of financing options utilized by participants. If demand exceeds available budget, PHA will establish a wait list based on date and time of application.

In FY 2022, PHA will continue to review and assess the feasibility of implementing the Lease to Purchase flexibility pending the availability of potential LIHTC homeownership units.

### **Planned Non-Significant Changes**

Under the existing activity, PHA may dispose of scattered site PH units to eligible PH residents and HCV participants for first time homeownership upon HUD approval of the disposition. PHA plans to leverage the Federal Housing Administration's 203(k) Rehabilitation program to encourage eligible residents to purchase and rehabilitate selected scattered site units. The Section 203(k) program is an important tool for community and neighborhood revitalization, as well as expanding homeownership opportunities.

With a Section 203(k) insured loan, PH residents and HCV participants will be able to finance the rehabilitation of the unit. Residents who finance through a Section 203(k) insured loan will also be eligible for PHA's down payment assistance and soft second mortgage option. PHA will qualify and connect residents with MBE/WBE contractors as well as resident-owned contracting companies to facilitate the rehabilitation. During the period of rehabilitation, HCV and PH participants will continue to receive assistance in their existing (non-homeownership) PH or HCV units until rehabilitation work is complete and the homeownership unit is ready for move-in.

### **Planned Changes to Metrics/Data Collection**

No changes to metrics or data collection methods are planned.

### **Planned Significant Changes**

No significant changes are planned.



## **ACTIVITY 2019-2: SHARSWOOD YOUTH & FAMILY ENRICHMENT SERVICES**

### **Plan Year Approved, Implemented, Amended**

- Approved FY 2019
- Implemented in FY 2019

### **Description/Update**

PHA will continue to utilize MTW Block Grant funding flexibility to support after school programs designed to help improve educational outcomes and high school graduation rates for PHA youth and other low-income youth living in the Sharswood/Blumberg neighborhood of Philadelphia. This activity also provides partial funding for case management for youth and their families to help overcome barriers to educational success and to access community resources to address family supportive service needs.

As part of the comprehensive neighborhood transformation strategy for the former Blumberg public housing development and the surrounding Sharswood community, PHA provides \$500 per student per year in MTW Block Grant funds to support after school programming and case management services in coordination with a neighborhood school established in September 2017 serving youth in grades 9-12, which is operated by Big Picture Schools Philadelphia (BPSP) and located in the Vaux Community Building. BPSP works to engage students in learning and internship opportunities to encourage career exploration and progression to higher education.

The Vaux Community Building, a key part of the Choice Neighborhood Transformation Plan, serves as a focal point and anchor for the revitalized community, with on-site facilities for educational, health care and other supportive services. In FY 2019, PHA was designated by HUD as an EnVision Center. The new EnVision Center is located in the Vaux Community Building and includes services such as health and wellness, job training, dental care, high school education and after-school programs. The plan to establish a neighborhood school and to improve educational outcomes is an integral component of the comprehensive Choice Neighborhoods Transformation Plan for Blumberg-Sharswood that was accepted by the US Department of Housing and Urban Development (HUD) in March 2016.

This MTW activity provides partial funding of BPSP's after school programs including homework assistance, sports activities, robotics, music production, computer refurbishing and other education-related activities. Partial funding is also provided for case management support to youth and their families through BPSP's Resilience Specialist. The Resilience Specialist provides one-on-one and group counseling to students and their families, with the goal of identifying and removing barriers to educational success and family stability.

PHA shares BPSP's goal of helping PHA and other low-income youth to exceed citywide educational metrics, and to graduate and move onto higher education and meaningful careers. In FY 2022, the BPSP's school leader will continue to work to strengthen the Leadership Team, enhance professional development and coaching around a project-based "real world" approach and

to enhance restorative practices. While the primary beneficiaries of the services provided by BPSP are members of PHA resident households, including residents of public housing and the Housing Choice Voucher (HCV) program, other low-income neighborhood youth are also served. As of FY 2021, the program has reached full enrollment, serving grades 9 to 12 with approximately 125 youth per grade. In FY 2022, PHA anticipates that the number of youth served will be 504, including 302 low-income neighborhood youth.

#### **Planned Non-Significant Changes**

No non-significant changes are planned.

#### **Planned Changes to Metrics/Data Collection**

No changes to metrics or data collection methods are planned.

#### **Planned Significant Changes**

No significant changes are planned.

## **ACTIVITY 2020-1: LOCAL FAMILY SELF-SUFFICIENCY PROGRAM FLEXIBILITY**

### **Plan Year Approved, Implemented, Amended**

- Approved FY 2020
- Implemented in FY 2020
- Modified in FY 2021

### **Description/Update**

PHA will continue to implement a local Family Self-Sufficiency (FSS) Program to encourage more residents to participate in the program. Under this MTW activity, PHA has eliminated the current regulatory requirement that FSS participants must have an interim or regular recertification within 120 days prior to enrollment in the FSS program. PHA utilizes the last interim or regular recertification prior to enrollment as the basis for FSS escrow calculations. PHA received approval from HUD and implemented this activity in FY 2020. The MTW FSS program policies apply to all FSS participants who enroll after the activity was approved. Those FSS participants who enrolled prior to the approval of this activity are not subject to local FSS program policies.

In FY 2022, PHA will implement the approved change to the employment requirement for the MTW FSS program. Specifically, where the head of an FSS household is elderly or disabled, PHA will redefine the employment obligation to allow any other adult in the household to seek and maintain suitable employment during the term of the contract and any extension thereof. Prior to the approval of this change, suitable employment had to be maintained by the head of household. Redefining the employment obligation will provide families, where the head of household is elderly or disabled, with incentive to participate in FSS and derive benefit from the supportive services and escrow accumulations, while maintaining the requirement for employment within the household.

PHA anticipates that approximately 100 new families will enroll in FY 2022, resulting in a total enrollment of approximately 400 families into the MTW FSS Program.

### **Planned Non-Significant Changes**

No non-significant changes are planned.

### **Planned Changes to Metrics/Data Collection**

Benchmarks have been updated to reflect the increase in participation that PHA anticipates for the MTW FSS program in FY 2022. As PHA projects that 400 participants will receive services and participate in the MTW FSS program in FY 2022, the benchmarks for SS #3, SS #4, SS #5, SS #6 and SS #7 have been updated to reflect anticipated activity and are included below.

## Metrics:

SS #3: Increase in Positive Outcomes in Employment Status*				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Unemployed	108 (72%)	248 (62%)		
Employed	42 (28%)	152 (38%)		
Enrolled in Education	0	24 (6%)		
Enrolled in Job Training	0	52 (13%)		
*Metric applies to participants who enroll in FSS after approval of this MTW Activity. Baselines for unemployed and employed were based on PHA-wide average percentages, and then applied to the 150 participants PHA had anticipated for FY 2020, the initial year of this activity. Benchmarks have been adjusted to reflect that PHA anticipates 400 participants in FY 2022. Baselines and benchmarks may be adjusted at a later date to reflect employment status at enrollment of participants affected by this activity.				
SS #4: Households Removed from Temporary Assistance for Needy Families (TANF)*				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households receiving TANF assistance (decrease)	17 (11.6%)	46 (11.6%)		
*Metric applies to participants who enrolled in FSS after approval of this MTW Activity in FY 2020. The baseline for households receiving TANF was based on PHA-wide average percentage, and then applied to the 150 participants PHA had anticipated for FY 2020, the initial year of this activity. The benchmark has been adjusted to reflect that PHA anticipates 400 participants in FY 2022. Baseline and benchmarks may be adjusted at a later date to reflect employment status at enrollment of participants affected by this activity.				
SS #5: Households Assisted by Services that Increase Self-Sufficiency*				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households receiving services aimed to increase self-sufficiency (increase).	0	400		
*Metric applies to participants who enroll in FSS after approval of this MTW Activity.				
SS #6: Reducing Per Unit Subsidy Cost for Participating Households*				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Average amount of Section 8 and/or 9 subsidy (or local non-traditional subsidy) per household affected by this policy in dollars (decrease).	\$1,321,200	\$3,235,200		
*Metric applies to participants who enrolled in FSS after approval of this MTW Activity. Baseline is the PHA average HAP of \$734 multiplied by 12 months for 150 participants. Benchmark is based on a projected decrease in the PHA average HAP to \$674 multiplied by 12 months for 400 participants. Baseline and benchmark may be adjusted at later date to reflect subsidy amount at enrollment of participants affected by this activity. PHA notes that this metric does not account for the fact that subsidy costs may rise even while tenant incomes increase as a result, for example, of increases to rents to owners.				
SS #7: Increase in Agency Rental Revenue*				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?

Total household contributions towards housing assistance (increase).	\$556,200	\$1,771,200		
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*\* Metric applies to participants who enrolled in FSS after approval of this MTW Activity. PHA uses Total Tenant Payment (TTP) as the household contribution toward housing assistance. Baseline is the PHA average TTP of \$309 per month multiplied by 12 months for projected 150 participants. Benchmark is based on projected increase in TTP of \$60 per month participant using projected \$2400 average increase in earned income. Baseline and benchmark may be adjusted at later date to reflect actual TTP at enrollment of participants affected by this activity. PHA notes that this metric does not account for the fact that PHA will pay out escrow savings accounts for FSS program graduates.*

## Planned Significant Changes

No significant changes are planned.

## **ACTIVITY 2020-2: SPONSOR-BASED SHARED HOUSING PILOT**

### **Plan Year Approved, Implemented, Amended**

- Approved FY 2020
- Implemented in FY 2020

### **Description/Update**

Under this activity, PHA will continue to implement a pilot program that expands housing options for homeless individuals and other hard to serve special populations. It builds on and enhances the ongoing collaboration between the City and PHA to reduce homelessness through the “Blueprint to End Homelessness” initiative. The pilot program is initially limited to up to twenty-five (25) units; however, using a shared housing model, the projected number of individual, low-income households to be served is up to one hundred (100) individuals. Based on an evaluation of the program’s effectiveness in reducing homelessness and providing stable housing for participants, PHA may elect to expand the program and the number of units. The elements of the pilot program include:

- Utilizing grant funding provided by the City to leverage MTW funds, PHA will rehabilitate existing vacant and uninhabitable scattered site public housing units. Units will generally be large-bedroom sizes with 3+ bedrooms per unit. No liens will be placed on the properties.
- PHA will enter into a master lease for one or more of the rehabilitated units with the City and/or qualified local, non-profit provider(s) that serves formerly homeless individuals and/or other hard to serve populations, i.e. youth aging out of foster care, chronically homeless, victims of domestic violence, etc.
- PHA does not intend to mix different target populations within the same unit. Supportive services will be offered directly and/or through referrals based on the needs and priorities of the resident population served, which may include case management, behavioral health services, preventive health care, adult education, employment and training, and/or other services.
- Under the terms of the master lease, the City and/or designated provider(s) (“Sponsor Agency”) will pay a flat rent to PHA. PHA will not collect or receive rents from individual tenants. The Sponsor Agency(s) will be allowed to sublease individual rooms within the unit to eligible, low-income individuals. The Sponsor Agency(s) will provide a shared housing model and supportive services to program participants and will: screen and determine eligibility of participants; maintain a waiting list if needed; implement a rent policy by which participants will pay no more than 30% of income for rent; enter into sublease agreements with participants; collect rents; and, develop and enforce house rules. PHA does not anticipate that on-site staffing will be required.

- Participants in this pilot program will not be considered public housing residents and will not have the responsibilities and rights associated with PHA public housing resident households. PHA plans to request HUD approval to classify the units covered under master lease as “MTW Neighborhood Services” units in accordance with PIH 2011-7. PHA will then report on households served through the MTW 50058 form. PHA’s understanding is that each occupied unit will count as one household for MTW purposes, irrespective of the number of individuals sharing the unit.
- Participants will not be subject to PHA’s Admissions and Continued Occupancy Policies including, but not limited to, those related to Eligibility Determination, Continued Occupancy, Transfers, Informal Hearings or Grievance Hearings. However, participants will be subject to admissions and continued occupancy policies established by the City or qualified, local non-provider with whom PHA has entered into a master lease.
- Participants will not enter into lease agreements with PHA and will not pay rent to PHA. They will not be subject to public housing Community Service requirements.
- Lease enforcement (up to and including evictions), house rules enforcement, rent collection and other property management activities will be the responsibility of the City or qualified local, non-profit provider with whom PHA has entered into a master lease.
- PHA will ensure that all units meet UPCS standards at initial inspection. PHA’s role will be to prepare the unit for initial occupancy and perform routine and emergency maintenance services.
- The City and/or Sponsor Agency(s) will provide PHA with quarterly reports that provide basic data on program participants including household income, dates of occupancy, supportive services provided, outcomes achieved and other required information.

PHA worked with the City to finalize pilot program details including identifying units for rehabilitation; defining work scopes; and, working through operating issues. In FY 2021, PHA entered into a Master Lease with the City. PHA projects that 35 units will be occupied by the beginning of FY 2022. The number assisted in the pilot reflects an increase from the originally planned 25 units.

PHA is also engaged in discussions with the Community College of Philadelphia (CCP) on a shared housing pilot program to serve low-income, at-risk CCP students. The initial effort will involve 3 units, although the number may increase. PHA anticipates that negotiations will be completed by the start of FY 2022.

### **Planned Non-Significant Changes**

PHA will increase the number of units in the pilot program to 38 (35 with City and 3 with CCP). No additional waivers are required for this change.

### **Planned Changes to Metrics/Data Collection**

PHA has updated the metrics to reflect planned FY 2022 activity.

<i>HC #1: Additional Units of Housing Made Available*</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of new housing units made available for households at or below 80% AMI as a result of the activity (increase).	0	38		
<i>*Annual goal for FY 2020 is 10 units.</i>				
<i>HC #7: Households Assisted by Services that Increase Housing Choice</i>				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
Number of households receiving services aimed to increase housing choice (increase).	0	38		
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## Planned Significant Changes

No significant changes are planned.



## **B. Activities Not Yet Implemented**

### **MTW Activity 2014-1: Flexible Subsidy Initiative**

#### **Description/Update**

The Flexible Subsidy Initiative provides PHA with the flexibility, subject to HUD approval, to establish operating subsidy levels for newly constructed public housing units, which blend MTW Block Grant funds (HAP and Operating Fund). This activity was approved by HUD in FY 2014. PHA has not utilized this flexibility to date; however, it may be utilized, subject to HUD approval, in future transactions.

#### **Timeline for Implementation**

PHA will implement this activity if and when PHA needs MTW flexibility to supplement the current public housing operating subsidy levels, subject to prior HUD approval.

#### **Explanation of Non-Significant Changes Since Approval**

No changes have been made since approval.

## ACTIVITY 2021-1: LIMITED PILOT - MTW CONTINUED OCCUPANCY POLICY

### Description/Update

This pilot program will not apply to current PHA residents or HCV participants. To support and provide incentives for employment and self-sufficiency, PHA plans to implement a pilot program that will establish an MTW continued occupancy policy applicable to new residents at a limited number of target developments and units. The pilot program policy will require all non-disabled adults age 18-54 in the household to complete at least 20 hours per week of employment – or participation in an approved education or job training program - as a condition of continued occupancy. If a 17 year old lives in the household and has dropped out of school, the 20-hour minimum requirement will also apply. Elderly and disabled adults, household members who become elderly or disabled and household members who are caretakers of elderly/disabled family members will be exempt from the continued occupancy requirement. To support residents in achieving compliance, households will be referred, and provided with supportive services as needed, to PHA's new Workforce Center, where they will be able to work with a PHA Navigator to identify and secure employment, training and supportive service placements and referrals and/or to a PHA partner agency.

As noted, the pilot program will not apply to current PHA residents, including PHA residents living in conventional public housing developments that have been or will converted from public housing to Project Based Voucher (PBV) assistance under the Rental Assistance Demonstration (RAD) program.

The pilot program policies will apply only to households that are *newly admitted or transferred* after HUD approval of this MTW activity to: 1) Public Housing scattered site units; 2) PHA owned or controlled non-RAD PBV developments; and, 3) Turnover units, and units available at initial occupancy for which there are no public housing conversion households with a right to return, in PHA-owned or controlled PBV RAD developments. Households who have a right to return to a RAD development will continue to be offered units before any new admission and will not be subject to the continued occupancy work requirement.

In tandem with the pilot program, PHA will establish an admissions and transfer preference applicable only to the above-listed target units and development. The admissions and transfer preference, which does not require MTW waivers from HUD, will be assigned to eligible applicant households where at least one adult is working 20+ hour per week. Eligible elderly (55+) and disabled applicants will also be assigned this preference.

With the opening of a full-service Workforce Center at the Vaux Community Building, PHA believes that programs and services are available (through PHA and its partners) to help residents work towards economic self-sufficiency and break the cycle of intergenerational poverty. In addition to offering programs at the Vaux Community Building, PHA has strong partnerships with other employment and training providers located throughout the City to which PHA refers residents. PHA's goal is to work with all adult residents impacted by this policy to ensure success. However, non-compliance by any adult member of the household that is subject to the policy will constitute a lease and program requirements violation. If a household becomes non-compliant

with the policy, PHA will provide a six-month grace period before proceeding with lease enforcement action. During the grace period, households will be referred to PHA's Workforce Development Center, one of PHA's employment and training partners (i.e. OIC, Congresso de Latino, West Philadelphia Skills Initiative, etc.), and/or other available resources. After the six-month grace period, if the household is still not in compliance, the family may be subject to program and lease termination. The limited pilot for the MTW continued occupancy policy will be incorporated as applicable into the Public Housing Admissions and Continued Occupancy Policy, the HCV Administrative Plan, and the household's Lease.

PHA plans to review the results of the pilot program before making any decisions regarding expanding the policy to additional sites or units. PHA will provide information on any proposed changes to the policy in future MTW Annual Plans.

A household member who has a short-term medical issue or disability, or who is responsible for the care of a child under age six and is unable to secure appropriate childcare, which prevents the member from fulfilling the work (or education or job training program) requirement will be allowed to request a temporary hardship exemption subject to third party verification of the hardship.

### **Timetable for Implementation**

This activity was approved by HUD in FY 2020; however, the onset of COVID-19 at the beginning of the fiscal year made implementation of the activity, which incorporates work preferences, infeasible due to the large number of applicants and residents who lost employment. A firm implementation timetable will be established in future Annual Plans.

### **Explanation of Non-Significant Changes Since Approval**

No changes have been made since approval.

### **C. Activities on Hold**

Not applicable.

## D. Closed Out Activities

The following table summarizes previously approved MTW activities that PHA has completed, discontinued, or determined that the activity no longer requires MTW authority to implement.

Activity	Plan Year	Close Out Year	Reason for Close Out
Assisted Living	FY 2009	FY 2011	PHA discontinued this activity prior to its implementation based on a determination that sufficient funding was not available from state, federal and other required sources.
Home Care Services	FY 2009	FY 2011	PHA discontinued this activity prior to its implementation based on a determination that services can be delivered more efficiently through third-party partners.
Scattered Site Income Tiering	FY 2011	FY 2011	PHA discontinued this activity prior to its implementation based on decisions made as part of the scattered site asset repositioning initiative including disposition and auction of vacant and obsolete properties.
HCV Time Limit	FY 2004	FY 2012	PHA discontinued this activity due to economic conditions, which limited the availability of jobs for residents.
HCV HQS Enforcement	FY 2004	FY 2012	PHA discontinued this policy based on a decision to establish uniform HQS enforcement policies for both MTW and Non-MTW vouchers.
Public Housing Service Order Policy	FY 2004	FY 2012	PHA discontinued this policy after discussions with the HUD Field Office concerning the need to expedite service order response times.
Tenant Responsibility Training	FY 2004	FY 2013	PHA determined that this activity does not require MTW flexibility to implement.
Blueprint	FY 2004	FY 2013	PHA continues to implement the Blueprint Program; however, a determination was made that the activity does not require MTW flexibility.
Transitional Housing Facilities	FY 2007	FY 2013	PHA determined that comparable activities are authorized under Partnership Initiative.
LIFE Program	FY 2007	FY 2013	PHA determined that this activity does not require MTW programmatic waivers or Block Grant funding.
Community Service Policy	FY 2011	FY 2013	PHA determined that this activity does not require MTW flexibility.
Expanding Use of LIHTC	FY 2011	FY 2013	PHA determined that the proposed activities were covered under Partnership and Unit-Based Leasing/Development Initiatives.
Family Economic Development Action Plan/Tenant Responsibility Training	FY 2004	FY 2014	PHA discontinued this activity along with discontinuation of HCV time limits, as they were interrelated activities. No additional statutory exceptions outside of the current MTW flexibilities were considered.
Comprehensive Resident Self Sufficiency Services	FY 2005	FY 2014	PHA continues to provide comprehensive resident self-sufficiency services utilizing MTW Block Grant funds. However, MTW programmatic waivers are not required. These activities are now referenced in Chapter V under the Single Fund Flexibility section.
90 Day Voucher Reissuance Policy	FY 2005	FY 2014	PHA discontinued this policy based on an assessment that it would not contribute to PHA's utilization goals.
Accessible Unit Retrofitting and Development	FY 2010	FY 2014	PHA has completed the accessible unit retrofitting under Attachment E of the MTW Agreement. PHA

Activity	Plan Year	Close Out Year	Reason for Close Out
			will continue to develop accessible units as part of its revitalization programs; however, this activity does not require specific MTW waivers
Moving to Work Family Agreement Addendum	FY 2004	FY 2016	PHA elected not to utilize this Agreement and instead provides a Family Responsibilities form to each household at each regular recertification.
\$20 Minimum Threshold for Utility Allowance Reimbursements	FY 2009	FY 2016	PHA elected not to establish a minimum threshold of \$20 for payment of utility allowance payments.
Adult Day Care	FY 2011	FY 2017	PHA transitioned the program to a qualified third party provider, and does not provide MTW funding or utilize MTW waivers to support the activity.

## V. SOURCES AND USES OF MTW FUNDS

### A. Estimated Sources and Uses of MTW Funds

Tables 9 and 10 below provide estimated sources and uses of MTW funds for FY 2022. As PHA's funding levels for future periods are unknown at the present time, this table provides preliminary projections. Actual sources and uses are expected to vary based on the level of funding provided to PHA and the level of actual expenses. PHA's estimated Sources and Uses budget for FY 2022 assumes continued reductions in Public Housing Operating Subsidy, Capital Fund Program, HCV, and HCV Administrative fees. The tables follow HUD's required formats and do not include information on Non-MTW funding sources and uses.

#### i. Estimated Sources of MTW Funds

**Table 9: Estimated Sources of MTW Funding for FY 2022**

Sources		
FDS Line Item	FDS Line Item Name	Dollar Amount
70500 (70300+70400)	Total Tenant Revenue	\$ 29,017,296
70600	HUD PHA Operating Grants*	\$ 374,028,233
70610	Capital Grants	\$ 58,656,880
70700 (70710+70720+70730+70740+70750)	Total Fee Revenue	\$ 0
71100+72000	Interest Income	\$ 200,000
71600	Gain or Loss on Sale of Capital Assets	\$ 0
71200+71300+71310+71400+71500	Other Income	\$6,400,000
<b>70000</b>	<b>Total Revenue</b>	<b>\$ 468,302,409</b>

\* This line item includes projected Public Housing Operating Fund and HAP revenue. Of the total amount listed, the Public Housing Operating Fund revenue is estimated at \$138,463,137, HCV HAP revenue is estimated at \$227,244,489 and \$8,320,577 for RAD Subsidies.

#### ii. Estimated Uses of MTW Funds

**Table 10: Estimated Uses of MTW Funding for FY 2022**

Uses		
FDS Line Item	FDS Line Item Name	Dollar Amount
91000 (91100+91200+91400+91500+91600+91700+ 91800+91900)	Total Operating – Administrative	\$ 64,274,026
91300+91310+92000	Management Fee Expense	\$ 0
91810	Allocated Overhead	\$ 0
92500(92100+92200+92300+92400)	Total Tenant Services	\$ 3,104,723

<b>Uses</b>		
<b>FDS Line Item</b>	<b>FDS Line Item Name</b>	<b>Dollar Amount</b>
93000 (93100+93600+93200+93300+93400+93800)	Total Utilities	\$ 22,839,794
93500+93700	Labor	\$ 169,476
94000 (94100+94200+94300+94500)	Total Ordinary Maintenance	\$ 72,229,721
95000 (95100+95200+95300+95500)	Total Protective Services	\$ 8,828,363
96100 (96110+96120+96130+96140)	Total Insurance Premiums	\$ 17,566,249
96000 (96200+96210+96300+96400+96500+96600+96800)	Total Other General Expenses	\$27,973,091
96700 (96710+96720+96730)	Total Interest Expense and Amortization Cost	\$ 0
97100+97200	Total Extraordinary Maintenance	\$ 1,815,351
97300+97350	Housing Assistance Payments + HAP Portability-In	\$ 190,844,735
97400	Depreciation Expense	\$ 0
97500+97600+97700+97800 *	All Other Expenses	\$58,656,880
<b>90000</b>	<b>Total Expenses</b>	<b>\$468,302,409</b>

\*This line item represents capital and development activity expenses.

### *iii. Planned Use of Single Fund Flexibility*

Under the MTW Program, PHA is authorized to establish an MTW Block Grant budget. Activities that utilize Block Grant single fund flexibility are summarized below:

- Capital Activities to support development activities, and maintenance and site improvements throughout PHA.
- Family Programs and Comprehensive Resident Supportive Service activities to support a wide range of public safety, program compliance, and training and education efforts for PHA residents including: youth development programs citywide; senior programs citywide; Pre-Apprenticeship Program; service coordination; job training and placement; educational partnership initiatives; affordable homeownership programs; Community Relations police units; Community Partners training and educational programs; and other Economic Development and Self-Sufficiency program activities. See Table 11 below for a summary of resident services initiatives planned for FY 2022 including MTW and Non-MTW funded initiatives.
- Quality of Life Programs to support Lease Enforcement and Section 8 investigations programs.
- General Conditions to include functional enhancements and training on software systems, staff training, and energy management initiatives.



- Management directives associated with balancing and optimizing PHA’s organization structure in line with HUD funding modifications related to the MTW agreement.

**Table 11: Resident Services Program Summary for FY 2022**

Program/Partner	Program Description	Target Population	Funding Source	Projected Residents Served
<b>COVID EMERGENCY RESPONSE PROGRAMMING</b>				
Hardship Fund – COVID Response COMPASS/Clarifi	Residents in need of funds to support childcare, medical expenses etc. apply to receive funds through Clarifi while also learning about FSS program.	PHA residents ages 18-55	CARES	100
Parent Child Plus Emergency COVID Programming	Provide services as needed to families with young children across all PHA sites and continue to support early learning interventions remotely and through limited in home visits.	PHA residents ages 1-5 and their families	William Penn Foundation	90
PHA’s Community Health Worker Program – COVID Response Strategy	Temple will train 10 CHWs to provide information on health, safety and wellness related to COVID.	All PHA residents	CARES	10 residents trained 400 served
PHLConnected Internet Connectivity Program	Wireless connections and “hot spots” will be available to all PHA and HCV families with school aged children who do not have internet connectivity.	PHA residents with school-age children	CARES	Up to 5000 families
<b>ADULT EDUCATION AND TRAINING</b>				
ABE/GED Program	Adult Basic Education and General Equivalency Diploma education in the required domains.	PHA residents ages 18 to 55	MTW	40
PHA Workforce Center Job Training Enrollments	Occupational Skills training (CDL, Nurse Aide, IT etc.) in career areas with reasonable growth potential and connection to employment.	PHA residents ages 18 to 55	MTW	250
ReBuild Training Program	Construction and Finishing Trades Training Program	PHA & community residents	City of Philadelphia	12
Temple University North Philadelphia Workforce Initiative - Training Programs	Electrical Training Program Property Maintenance Training Program CVS Customer Service and Pharmacy Tech	PHA residents	Lenfest Foundation - Temple University	50
PHA Workforce Center	Drop in Center - Employment “One Stop” providing connections jobs and training opportunities.	PHA residents	MTW	120 visits/contacts per month
PHA’s Intro to Construction Skilled Training Program – Trades for a Difference	Training program introducing young adults to the trades. Trainees use PHA worksites to practice skills.	PHA residents ages 18-25	MTW	30
Section 3 Job Bank	Ensure that economic opportunities, are provided to PHA residents through workshops, info sessions and job matches.	PHA residents ages 18 to 55	Section 3 vendors	40 residents employed
Section 3 Resource Center	Ensure that economic opportunities are provided to PHA residents through workshops, info sessions and job matches.	PHA residents ages 18-55	MTW/Section 3 vendors	100 residents participating in workshops and screening
<b>YOUTH PROGRAMS</b>				
PowerCorps PHL	Landscape Training for young adults.	PHA youth ages 18-24	Partnership	25

Program/Partner	Program Description	Target Population	Funding Source	Projected Residents Served
Afterschool Programs at 11 sites	On site programs which meet the standard of providing (1) homework assistance, (2) project based learning, (3) community service, and (4) physical/ body kinesthetic activities.	PHA youth ages 6 to 18	MTW	220
PHA Summer Camps at 11 sites	Summer enrichment activities to prevent academic regression.	PH youth ages 6 to 13	MTW	220 enrolled
MightyWriters Out of School Programs	Provides literacy programming and activities at two sites. Virtually expanding to serve all sites under COVID	PHA youth ages 3-18	Partnership William Penn Foundation	Approximately 100 PHA residents enrolled. Additional 100 community youth served
Youth Summer Jobs Program – Summer WorkReady	Six weeks of summer employment for youth. Youth are placed at PHA sites.	PHA teens	Philadelphia Youth Network WorkReady program and non-profit partners	25 students placed at PHA
Parent Child Plus Program	Provides literacy exposure to children ages 1-3 through home visits and support to enrollment into Headstart or PreK programs.	PHA children ages 1-3 and their families	PHA non-federal funds and Greenlight Foundation	150 families enrolled 83% enroll children in Pre k
<b>MEAL PROGRAMS</b>				
Summer Food Program at 13 sites	Breakfast and lunch served on site to provide appropriate nutrition during the summer.	PHA youth ages 5 to 18	MTW/PA Department of Education	38,000 meals served
Senior Meal Programs - Congregate Hall  Philadelphia Corp of Aging (3 sites)	Meal program, which not only enables residents to have appropriate nutrition, but also best practice fellowship to support aging in place.	PHA residents ages 62+	HUD	16,422 meals served @ Congregate Hall  19,000 meals served @ 3 sites through PCA
<b>FINANCIAL MANAGEMENT</b>				
Financial Literacy – homeownership track	Course on credit and money management to enable residents to purchase homes.	PHA residents ages 18 to 55	MTW	750
FSS COMPASS/ Clarifi	Assessment of individual and family needs, enrollment in FSS, followed by referrals and tracking.	PHA residents ages 18 to 55	HUD	800
Home Ownership Program	Housing counseling and assistance with home purchase process. This includes 5H, HCV, and Section 32.	PHA residents ages 18 to 55	MTW, Other	1050 attended workshops 60 sales
Eviction Prevention Program – Pilot at 3-4 sites	Support residents at risk of eviction. Coordinators will provide coaching. Clarifi will provide credit checks, financial counseling and budgeting workshops.	PHA residents	MTW and CARES	150
<b>PLACE BASED HUD INITIATIVES</b>				
Jobs Plus Pilot Program	Place-based employment program designed to increase the earnings and employment of working-age residents.	PHA residents ages 18 to 62	HUD	337 enrolled
ROSS Program	Assessment of individual and family needs, followed by referrals and tracking.	PHA residents ages 18 to 55	HUD	203 assessments completed at 6 developments

Program/Partner	Program Description	Target Population	Funding Source	Projected Residents Served
CNI Bartram Planning	Support to the Bartram community in beginning to think about growth and development in their community.	Community	HUD	Bartram residents and SW community
CNI Norris Program	Place-based case management for relocated and returning families who moved out of the Norris community.	PHA Norris households	HUD	280 assessments completed
CNI Sharswood	Place-based case management for relocated and returning families who moved out of the Blumberg community.	PHA Sharswood households	HUD	Outreach and assessments completed for up to 400 families

## B. Local Asset Management Plan

Is the PHA allocating costs within statute?

	or	No
Yes	or	

Is the PHA implementing a local asset management plan (LAMP)?

Has the PHA provided a LAMP in the appendix?

Yes	or	
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*Description of Proposed Changes to the Local Asset Management Plan in the Plan Year:*

Pursuant to its MTW Agreement, PHA has developed a Local Asset Management Plan (LAMP) that describes the agency's cost allocation plan and other technical components of PHA's local asset management strategy. HUD approved PHA's initial LAMP as part of the MTW FY 2010 Annual Plan submission. PHA submits updates to the LAMP as part of the Annual Plan submission. No substantive changes are proposed to the LAMP for FY 2022. A copy of the current LAMP is found in Appendix B.

## C. Rental Assistance Demonstration (RAD) Participation

### i. Description of RAD Participation

PHA views the conversion of public housing units to project-based assistance under the RAD program as a critically important component of its housing preservation and expansion strategy. Through RAD conversion, PHA is able to access private equity (primarily through the Low Income Housing Tax Credit program) and other funds to invest in existing PHA developments as well as to leverage new funding to replace obsolete scattered site units and "transfer assistance" to other new developments. Table 12 below provides summary information on PHA's current plans to convert existing public housing units to project-based assistance through the RAD program, and to transfer public housing assistance from vacant, non-viable scattered site units to new developments that will be subsidized through long-term project-based assistance contracts in FY 2022.

For informational purposes, Table 13 includes those developments that PHA has converted through the RAD program, as well as the developments PHA expects to convert through the RAD program through the close of FY 2021, including transfer of assistance developments. Actual timetables for conversion and/or PHA's decision to proceed with conversion may vary from the information included below, depending on various factors including project feasibility determinations, project financing, timetables for HUD and other approvals and other factors.

The timetable for RAD conversions extends beyond FY 2022 and continues to be refined in consultation with HUD and PHA's resident leadership. The listed projects may be modified in the future and are subject to approval by HUD and the PHA Board of Commissioners. Due to variances in development plans and schedules, projects listed may appear in prior or future Annual Plans. PHA may apply for additional RAD conversions beyond those shown in Tables 12 and 13.

**Table 12: RAD Closings Planned in FY 2022**

PIC Dev.#/AMP	PIC Dev. Name	RAD Units	Description
PA2-039	West Park Apartments	110	Partial conversion of existing public housing development
PA2-055	Fairhill Apartments	110	Partial conversion of existing public housing development
PA2-031	Bartram Village	75	Partial conversion of existing public housing development
PA2-132	Suffolk Manor	137	Conversion of existing PAPMC public housing development
PA2-137	Cambridge I	44	Conversion of existing PAPMC public housing development
PA2-129	Cambridge II	40	Conversion of existing PAPMC public housing development
PA2-147	Cambridge III	40	Conversion of existing PAPMC public housing development
PA2-901-910	Scattered Sites AMPS	22	Transfer of assistance from vacant, uninhabitable scattered sites to Harlan Street for new development
PA2-901-910	Scattered Sites AMPS	30	Transfer of assistance from vacant, uninhabitable scattered sites to Hunt Phase II for new development
PA2-901-910	Scattered Sites AMPS	40	Transfer of assistance from vacant, uninhabitable scattered sites to New Courtland at Henry Avenue for rehab/new development
PA2-901-910	Scattered Sites AMPS	95	Transfer of assistance from vacant, uninhabitable scattered sites to Hunt Phase III for rehab/new development
PA2-901-910	Scattered Sites AMPS	4	Transfer of assistance from vacant, uninhabitable scattered sites to Harrison Plaza for rehab
PA2-901-910	Scattered Sites AMPS	34	Transfer of assistance from vacant, uninhabitable scattered sites to a development to be determined
PA2-901-910	Scattered Sites AMPS	5	Transfer of assistance from vacant, uninhabitable scattered sites to Strawberry Mansion SS for rehab/new development
<b>TOTAL</b>		<b>786</b>	

**Table 13: RAD Closings Completed or Projected to be Completed by End of FY 2021**

Property Name	RAD Units	Description
2415 N. Broad	88	Transfer of Assistance
St John Neumann Place II	52	Transfer of Assistance
H.E.L.P Philadelphia V	37	Transfer of Assistance
New Courtland at St. Bartholomew	42	Transfer of Assistance
Lehigh Park I	49	Transfer of Assistance

Property Name	RAD Units	Description
Strawberry Mansion	55	Transfer of Assistance
Haddington III	48	Transfer of Assistance
Roberto Clemente House	38	Transfer of Assistance
Southwark Plaza (PA2-121)	470	Conversion of existing AME public housing development
Cantrell Place	40	Transfer of Assistance
Witherspoon Senior Apartments	40	Transfer of Assistance
1315 N. 8th Street	25	Transfer of Assistance
Norris Square Community Alliance Scattered Sites	29	Transfer of Assistance
Norris Apartments II (CNI)	74	CNI RAD Conversion
Plymouth Hall (PA2-079)	53	Conversion of existing public housing development
Blumberg Phase I	51	Transfer of Assistance
Blumberg Phase II-Senior Building	94	Conversion of existing public housing development
Norris Apartments Phase III	28	CNI RAD Conversion
Blumberg 83	83	Transfer of Assistance
Susquehanna Square	37	Transfer of Assistance
Reynolds School	49	Transfer of assistance
Norris Apartments Phase V (CNI)	45	CNI RAD Conversion
Sharswood I (Hunt)	30	Transfer of Assistance
Queen Row	43	Conversion of existing public housing development
Queen Lane LP	55	Conversion of existing PAPMC public housing development
27 <sup>th</sup> and Susquehanna	78	Transfer of assistance
Norris LP	51	Conversion of existing PAPMC public housing development
Harrison Plaza Tower	116	Conversion of Tower building at existing public housing development
<b>TOTAL</b>	<b>1,900</b>	

*ii. RAD Significant Amendments*

PHA is required to prepare a RAD Significant Amendment for each RAD project as part of the HUD approval process. The Significant Amendment process includes a public notice period, a public hearing and approval by the PHA Board of Commissioners prior to submission to HUD.

As part of this FY 2022 MTW Annual Plan, in Appendix G, PHA has included RAD Significant Amendments for the transfer of assistance of 165 units at various scattered site locations in Philadelphia to project-based assistance, including 125 units in the Sharswood neighborhood and 40 units at Henry Avenue Tower. Additional Significant Amendments for other planned RAD developments will be submitted in the future. Table 14 provides summary information on all previously submitted RAD Significant Amendments, including the HUD approval date for each.

**Table 14: Previously Submitted RAD Significant Amendments**

No	Plan Year	Date Submitted to HUD	HUD Approval Date	Property		Number of RAD Units	Transfer of Assistance (Yes/No)
				Pre-Conversion	Post-Conversion		
1.	FY 2015	7/23/2015	7/27/2015	Phase 1 (Blumberg) (PA002000050)	Phase 1 (Blumberg) (PA002000050)	57 <sup>1</sup>	Yes
2.	FY 2016	1/27/2016	3/9/2016	Southwark Plaza (PA002000121)	Southwark Plaza (PA002000121)	470	No
				Haddington SS (PA002000901)	NewCourtland at Allegheny II <sup>2</sup>	40	Yes
				Oxford Jefferson SS (PA002000910)	2415 North Broad Street	88	Yes
				Germantown SS (PA002000904)	Roberto Clemente Homes	38	Yes
				Kingsessing SS (PA002000903)	HELP Philadelphia V	37	Yes
3.	FY 2016	3/17/2016	3/30/2016	Ludlow SS PA002000907	Lehigh Park I	49	Yes
				Kingsessing SS PA002000903	Norris Square SS	29	Yes
				Scattered Sites (PA002000905, PA002000906, PA002000908, PA002000909, PA002000910)	Haddington III Preservation Initiative	48	Yes
				Scattered Sites (PA002000901, PA002000902, PA002000905, PA002000906, PA002000908, PA002000909, PA002000910)	St. John Neumann Place II	52	Yes
				Strawberry Mansion SS (PA002000909)	NewCourtland at St. Bartholomews	42	Yes
				Oxford Jefferson SS (PA002000910)	Strawberry Mansion	55	Yes
4.	FY 2017	1/14/2016	07/06/2016	MLK I (PA002000128)	MLK I (PA002000128)	49	No
				MLK III (PA002000136)	MLK III (PA002000136)	45	No
				Eight Diamonds (PA002000126)	Eight Diamonds (PA002000126)	152	No
				Spring Garden II (PA002000162)	Spring Garden II (PA002000162)	32	No
				Spring Garden Mixed Finance (PA002000127)	Spring Garden Mixed Finance (PA002000127)	86	No
5.	FY 2017	8/02/2016	9/06/2016	Norris Apartments II (PA002000014)	Norris Apartments II (PA002000014)	147	No
				Plymouth Hall (PA002000079)	Plymouth Hall (PA002000079)	53	No
6.	FY 2018	1/15/2017	4/23/2017	Westpark Plaza (PA002000093)	Westpark Plaza (PA002000093)	65	No
				Blumberg Senior (PA002000050)	Blumberg Senior (PA002000050)	94	No
7.	FY 2018	4/25/2017	6/14/2017	Scattered Sites	Cantrell Place	40	Yes

<sup>1</sup> # of RAD units in the Blumberg Phase 1 RAD Significant Amendment exceeds # of RAD units in final HAP Contract.

<sup>2</sup> Pursuant to PHA letter to HUD dated 1/27/2016, NewCourtland at Allegheny II withdrew from further consideration as a RAD site and accordingly, PHA does not intend to proceed with the transfer of assistance of 40 units at NewCourtland at Allegheny II.

No	Plan Year	Date Submitted to HUD	HUD Approval Date	Property		Number of RAD Units	Transfer of Assistance (Yes/No)
				Pre-Conversion	Post-Conversion		
				(PA002000904, PA002000906)			
				Scattered Sites (PA002000906, PA002000907, PA002000909)	Witherspoon	40	Yes
				Scattered Sites (PA002000905, PA002000910)	Reynolds School	64	Yes
				Scattered Sites (PA002000908)	Beury Building	50	Yes
				Scattered Sites (PA002000902)	1315 North 8 <sup>th</sup> Street	25	Yes
8	FY 2019	01/12/2018	04/28/2018	Scattered Sites (PA002000909)	Harlan Street	22	Yes
				Scattered Sites (PA002000902,904,905,907,908,909)	Susquehanna Square	37	Yes
				Scattered Sites (PA002000901,902,903)	Walton School	44	Yes
				Scattered Sites (PA002000901,902,903,904,905,906,907,908,909)	Blumberg Phase III	83	Yes
9	FY 2020	01/14/2019	05/10/2019	Scattered Sites PA002000901,902,903, 905, 909)	Susquehanna Net Zero Housing, LP	78	Yes
10	FY 2020	05/24/2019	07/01/2019	Scattered Sites PA002000901,902, 905, 907,908,909)	Sharswood Phase I	30	Yes
11	FY 2020	10/23/2019	11/18/2019	Norris Apartments LP PA002000175	Norris Apartments LP	51	No
				Queen Lane Apartments LP PA002000179	Queen Lane Apartments LP	55	No
				Queen Row PA002000178	Queen Row	43	No
12	FY 2021	1/15/2020	3/24/2020	West Park Apartments PA002000039	West Park TBD	327	Yes
				Fairhill Apartments PA002000055	Fairhill TBD	264	Yes
				Harrison Plaza (Tower only) PA002000015	Harrison Tower	112	No
				School of Nursing	School of Nursing <sup>3</sup>	50	Yes

<sup>3</sup> School of Nursing project has been withdrawn from consideration as a RAD TOA conversion project.

## **VI. ADMINISTRATIVE**

### **A. Board Resolution and Certifications of Compliance**

A Resolution approving the FY 2022 MTW Annual Plan and the MTW Plan Certification of Compliance was adopted by the PHA Board of Commissioners at the December 2020 meeting following the public review process and public hearing. As previously noted, PHA submitted an FY 2021 MTW Annual Plan Amendment to HUD that was also approved by the PHA Board at the December 2020 meeting. The FY 2021 Plan Amendment proposed a new Emergency Waiver activity; however, based on discussions with HUD, PHA subsequently withdrew the FY 2021 Plan Amendment and has incorporated the Emergency Waiver activity into this FY 2022 MTW Annual Plan. The Resolutions for both the FY 2022 Annual Plan and the FY 2021 Annual Plan Amendment are included in Appendix A.

A Resolution approving the FY 2022 MTW Annual Plan RAD Significant Amendment was adopted by the PHA Board of Commissioners at the April 2021 meeting, following the public review process and public hearing. This Resolution is included in Appendix H.

A Resolution approving the FY 2022 MTW Annual Plan RAD Significant Amendment #2 was adopted by the PHA Board of Commissioners at the December 2021 meeting, following the public review process and public hearing. This Resolution is included in Appendix I.

### **B. Documentation of Public Process**

PHA provided public notice of the FY 2022 MTW Annual Plan (and the FY 2021 Plan Amendment previously noted) and posted the Plan and Amendment on its website. A thirty-day public comment period to allow for resident and general public review was provided from October 30, 2020 through November 30, 2020. A virtual, online public hearing was held on November 18, 2020 attended by 12 participants including members of the public and PHA staff. PHA also conducted a virtual, online meeting on November 12, 2021 with resident leadership to discuss proposed Plan contents and provide additional opportunities for resident input. This meeting was attended by 20 participants including resident leadership and PHA staff.

For the FY 2022 MTW Annual Plan RAD Significant Amendment, PHA provided public notice; posted the Plan on its website; conducted a public comment period from March 1 - 31, 2021; and, conducted a virtual public hearing on March 17, 2021. Four members of the public attended the hearing. Documentation is included in Appendix H. PHA also reviewed the Plan Amendment with resident leadership at a March 10, 2021 virtual meeting attended by approximately 18 residents.

For the FY 2022 MTW Annual Plan RAD Significant Amendment #2, PHA provided public notice; posted the Plan on its website; conducted a public comment period from November 2, 2021 to December 2, 2021; and, conducted a virtual public hearing on November 15, 2021. No members of the public attended the hearing. Documentation is included in Appendix I. PHA also reviewed the Plan Amendment with resident leadership at a November 10, 2021 virtual meeting attended by approximately 16 residents.



### **C. Planned and Ongoing Evaluations**

PHA's most recent impact analysis of its rent simplification efforts is included in Appendix F.

### **D. Lobbying Disclosures**

The required Disclosure of Lobbying Activities (SF-LLL) and Certification of Payment (HUD-50071) forms are included in Appendix A.

## **VII. APPENDICES**

### **Appendix A: Board Resolution, MTW Certification & Lobbying Disclosures**

## CERTIFICATIONS OF COMPLIANCE

### **U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF PUBLIC AND INDIAN HOUSING**

#### **Certifications of Compliance with Regulations: Board Resolution to Accompany the Annual Moving to Work Plan**

Acting on behalf of the Board of Commissioners of the Moving to Work Public Housing Agency (MTW PHA) listed below, as its Chairman or other authorized MTW PHA official if there is no Board of Commissioners, I approve the submission of the Annual Moving to Work Plan for the MTW PHA Plan Year beginning (04/01/2021), hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

- (1) The MTW PHA published a notice that a hearing would be held, that the Plan and all information relevant to the public hearing was available for public inspection for at least 30 days, that there were no less than 15 days between the public hearing and the approval of the Plan by the Board of Commissioners, and that the MTW PHA conducted a public hearing to discuss the Plan and invited public comment.
- (2) The MTW PHA took into consideration public and resident comments (including those of its Resident Advisory Board or Boards) before approval of the Plan by the Board of Commissioners or Board of Directors in order to incorporate any public comments into the Annual MTW Plan.
- (3) The MTW PHA certifies that the Board of Directors has reviewed and approved the budget for the Capital Fund Program grants contained in the Capital Fund Program Annual Statement/Performance and Evaluation Report, form HUD-50075.1 (or successor form as required by HUD).
- (4) The MTW PHA will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
- (5) The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
- (6) The Plan contains a certification by the appropriate state or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the MTW PHA's jurisdiction and a description of the manner in which the Plan is consistent with the applicable Consolidated Plan.
- (7) The MTW PHA will affirmatively further fair housing by fulfilling the requirements at 24 CFR 903.7(o) and 24 CFR 903.15(d), which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o)(3). Until such time as the MTW PHA is required to submit an AFH, and that AFH has been accepted by HUD, the MTW PHA will address impediments to fair housing choice identified in the Analysis of Impediments to fair housing choice associated with any applicable Consolidated or Annual Action Plan under 24 CFR Part 91.
- (8) The MTW PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
- (9) In accordance with 24 CFR 5.105(a)(2), HUD's Equal Access Rule, the MTW PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.
- (10) The MTW PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
- (11) The MTW PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
- (12) The MTW PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F.
- (13) The MTW PHA will comply with requirements with regard to compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms if required by this Part, and with restrictions on payments to influence Federal Transactions, in accordance with the Byrd Amendment and implementing regulations at 49 CFR Part 24.

- (14) The MTW PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
- (15) The MTW PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
- (16) The MTW PHA will provide HUD or the responsible entity any documentation needed to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58. Regardless of who acts as the responsible entity, the MTW PHA will maintain documentation that verifies compliance with environmental requirements pursuant to 24 Part 58 and 24 CFR Part 50 and will make this documentation available to HUD upon its request.
- (17) With respect to public housing and applicable local, non-traditional development the MTW PHA will comply with Davis-Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
- (18) The MTW PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
- (19) The MTW PHA will comply with the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35.
- (20) The MTW PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments) and 24 CFR Part 200.
- (21) The MTW PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the Moving to Work Agreement and Statement of Authorizations and included in its Plan.
- (22) All attachments to the Plan have been and will continue to be available at all times and all locations that the Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the MTW PHA in its Plan and will continue to be made available at least at the primary business office of the MTW PHA.

**Philadelphia Housing Authority**  
**MTW PHA NAME**

**PA002**  
**MTW PHA NUMBER/HA CODE**

***I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).***

Lynette Brown-Sow

Chairperson

**NAME OF AUTHORIZED OFFICIAL**

**TITLE**

**SIGNATURE** 

**DATE** 12/21/2020

**\* Must be signed by either the Chairman or Secretary of the Board of the MTW PHA's legislative body. This certification cannot be signed by an employee unless authorized by the MTW PHA Board to do so. If this document is not signed by the Chairman or Secretary, documentation such as the by-laws or authorizing board resolution must accompany this certification.**

**RESOLUTION NO. 12126**

**RESOLUTION AUTHORIZING THE PHILADELPHIA HOUSING AUTHORITY TO SUBMIT ITS  
MOVING TO WORK ANNUAL PLAN ("PLAN") FOR FISCAL YEAR 2022, INCLUDING  
RENTAL ASSISTANCE DEMONSTRATION PROGRAM SIGNIFICANT AMENDMENTS, TO  
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD") AND TO  
UNDERTAKE ALL ACTIONS TO OBTAIN HUD APPROVAL AND IMPLEMENT THE PLAN**

**WHEREAS**, the U.S. Department of Housing and Urban Development ("HUD") administers a Moving to Work ("MTW") Demonstration Program that is designed to provide the opportunity for selected Housing Authorities to explore and demonstrate more efficient ways to provide and administer low-income housing; and

**WHEREAS**, pursuant to the Philadelphia Housing Authority ("PHA") Board of Commissioners Resolution No. 10618, dated December 21, 2000, PHA submitted to HUD an MTW Application Plan and Agreement; and

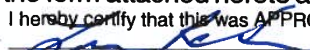
**WHEREAS**, since 2001, when HUD accepted PHA's application for participation in the MTW Demonstration Program and HUD and PHA subsequently executed a MTW Demonstration Agreement ("MTW Agreement"), PHA has continuously participated in the MTW Demonstration Program, with the most recent Board approval of the agreement being in Resolution No. 11577, adopted by the Board on January 11, 2013, and an extension to that agreement, as provided for therein, was made by HUD, based on Congressional approval, to extend PHA's MTW participation the end of PHA's 2028 fiscal year; and

**WHEREAS**, as a participant in the MTW Demonstration Program, PHA is required to develop an MTW Annual Plan for each fiscal year during the term of the MTW Agreement, which outlines the PHA budget and MTW activities, and to submit the Annual Plan for approval by its Board at least seventy-five (75) days prior to the beginning of each fiscal year; and

**WHEREAS**, PHA has developed and distributed to the Board the MTW Annual Plan for Fiscal Year 2022 ("Plan"), beginning on April 1, 2021, a summary of which is attached hereto as Attachment "A," which includes the Rental Assistance Demonstration Program Significant Amendments for four (4) developments that are all transfer of assistance developments, and a consolidated budget in accordance with the current MTW Agreement, as PHA is a block grant agency; and

**WHEREAS**, PHA has fulfilled the HUD requirement of providing opportunities for resident and public participation and comment on the Plan, including scheduling at least one (1) public hearing and taking into consideration any comments received, by: 1) holding an introductory meeting with resident leadership and interested PHA residents on November 12, 2020; 2) holding a Public Hearing on November 18, 2020; 3) posting the draft Plan on PHA's website; 4) making copies of the draft Plan available at PHA's Headquarters; and 5) accepting and considering public comments over a period extending from October 30, 2020 to November 30, 2020;

**BE IT RESOLVED** that the Board of Commissioners hereby approves the MTW Annual Plan for Fiscal Year 2022, including the Rental Assistance Demonstration Significant Amendment incorporated therein, in substantially the form distributed to the Board, and authorizes PHA's Chair and/or President & CEO or their authorized designee(s) to: 1) submit to HUD the PHA MTW Annual Plan for Fiscal Year 2022; 2) take all steps necessary to finalize and secure HUD approval and implement initiatives as described in the Plan, subject to receipt of adequate funding from HUD; 3) certify that the Public Hearing requirement has been met; and 4) execute the HUD Certifications of Compliance with MTW Plan Requirements and Related Regulations, in substantially the form attached hereto as Attachment "B."

I hereby certify that this was APPROVED BY THE BOARD ON 2/17/2022  
 ATTORNEY FOR PHA

## **ATTACHMENT “A” TO MTW ANNUAL PLAN RESOLUTION FOR FISCAL YEAR 2022**

### **Philadelphia Housing Authority – Moving to Work (MTW) Program FY 2022 Annual Plan Highlights**

#### **Background**

- The FY 2022 MTW Annual Plan covers the period from 04/01/21 through 03/31/22.
- It incorporates current HUD requirements for content, formatting, tables and standard metrics.
- As required by HUD, the Plan’s focus is on “MTW activities,” those that require MTW programmatic or budget flexibility to implement.
- Incorporates RAD Significant Amendment for a total of (4) developments: 1) 30 vacant, uninhabitable scattered site units to the Sharswood Phase II new construction development to be developed by Hunt-Pennrose; 2) 95 vacant, uninhabitable scattered site units to the Sharswood Phase III new construction development also to be developed by Hunt-Pennrose; 3) 40 vacant, uninhabitable scattered site units to the Henry Avenue Tower substantial rehabilitation development to be developed by New Courtland; and 4) 34 vacant, uninhabitable scattered site units to the Strawberry Mansion Village new construction development to be developed by Pennrose.
- PHA has also proposed an FY 2021 MTW Annual Plan Amendment to extend waivers of certain public housing and Housing Choice Voucher program requirements to protect the health and safety of residents and staff in response to the COVID-19 pandemic.

#### **Process**

- The MTW Plan and Plan Amendment public comment period is from 10/30/20 – 11/30/20.
- PHA has advertised the public comment period and has posted the draft MTW Plan and Plan Amendment on its website. Copies were distributed to resident leadership and also made available at PHA’s office.
- A resident leadership meeting to review the Plan and Plan Amendment will be held on 11/12/20; an open public hearing will be held on 11/18/20.

#### **Funding**

- Funding estimates are preliminary and subject to change based on Congressional appropriations.
- Total projected FY 2022 Public Housing and HCV HAP funding is approximately \$374.03 million. Capital Funds are projected at \$58.66 million for FY 2022. See Tables 9 and 10.
- Non-MTW funding is not included in the MTW Plan.

#### **Households Served Projections**

- Public Housing - 11,891 households (Table 7)
- MTW Vouchers (including RAD vouchers)– 18,084 households (Table 7)
- Non-MTW Vouchers – 1,720 households (Table 7B)

### MTW Activities

- No new MTW activities are proposed for FY 2022.
- For FY 2021, the Plan Amendment includes a new “Emergency Waivers” activity. This Amendment will allow PHA to extend a series of emergency waivers that are already allowed by HUD. The waivers are intended to protect the health and safety of residents and staff and provide for flexibility related to timetables and requirements for recertifications, income verifications, inspections, HCV payment standards and the Family Self-Sufficiency Program Contract of Participation.
- Ongoing MTW activities incorporate required HUD standard metrics and benchmarks.

### FY 2022 Planned Activities

- The following table provides a summary of major activities and planned objectives, encompassing both MTW and Non-MTW initiatives.

<b><i>Initiative</i></b>	<b><i>FY 2022 MTW Activities</i></b>
<b><i>Sponsor-Based Shared Housing Pilot</i></b>	<ul style="list-style-type: none"><li>• Pilot program approved by Board and HUD in FY 2020 involving vacant and uninhabitable scattered site units. In FY 2022, 38 units are projected to be under lease.</li><li>• Leverages City funds to rehab large-bedroom scattered site units.</li><li>• PHA has entered into a master lease with City (“Sponsor Agency”) to operate shared housing. Currently negotiating with Community College of Philadelphia for pilot involving at-risk students.</li><li>• Sponsor Agency(s) is responsible for subleasing to eligible individuals including formerly homeless, youth aging out of foster care and other hard to serve populations.</li><li>• Sponsor Agency(s) pays a flat rent for the unit to PHA.</li><li>• PHA provides routine and emergency maintenance services.</li><li>• Sponsor Agency(s) coordinates all other activities including eligibility determination, subleasing and lease enforcement, house rules, rent determination and rent collection.</li></ul>
<b><i>“6 in 5” Program</i></b>	<ul style="list-style-type: none"><li>• A total of 128 new public housing units are projected to be added to inventory at five (5) new developments. Leverages \$76.5 million in non-PHA funding. (Table 1)</li><li>• Under the Unit Based program, a total of 1,104 new units are projected to be placed under contract. This includes planned RAD conversions. (Table 3)</li></ul>
<b><i>Other Redevelopment Highlights</i></b>	<ul style="list-style-type: none"><li>• At Sharswood/Blumberg, substantial housing construction activity is planned in FY 2022 by PHA and its development partner (Hunt-Pennrose) including the projected completion of 59 rental units and construction starts on 300 additional rental units; the start of construction of 50-60 homeownership units at on and off-site locations; and, completion of construction at the mixed housing and commercial use development undertaken by Mosaic Development. Construction</li></ul>



<b>Initiative</b>	<b>FY 2022 MTW Activities</b>
	<p>and occupancy are also projected to be completed at two other partner developments (Harlan Street and Reynolds School).</p> <ul style="list-style-type: none"> <li>• At North Central/Norris, construction of the third rental phase consisting of 133 mixed income rental units is projected to be completed in FY 2022. The last phase (homeownership) is projected to commence construction in FY 2022.</li> </ul>
<i>Rental Assistance Demonstration (RAD)</i>	<ul style="list-style-type: none"> <li>• A RAD Significant Amendment is included in the FY 2022 plan to convert: 1) 30 vacant, uninhabitable scattered site units to the Sharswood Phase II new construction development to be developed by Hunt-Pennrose; 2) 95 vacant, uninhabitable scattered site units to the Sharswood Phase III new construction development also to be developed by Hunt-Pennrose; 3) 40 vacant, uninhabitable scattered site units to the Henry Avenue Tower substantial rehabilitation development to be developed by New Courtland; and, 4) 34 vacant, uninhabitable scattered site units to the Strawberry Mansion Village new construction development to be developed by Pennrose. Additional Significant Amendments for other planned RAD developments will be submitted in the future.</li> <li>• 786 units are projected for conversion to RAD in FY 2022. (Table 12).</li> <li>• An additional 1,900 units are projected to have been converted by the end of FY 2021. (Table 13)</li> </ul>
<i>Capital and Development Plan</i>	<ul style="list-style-type: none"> <li>• \$596.92 million in capital projects are identified for FY 2021 and future years (Tables 6 and 6A) including capital improvements, energy conservation measures, new development and RAD conversions.</li> </ul>
<i>Opening Doors to Affordable Homeownership</i>	<ul style="list-style-type: none"> <li>• Consolidates, streamlines and enhances PHA's homeownership activities including 5h (scattered site sales), Housing Choice Voucher Homeownership Vouchers, new development and homeownership readiness and counseling support programs.</li> <li>• Program open to public housing and HCV participants in good standing. A preference will be implemented for FSS participants in good standing.</li> <li>• Program components include options for: lease to purchase program for both scattered sites and private market rentals with portion of rent to be escrowed for eventual down payment; front-end down payment assistance up to \$15K per households; and, soft second assistance up to \$50K provided that no other homeownership assistance is received. Existing HCV monthly homeownership subsidy option will continue to be made available.</li> <li>• Participants must complete PHA-required homeownership counseling and financial literacy courses</li> <li>• Participants must agree to participate in annual post-purchase follow-up review for three years (except for those who only receive HCV monthly subsidy).</li> </ul>
<i>Workforce Center, EnVision Center, Self-Sufficiency and Youth Programs</i>	<ul style="list-style-type: none"> <li>• Ongoing implementation of PHA Workforce Center, Section 3 Resource Center and EnVision Center at Vaux Community Building.</li> <li>• With community partners, provide education, job readiness, job training and job placement programs for adult residents.</li> </ul>



<b>Initiative</b>	<b>FY 2022 MTW Activities</b>
	<ul style="list-style-type: none"> <li>• Adapting and expanding virtual programming in response to pandemic.</li> <li>• Place-based programming through ROSS, Choice Neighborhoods, Jobs Plus.</li> <li>• Provide on-site programs for homework assistance, project based learning, community service, sports and other activities to 220 youth ages 6 to 18 at 11 sites.</li> <li>• Award academic scholarships through PhillySEEDS.</li> <li>• Provide summer camp for 220 youth ages 6 to 13.</li> <li>• Enroll 750 residents in Financial Literacy programs.</li> <li>• Provide extensive additional services to residents through direct services and partnership programs as summarized in Table 11.</li> </ul>
<i>Youth Educational Enrichment</i>	<ul style="list-style-type: none"> <li>• A component of the Sharswood/Blumberg Transformation Plan.</li> <li>• Provides \$500 per pupil annually to support enhanced educational programming for low-income high school students at the Big Picture Philadelphia School in the Vaux Community Building.</li> <li>• Goal is to support students in achieving higher educational outcomes and graduation rates.</li> </ul>
<i>MTW Rent Simplification</i>	<ul style="list-style-type: none"> <li>• PHA will continue to implement previously approved MTW initiatives that simplify program administration and provide incentives for economic self-sufficiency.</li> </ul>
<i>HCV Mobility</i>	<ul style="list-style-type: none"> <li>• Continue to implement mobility program with MTW Block Grant funding to encourage moves to high opportunity areas.</li> </ul>
<i>Second Chance Program</i>	<ul style="list-style-type: none"> <li>• Continue to implement a time-limited, voucher pilot program to provide supportive services and housing subsidies to formerly incarcerated returning citizens that are active participants in good standing with the Eastern District Federal Court Supervision to Aid Reentry (STAR) Program and Mayor's Office of Reintegration Services (RISE) Program. Permanent, tenant-based vouchers are provided to successful program graduates. PHA also supports the re-entry of returning citizens to existing public housing households, subject to approval by the households, through a partnership with the Pennsylvania First Judicial Court ex-offender programs.</li> </ul>
<i>Nursing Home Transition</i>	<ul style="list-style-type: none"> <li>• Ongoing partnership with State to provide housing opportunities for persons transitioning out of nursing homes into community-based settings.</li> </ul>
<i>Local Family Self-Sufficiency Program Flexibility</i>	<ul style="list-style-type: none"> <li>• Activity to support increased enrollment and enhance residents' ability to build assets.</li> <li>• Eliminates requirement that an interim or regular recertification be conducted within 120 days before enrollment in FSS program. The last interim or regular recertification will be utilized, regardless of the date it was conducted.</li> </ul>

<b>Initiative</b>	<b>FY 2022 MTW Activities</b>
<i>MTW Continued Occupancy Policy – Limited Pilot</i>	<ul style="list-style-type: none"> <li>• Approved by Board and HUD in FY 2021.</li> <li>• Implementation deferred due to pandemic.</li> <li>• Pilot program involving only new admissions and transfers to: 1) scattered sites; 2) PHA-owned or controlled, non-RAD Project Based Voucher (PBV) developments; and, 3) Turnover units and units for which there are no public housing conversion households with a right to return in PHA-owned or controlled RAD PBV developments.</li> <li>• Does not apply to current public housing residents, all elderly or disabled household members, and those who are caretakers of elderly/disabled members.</li> <li>• Requires all non-disabled adults ages 18-54 to complete at least 20 hours per week of work, employment or job training as a condition of continued occupancy. Also applies to non-disabled 17 year old household members who have dropped out of school</li> <li>• Residents will be referred to PHA Workforce Center as needed to help ensure ongoing compliance.</li> <li>• Six-month grace period to come into compliance. Temporary hardship exemption for those with short-term medical issues or disabilities.</li> <li>• An admissions and transfer preference will be established for these sites for applicants where one or more adults work at least 20 hours per week. Seniors and people with disabilities will automatically be provided with this preference.</li> </ul>

**RESOLUTION NO. 12127**

**RESOLUTION AUTHORIZING THE PHILADELPHIA HOUSING AUTHORITY TO SUBMIT A  
PROPOSED AMENDMENT TO ITS MOVING TO WORK ANNUAL PLAN ("PLAN") FOR  
FISCAL YEAR 2021 TO THE U.S. DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT ("HUD") AND TO UNDERTAKE ALL ACTIONS TO OBTAIN HUD  
APPROVAL AND IMPLEMENT THE PLAN, AS AMENDED**

**WHEREAS**, the Philadelphia Housing Authority ("PHA") is a participant in the Moving to Work ("MTW") Demonstration pursuant to an Agreement ("MTW Agreement") with the U.S. Department of Housing and Urban Development ("HUD"); and

**WHEREAS**, as authorized by the PHA Board of Commissioners, the MTW Agreement was first executed by PHA and HUD on February 28, 2002; and

**WHEREAS**, since 2001, when HUD accepted PHA's application for participation in the MTW Demonstration Program and HUD and PHA subsequently executed a MTW Demonstration Agreement ("MTW Agreement"), PHA has continuously participated in the MTW Demonstration Program, with the most recent Board approval of the agreement being in Resolution No. 11577, adopted by the Board on January 11, 2013, and an extension to that agreement, as provided for therein, was made by HUD, based on Congressional approval, to extend PHA's MTW participation the end of PHA's 2028 fiscal year; and


**WHEREAS**, as a participant in the MTW Demonstration Program, PHA is required to develop an MTW Annual Plan for each fiscal year during the term of the MTW Agreement, which outlines the PHA budget and MTW activities; accordingly, as authorized by the Board on December 19, 2019 in Resolution 12072, PHA submitted its MTW Annual Plan for Fiscal Year 2021 ("Plan"), which HUD approved on March 24, 2020; and

**WHEREAS**, amendment to the approved MTW Plan requires approval of the Board and HUD; and

**WHEREAS**, PHA proposes to amend the MTW Plan to add the following activity (additional details of which are set forth in Attachment A to this Resolution): "1. A proposed new activity to establish emergency waivers to address burdens related to COVID-19;" and

**WHEREAS**, PHA has fulfilled the HUD requirement of providing opportunities for resident and public participation and comment on the Amendment to the Plan, including scheduling at least one (1) public hearing and taking into consideration any comments received, by: 1) holding an introductory meeting with resident leadership and interested PHA residents on November 12, 2020; 2) holding a Public Hearing on November 18, 2020; 3) posting the draft Plan on PHA's website; 4) making copies of the draft Plan available at PHA's Headquarters; and 5) accepting and considering public comments over a period extending from October 30, 2020 to November 30, 2020;

**BE IT RESOLVED** that the Board of Commissioners hereby approves the Amendment to the MTW Annual Plan for Fiscal Year 2021, in substantially the form distributed to the Board, and authorizes PHA's Chair and/or President & CEO or their authorized designee(s) to: 1) submit to HUD the Amendment to the PHA MTW Annual Plan for Fiscal Year 2021; 2) take all steps necessary to finalize and secure HUD approval and implement initiatives as described in the Plan, subject to receipt of adequate funding from HUD; 3) certify that the Public Hearing requirement has been met; and 4) execute the HUD Certifications of Compliance with MTW Plan Requirements and Related Regulations, in substantially the form attached hereto as Attachment "B."

I hereby certify that this was APPROVED BY THE BOARD ON 12/17/2020  
 ATTORNEY FOR PHA

## **ATTACHMENT “A” - Proposed Activity 2021-2: Emergency Waivers**

### **Activity Description**

The COVID-19 outbreak threatens the lives of many Americans and the livelihoods of many more. It is an urgent health crisis of unprecedented scale, and one that is disproportionately impacting low-income families. The outbreak of COVID-19 also places additional burdens on housing authorities who are working tirelessly to respond to the needs of their participants while also maintaining compliance with program requirements. While the Coronavirus Aid, Relief and Economic Security (CARES) Act provides the U.S. Department of Housing and Urban Development (HUD) with broad authority to waive or establish alternative requirements for numerous statutory and regulatory requirements for the Public Housing program and Housing Choice Voucher (HCV) programs, the duration of this pandemic remains unknown and the backlog of transactions, inspections and delayed reporting requirements grows. Accordingly, PHA will use its MTW authority to establish an emergency waivers activity which addresses the burdens placed on all stakeholders. PHA proposes to establish the following emergency waivers in response to economic and health related emergencies and natural disasters as declared by the Mayor or his/her designee including the authority to determine when to place and lift the waivers.

1. **Delayed Reexaminations:** PHA will waive the requirement to conduct a reexamination of family income and composition at least annually. Currently PHA completes reexaminations on a biennial basis for Public Housing (PH) and Housing Choice Voucher (HCV) program households and on a triennial basis for PH households on ceiling rents and PH and HCV elderly/disabled households on fixed incomes. Where reexaminations have been delayed, PHA will complete the reexamination no later than the anniversary month of the following year. The next reexamination will be scheduled on the same anniversary month using the applicable reexam frequency for the family. For example, if a biennial reexam was due on July 2020, PHA would complete the reexam by July 2021. The next scheduled biennial reexam would take place in July 2023. This waiver applies to the PH and HCV programs.
2. **Verification of Income:** PHA will waive the requirements of the verification hierarchy and accept self-certification of income and expenses for regular and interim reexaminations. Where PHA is able to access EIV, PHA will use the EIV income report to verify and calculate SS and SSI benefits as well as Medicare insurance premiums. This waiver applies to the PH and HCV programs.
3. **Enterprise Income Verification Monitoring:** PHA will waive the requirement to monitor, on a monthly/quarterly basis, the Deceased Tenant Report, the Identity Verification Report, the Immigration Report, IVT Report, the Multiple Subsidy Report and New Hires Report. This includes preserving and responding to past reports. PHA will resume reviewing and addressing discrepancies identified in these reports as resources allow; however, the waiver will no longer apply when the emergency waiver has been lifted. This waiver applies to the PH and HCV programs.
4. **Increase in Payment Standard:** PHA will waive the requirement to apply the increased payment standard back to the regular effective date for delayed regular reexaminations. Instead, during periods of declared emergencies, PHA will apply the increased payment standard at the next interim reexamination after the effective date of the increased payment standard. If PHA completes a reexam late, PHA will apply the payment standard in effect on the effective date of the delayed regular reexamination. This waiver applies to the HCV program.

5. **Delayed Regular HQS Inspections:** PHA will waive the requirement for completion of regular HQS inspections at least biennially. Where a regular HQS inspection has been delayed, PHA will complete the HQS inspection no later than the anniversary month of the following year. The next HQS inspection will be scheduled on the same anniversary month using the applicable inspection frequency for the unit. For example, if an HQS inspection was due on July 2020, PHA would complete the inspection by July 2021. The next scheduled annual HQS inspection would take place in July 2022. PHA will continue to request a self-certification from the owner that no life threatening conditions exist in the unit. Additionally, PHA will continue to conduct complaint inspections. This waiver applies to the HCV program.
6. **Interim HQS Inspections:** PHA will waive the requirement to conduct re-inspections to confirm repair; however, PHA will require that the owner self-certify and provide documentation that a life-threatening deficiency has been corrected within 24 hours of notification and that a non-life-threatening deficiency has been corrected within 30 days of PHA notification. This waiver applies to the HCV program.
7. **HQS QC Inspections:** PHA will waive the requirement to conduct HQS quality control inspections and instead will suspend HQS quality control inspections until the emergency waiver has been lifted. This waiver applies to the HCV program.
8. **Homeownership HQS:** PHA will waive the requirement for the initial HQS inspection for homeownership units; however, an independent professional inspection will still be required. This waiver applies to the HCV Homeownership Program.
9. **Delayed PH Annual Self-Inspection:** PHA will waive the requirement to complete annual self-inspections of PH units. PHA will continue to respond to and address serious conditions that could jeopardize life or property. When the waiver is lifted, PHA will resume self-inspections beginning with the units which were inspected on the oldest date. This waiver applies to the PH program.
10. **FSS Contract of Participation:** PHA will waive the requirement regarding the maximum extension of an FSS Contract of Participation (COP). During periods of declared emergency, PHA may extend a family's COP, using the declared emergency as good cause of the need for extension. For households who were already in the two year extension period when the emergency was declared, PHA may extend their COP beyond the two year extension threshold. This waiver applies to the PH and HCV FSS program.

### **Statutory Objective**

This activity will reduce cost and achieve greater cost effectiveness in Federal expenditures. The time and labor cost related to completing the backlog of delayed transactions and inspections while maintaining current deadlines is such that it would place an onerous burden on the agency.

### **Implementation**

PHA will implement this policy upon approval of the MTW Plan.

## Metrics

<b>CE #1: Agency Cost Savings *</b>				
<b>Unit of Measurement</b>	<b>Baseline*</b>	<b>Benchmark*</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Total cost of task in dollars (decrease)	\$675,319	\$337,674		
*The baseline reflects the cost of completion of all PH and HCV regular reexaminations for a one year period. The benchmark reflects the cost of completion of one half the number of PH and HCV regular reexaminations in a one year period.				
<b>CE #2: Staff Time Savings</b>				
<b>Unit of Measurement</b>	<b>Baseline*</b>	<b>Benchmark*</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Total time to complete the task in staff hours (decrease).	22,761 Hours	11,381 Hours		
**The baseline reflects the time expended on all PH and HCV regular reexaminations for a one year period. The benchmark reflects the time expended for one half the number of PH and HCV regular reexaminations in a one year period.				

## Need/Justification for MTW Flexibility

With respect to public housing, this activity requires waiver of certain provisions of sections 3(a)(1) and 3(a)(2) of the 1937 Act, 24 CFR 902 Subpart B, 24 CFR 966.4, 960.206, 960.257, 960.259, 24 CFR 5.233 and 5.632 as found in the MTW Agreement Attachment C, Section C, Paragraphs 2, 4 and 11. With respect to HCV, this activity requires waiver of certain provisions of Section 8(o), Section 23 of the 1937 Act and 24 CFR 982.503, 982.516, 982.631, 984, 24 CFR Subpart I, 24 CFR 983 and 24 CFR 5.233 and 5.632 as found in the MTW Agreement Attachment C, Section D, Paragraphs 1, 2 and 5. These waivers are necessary to implement the various provisions of this activity so as to allow PHA to address the conditions presented by the declared emergencies.



## **PHILADELPHIA HOUSING AUTHORITY MOVING TO WORK ANNUAL PLAN FOR FISCAL YEAR 2022 AND AMENDMENT TO MOVING TO WORK ANNUAL PLAN FOR FISCAL YEAR 2021 NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD**

The Philadelphia Housing Authority (PHA) is requesting public comments and conducting a public hearing on the proposed Moving to Work Annual Plan for Fiscal Year 2022 (Annual Plan), which includes a Rental Assistance Demonstration Program Significant Amendment, and a proposed Amendment to the Annual Plan for Fiscal Year 2021. PHA is a participant in the Moving to Work (MTW) Program pursuant to an MTW Agreement between PHA and the US Department of Housing and Urban Development (HUD). The Annual Plan for Fiscal Year 2022 describes PHA's MTW proposed policy initiatives and activities for the period April 1, 2021 to March 31, 2022. The Amendment to PHA's HUD approved Annual Plan for Fiscal Year 2021 incorporates a new proposed activity for the period April 1, 2020 to March 31, 2021. The Annual Plans are available for public review on PHA's website at [www.pha.phila.gov](http://www.pha.phila.gov) under the "Latest News" section. Copies are also available at the Philadelphia Housing Authority headquarters building at 2013 Ridge Avenue, Philadelphia, PA 19121 during normal business hours.

PHA residents, Housing Choice Voucher participants and the public may provide oral comments by attending the virtual public hearing described below and/or by submitting written comments during the comment period. A public hearing will be conducted at the following time and location:

**Wednesday, November 18, 2020 at 3:00 PM**

Join by web by link: [bit.ly/MTW\\_2020](https://bit.ly/MTW_2020)

**Join by web manually via WebEx:**

**Meeting number:** 173 764 3356 **Password:** 733730

**Call in:**

1-415-655-0001 - **Access code:** 173 764 3356

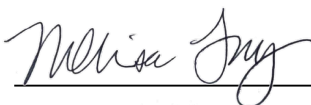
The public comment period begins on October 30, 2020 at 12 noon and ends on November 30, 2020 at 12 noon. Comments must be received by the end of the comment period. Please send written comments to:

Philadelphia Housing Authority  
Attention: MTW Annual Plan Comments  
Office of the General Counsel  
2013 Ridge Avenue, Philadelphia, PA 19121  
or  
[Jennifer.Ragen@pha.phila.gov](mailto:Jennifer.Ragen@pha.phila.gov)

The public hearing is being held virtually. If you require assistance, sign language interpreter or other accommodations, email [alicia.walker@pha.phila.gov](mailto:alicia.walker@pha.phila.gov). Please use the AT&T Relay Service for TTY.

**Certification of Consistency  
with the Consolidated Plan****U.S. Department of Housing  
and Urban Development**

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.  
Please clearly print the following information:)

ApplicantName: Philadelphia HousingProjectName: PHA - Moving to Work Annual Plan FYLocation of the Project: The development and implementation of  
housing and economic development initiatives in  
in accordance with the City's Consolidated Plan and Assessment of FairName of the Federal  
Program to which the  
applicant is applying: HUD - Moving to WorkName of  
Certifying Jurisdiction: City of Philadelphia, Division of Housing and CommunityCertifying Official  
of the Jurisdiction  
Name: Melissa LongTitle: Director of DHCDSignature: Date: 12/30/2020



# DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input checked="checked" type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		<b>2. Status of Federal Action:</b> <input checked="checked" type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		<b>3. Report Type:</b> <input checked="checked" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____	
<b>4. Name and Address of Reporting Entity:</b> <input checked="checked" type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: 4c			<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known:		
<b>6. Federal Department/Agency:</b> U.S. Department of Housing and Urban Development			<b>7. Federal Program Name/Description:</b> Moving to Work Annual Plan FY 2022 CFDA Number, if applicable: _____		
<b>8. Federal Action Number, if known:</b>			<b>9. Award Amount, if known:</b> \$		
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):  Not applicable			<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):		
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature:  Print Name: Kelvin A. Jeremiah Title: President & CEO Telephone No.: 215-684-4174      Date: 1/12/21		
<b>Federal Use Only:</b>					Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

# Certification for a Drug-Free Workplace

U.S. Department of Housing  
and Urban Development

Applicant Name

Philadelphia Housing Authority

Program/Activity Receiving Federal Grant Funding

Moving to Work Annual Plan FY 2022

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. **Sites for Work Performance.** The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

2013 Ridge Avenue, Philadelphia, PA 19121 and all PHA sites

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.  
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Kelvin A. Jeremiah

Title

President & CEO

Signature

X

Date

1/12/21

form HUD-50070 (3/98)  
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

# Certification of Payments to Influence Federal Transactions

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0157 (Exp. 03/31/2020)

Applicant Name

Philadelphia Housing Authority

Program/Activity Receiving Federal Grant Funding

Moving to Work Annual Plan FY 2022

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Kelvin A. Jeremiah

Title

President & CEO

Signature

Date (mm/dd/yyyy)

1/13/21

Previous edition is obsolete

form HUD 50071 (01/14)  
ref. Handbooks 7417.1, 7475.13, 7485.1, & 7485.3

**ADDENDA  
TO  
CERTIFICATION OF PAYMENTS TO INFLUENCE FEDERAL TRANSACTIONS**

This certification does not extend to actions taken prior to my appointment as President & CEO of the Philadelphia Housing Authority.

Name of Authorized Official: Kelvin A. Jeremiah, President & CEO

Signature: 

Date: 1/12/21

## **Appendix B: Local Asset Management Plan**

### **Introduction**

Pursuant to the First Amendment to the Moving to Work Agreement, in Fiscal Year 2010 (MTW Year Nine) the Philadelphia Housing Authority has implemented a local asset management plan for its Public Housing Program as described herein. In the implementation of the plan, PHA will continue to adopt cost accounting and financial reporting methods that comply with HUD and federal regulations and generally accepted accounting practices.

PHA's plan supports and is consistent with the agency's ongoing implementation of project-based management, budgeting, accounting and financial management. PHA's project-based management system emphasizes the provision of property management services that have met agency-wide standards while responding to the unique needs of each property. Day to day operations of PHA sites are coordinated and overseen by Property Managers assigned to each property. PHA Property Managers oversee the following management and maintenance tasks:

- Marketing and tenant selection
- Rent collections
- Routine and preventive maintenance
- Unit turnover
- Security
- Resident services
- Resident and community relations
- Capital improvements planning
- Other activities necessary to support the efficient operations of the site

In the implementation of these project level management activities, other PHA departments including Public Safety, Maintenance, Development, ISM, Finance and Budget, Human Resources, Community Operations & Resident Development, Office of General Counsel, Supply Chain Management, and the Office of Audit and Compliance support PHA Property Managers. Property Managers have access to on-line detailed and summary management reports on budget status, waitlist management, key performance indicators to facilitate their monitoring and oversight of property level activities. PHA also conducts Performance Management meetings on a monthly basis, to allow for a thorough review of key performance indicators at the individual site and system-wide levels.

PHA Property Managers develop and monitor property budgets, with support from the PHA Finance and Budget staff. Budget trainings are held annually to support the budget development process. Property Managers are provided with tools to develop their budget estimates including property-specific non-utility and utility cost data from the prior 18 months.

PHA's local asset management plan is consistent with the principles of asset management described in 24 CFR 990.255 and in the First Amendment to PHA's MTW Agreement. Further, the plan is generally consistent with the provisions of 24 CFR 990.260, 990.265, 990.270, 990.275 and 990.285. As allowed under the First Amendment to the MTW Agreement, PHA's local asset

management plan deviates from parts of 24 CFR 990.280, including requirements related to property management fees and fees for services. PHA will utilize the Cost Allocation method referenced in paragraph 6.F.4.b of the First Amendment.

Due to the unique features of the Philadelphia market, PHA's housing portfolio, and the agency, PHA has determined that use of the Cost Allocation method is the most efficient, cost-effective means of achieving the asset management principles referenced above. The factors that impact PHA's asset management plans include, but are not necessarily limited to, the following:

- Scattered Site Portfolio. PHA has over 4190 scattered site properties, which represents nearly 1/3 of its public housing portfolio. We understand this is far and away the largest scattered site public housing portfolio in the country. The geographic diversity of these scattered site units impacts warehouse operations, locations and numbers of management offices, and staffing requirements.
- Aging Housing Stock. PHA operates one of the oldest public housing stocks in the country. It is costlier to operate than newer housing. PHA has engaged in an aggressive development program during the last few years to upgrade and redevelop its units. Due to a lack of adequate funds, this process is far from complete.
- Unionized Workforce. PHA has a heavily unionized workforce. Currently, PHA has contracts with approximately 11 unions. This significantly impacts the operations and costs of PHA's activities. As such, PHA's asset management plan is structured to be cost effective within the limits of these contracts.
- MTW Initiatives. Since the onset of its participation in MTW, PHA has sought to use its MTW flexibilities to implement agency-wide cost-cutting initiatives that will increase efficiencies, maximize use of federal dollars, and benefit PHA's clients. PHA has moved many functions to the site-based level, however a number of MTW initiatives require central administration so they can be adequately measured. For example, PHA has implemented innovative technological systems to maximize efficiencies in admissions, property management, and client services. There are costs associated with development and implementation of these systems before they are implemented at the site level. Under MTW, PHA has also implemented departmental oversight protocols through its Quality Assurance Program. PHA's quality control program has already made PHA's programs more efficient by reducing errors and improving oversight.
- Local Costs. Philadelphia is an old, industrial city where labor costs for maintenance and construction activities are significant. These high costs can be attributed to, in part, prevailing wage requirements as well as the cost of materials and services in the Philadelphia market.

A description of the cost allocation plan and other technical components of PHA's local asset management plan follows:

## **I. AMP Definitions**

An AMP will include any site that receives Operating Subsidies through HUD's Operating Fund Calculation. PHA currently has two types of PHA managed AMPs and PAPMC/AME managed AMPs.

## **II. Balance Sheet Items (Assets, Liabilities & Equity)**

PHA has distributed balance sheet accounts by AMPs as planned in the original Local Asset Management balance sheet accounts were analyzed and distributed to between the AMPs and the Indirect Cost Departments.

### **A. Cash & Investments**

PHA maintains consolidated physical bank accounts, but for financial statement and general ledger presentation cash is distributed between all PHA AMPs and the Indirect Cost Departments. Direct cash and expenses are charged to the proper AMPs or Indirect Cost Departments general ledger account. At the end of the year, cash is adjusted to offset indirect cost allocations between the AMPs and the Indirect Cost Departments. The offsetting of the indirect cost allocations effectively adjusts the inter fund balances to zero except where the AMPs have a negative cash balance which is presented as an inter-fund to the Indirect Cost Departments. All remaining cash and investment balances are presented with the Indirect Cost Departments and reported in the MTW Column of the FDS.

Investment income will be allocated between the PHA Managed AMPs based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

### **B. Tenant Accounts Receivable and Allowance for Doubtful Accounts**

Tenant accounts receivable balances and allowance for doubtful accounts are reported on an AMP basis for each of the PHA Managed AMPs. The ending balances are reconciled to the tenant supporting detail ledgers,

PAPMC/AME Managed AMPs tenant balances are not reported as AMPs in the FDS. Based on PHA's analysis of GASB pronouncements, these AMPs are presented as discrete component units. Tenant accounts receivable and allowance for doubtful accounts are included in the PHA Audited financial statements as a discretely presented component unit.

### **C. Other Accounts Receivable**

Other accounts receivable will be distributed based on the purpose and source of the receivable. Receivables related to a PHA Managed AMP and PAPMC / AME Managed AMP will be distributed to the specific AMP. Any receivable that is not associated to a specific AMP will be distributed to the Indirect Cost Departments.

### **D. PHASI / Worker's Compensation Cash and Liabilities**

The PHASI and Worker's Compensation cash and liabilities will remain with the Indirect Cost Departments and reported in the MTW column of the FDS. At this time, PHA has determined that these liabilities are PHA Agency Wide liabilities and not liabilities of the PHA Managed AMPs or the Indirect Cost Departments. The expenses related to the PHASI liability and worker's compensation liability are charged to appropriate programs or AMPs. PHA has created a cash reserve for the PHASI liability. The cash reserve offsets PHA's liabilities so that the liability is fully funded. PHA utilizes the reserves to pay the liability as needed. PHA has a cash reserve that is held by the Worker's Compensation insurer.

#### **E. Prepaid Insurance**

The prepaid insurance balances for the PHA Managed AMPs will be distributed to AMPs based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

PAPMC/AME Managed AMPs will not be included in the AMPs Columns of the FDS. Prepaid insurance is included in the PHA Audited financial statements as a discretely presented component unit.

#### **F. Materials Inventory and Allowance for Obsolete Inventory**

PHA currently maintains all maintenance materials inventory centrally. AMPs and departments submit requests for inventory and materials are issued then expenses are charged to the appropriate AMP or program. Ending centralized materials inventory and allowance balances for the PHA Managed AMPs will be distributed to AMPs based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

PAPMC/AME Managed AMPs will not be included in the AMPs Columns of the FDS. Materials inventory is included in the PHA Audited financial statements as a discretely presented component unit.

#### **G. Fixed Assets and Accumulated Depreciation**

Fixed assets and accumulated depreciation will be reconciled to the PeopleSoft Asset Module and distributed to the appropriate PHA Managed AMPs and the Indirect Cost Departments. PHA's Asset Management (AM) Module has been established for many years. AM provides PHA with the ability to prepare fixed asset and depreciation reports by AMP or department. AM tracks all fixed assets transactions and records all monthly fixed asset entries. Fixed assets and accumulated depreciation are reported with the appropriate AMP or the MTW Column for assets held by the Indirect Cost Departments.



PAPMC/AME Managed AMPs will not be included in the AMPs Columns of the FDS. Fixed assets and accumulated depreciation are included in the PHA Audited financial statements as a discretely presented component unit.

#### **H. Accounts Payable and Accrued Liabilities**

Other accounts payable and accrued liabilities include all liabilities not specifically referred to in the following detailed liability categories. Other accounts payable and accrued liabilities will be distributed based on the purpose and source of the payable or liability. Payables or liabilities related to a PHA Managed AMP and PAPMC / AME Managed AMP will be distributed to the specific AMP. Any payable or liability that is not associated to a specific AMP will be distributed to the Indirect Cost Departments.

#### **I. Payroll Liabilities**

All payroll tax and benefits liabilities will continue to be presented with the Indirect Cost Departments and reported in the MTW Column of the FDS. At this time, PHA has determined that these liabilities are PHA Agency Wide liabilities and not liabilities of the PHA Managed AMPs or the Indirect Cost Departments. However, PHA has utilized the LIPH (Fund 001) cash accounts in the past to pay most Agency Wide liabilities, then the LIPH (Fund 001) will receive reimbursements from other programs where applicable. The expenses related to the payroll liabilities will continue to be charged to appropriate programs or AMPs.

Accrued salaries and wages liability will be distributed to/ between AMPs based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

#### **J. Compensated Absences**

Compensated absences liabilities will be distributed to/between the PHA Managed AMPs based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

No compensated absences liabilities will be distributed to the PAPMC / AME AMPs because PHA does not charge salaries to these AMPs.

#### **K. Net Position**

Invested in Capital Assets balances will follow the Net Fixed Assets that are owned by an AMPs or Departments. Invested in capital assets will be distributed between the Indirect Cost Departments and the PHA Managed AMPs based on where the Net Fixed Assets is distributed.

The Public Housing Program Unrestricted Net Position for all AMPs will be zero because PHA will allocate revenue from the MTW Column to cover the difference between

revenues and expenses generated by each AMP. The total Unrestricted Net Position of the Public Housing Program will be included with the MTW Column.

PAPMC/AME Managed AMPs will not be included in the AMPs Column of the FDS. Invested in capital assets are included in the PHA Audited financial statements as a discretely presented component unit. PAPMC/AME Managed AMPs will not be included in the AMPs Column of the FDS. Unrestricted net assets are included in the PHA Audited financial statements as a discretely presented component unit.

### **III. Revenues**

#### **A. Tenant Revenues**

##### **1. PHA Managed AMPs**

Tenant Revenues will be directly charged to the appropriate AMP.

##### **2. PAPMC/AME Managed AMPs**

PAPMC/AME Managed AMPs will not be included in the AMPs Column of the FDS. Tenant revenue is included in the PHA Audited financial statements as a discretely presented component unit.

#### **B. Direct Revenues**

Direct revenues include tenant fees and service charges that can be identified and charged to a specific site.

##### **1. PHA Managed AMPs**

PHA currently records all direct revenues to the proper PHA Managed AMP. PHA currently records all tenant charges and any direct revenue to the proper PHA Managed AMP. PHA's account structure includes the program code (AMP number) and the appropriate department code, which enables PHA to charge the revenues to the proper PHA Managed AMPs.

PHA's systems and procedures related to direct revenues currently in application are in compliance with asset-based accounting. PHA's systems and procedures will require no transition period or transition procedures to comply with asset-based accounting requirements of presenting all direct revenues under the proper AMP.

##### **2. PAPMC/AME Managed AMPs**

PAPMC/AME Managed AMPs will not be included in the AMPs Column of the FDS. Direct revenues are included in the PHA Audited financial statements as a discretely presented component unit.

### **C. Indirect Revenues**

Indirect revenues are other income items that cannot be identified or charged to a specific AMP or to the Indirect Cost Departments. Indirect revenues will be allocated between the PHA Managed AMPs based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

### **D. HUD Operating Subsidy**

For PHA's project-based accounting purposes, Operating Subsidy is considered an indirect revenue source. PHA's Operating Subsidy is provided in one block as if PHA were one AMP. The funding for all AMPs is calculated using the same Allowable Expense Level per PHA's MTW agreement. Since the basis of the funding calculation is the same across all AMPs, PHA considers Operating Subsidy an indirect revenue source.

Operating Subsidy will be allocated to all PHA AMPs based on the difference between revenues, prior to operating subsidy, and expenses excluding depreciation expenses. The amount of Operating Subsidy allocated will be based on the individual AMPs need for subsidy so that revenues are equal to expenses.

### **E. Operating Transfers from the MTW Block (Excess HAP) & CFP**

#### **1. PHA Managed AMPs**

PHA has included in its MTW annual plan Operating Transfers from the MTW Program and the CFP Program into the Public Housing Program to offset operating expenses. PHA has determined that the appropriate treatment of Operating Transfers at the current time based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation. PHA will establish separate account numbers for the MTW and CFP Operating Transfers. The Operating Transfers are made to assist the PHA Managed AMPs with its operations. PHA may need to adjust the allocation of the Operating Transfers in fiscal years to assist the operating needs of one AMP over another AMP that may not need the assistance. PHA's MTW agreement with HUD permits the PHA flexibility to move funds between its Public Housing, Section 8 HCV, and CFP programs. PHA will reserve the right to adjust the allocations of the Operating Transfers to meet the financial needs of all the PHA Managed AMPs.

#### **2. PAPMC / AME Managed AMPs**

Operating Transfers will not be allocated to the PAPMC / AME Managed AMPs.

## **IV. Expenses**

### **A. Direct Expenses**

## **1. PHA Managed AMPs**

PHA currently records all direct expenses to the proper AMP. PHA's procurement and accounts payables processes include assigning the proper chart fields or account structure. PHA's account structure includes the program code (AMP number) and the appropriate department code.

For payroll, PHA directly charges all payroll costs using account labels. Account labels are used to tell PHA's accounting system where to directly charge an employee's payroll costs. PHA can setup as many account labels as needed to have payroll costs charged to the proper program, department, AMP, etc. based on PHA's requirements. PHA's accounting system gives the Authority the automated ability to charge payroll costs from the employee timesheets to the proper account. When employees complete their weekly timesheets, the employees report all hours to account labels. The timesheets allow employees to charge as many account labels as needed during the week. Employees submit their timesheets to their direct supervisor for approval. The direct supervisor verifies that the correct account labels were used.

PHA's systems and procedures related to direct expenses currently in application are in compliance with asset-based accounting. PHA's systems and procedures will require no transition period or transition procedures to comply with asset-based accounting requirements of presenting all direct revenues and expenses under the proper AMP.

## **2. PAPMC/AME Managed AMPs**

The only PAPMC/AME Managed AMPs direct expenses that will be included in AMPs FDS column are PHA's payment of Operating Subsidies and any other direct expense paid by PHA. All other direct expenses are included in the PHA Audited financial statements as a discretely presented component unit.

## **B. Corporate Legal**

PHA has diverse legal issues due to the size of its programs. PHA will analyze legal expenses to determine the appropriate treatment of the legal expenditures. The treatments of the legal expenses are as follows:

### **1. Direct Legal Expenses**

Legal expenses that can be identified as a direct cost to a specific AMP will be charged to that AMP.

### **2. Indirect Legal Expenses**

Indirect legal expenses that cannot be defined as costs for a specific AMP but can be identified as providing benefits to the PHA Managed AMPs based on the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

### **C. Payroll Expenses**

PHA currently directly charges all maintenance payroll costs to the direct PHA Managed AMP. PHA directly charges all payroll costs using account labels. Account labels are used to tell PHA's accounting system where to directly charge a maintenance employee's payroll costs. PHA can setup as many account labels as needed to have payroll costs charged to the proper PHA Managed AMP. PHA's accounting system gives the Authority the automated ability to charge maintenance payroll costs from the employee timesheets to the proper account. When maintenance employees complete their weekly timesheets, the employees report all hours to account labels. The timesheets allow maintenance employees to charge as many account labels as needed during the week. Maintenance employees submit their timesheets to their direct supervisor for approval. The direct supervisor verifies that the correct account labels were used.

### **D. Materials and Contract Costs**

PHA currently records all maintenance materials and contract costs directly to the proper PHA Managed AMP. PHA's procurement and accounts payables processes include assigning the proper chart fields or account structure. PHA's account structure includes the program code (AMP number) and the appropriate department code.

PHA's systems and procedures related to maintenance materials and contract costs currently in application are in compliance with asset-based accounting. PHA's systems and procedures will require no transition period or transition procedures to comply with asset-based accounting requirements of presenting all direct revenues and expenses under the proper AMP.

### **E. Indirect Expenses**

PHA will be using an allocation to charge overhead from the Indirect Cost Departments (MTW Column) to all AMPs. Overhead costs will be allocated to the AMPs based the number of units eligible for subsidy from the most recent HUD approved Operating Fund Calculation.

## **V. Capital Fund Program**

All expenditures under the Capital Fund program are charged to the appropriate AMP or Indirect Cost Department. Revenues are applied to the appropriate AMP or Indirect Cost Department based on the actual expenditures. The expenditures related to the Indirect Cost Departments or MTW initiatives are reported in the MTW Column of the FDS.

Although PHA is an MTW agency and is not required to, PHA reports and tracks all CFP expenditures based on the CFP Budget Line Items. PHA has determined this method to be accurate and efficient method to track CFP expenditures.

## **VI. Project Based Budgeting**

PHA currently prepares project based operating budgets for all the Amps and departments. PHA adds all the budgets to the Automated Accounting System. The operating budgets are currently used in the procurement, accounts payable process and the preparation of monthly financial statements. PHA's operating budget process is currently in compliance with the HUD Project Based Budgeting requirements.

When PHA has prepared its Capital Fund Program Budgets, PHA determines specific capital work items that need to be completed at all or some of PHA sites. PHA does not establish a Capital Budget by site, but by work item. Then once PHA determines which sites PHA will perform the work item, PHA reclassifies the budget amount from a PHA Wide work item to the specific site. PHA will continue this process; however, the budget will be established at the Capital Projects category rather than PHA Wide.

### Appendix C: Asset Management Table

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
1.	Abbotsford Homes PA002030	Phases I & II; 688 Family Units		Possible site for additional redevelopment including commercial space, through mixed financing.	Possible disposition of a portion of the site in connection with mixed-finance development.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, administrative facilities, community and supportive services offices and/or open space.	
2.	Arch Homes PA002018	77 Family		Possible candidate for Modernization, rehabilitation with capital funds, bond proceeds, MTW, program income, private funds with Choice/RAD and/or LIHTC Application.			Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
3.	Bartram Village PA002031	492 Family Units	Planning for RAD Conversion	Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.	Possible demolition in connection with the modernization and revitalization, and possible disposition in connection with mixed-finance development.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component in connection with potential modernization and revitalization.
4.	Bentley Hall PA002077	100 Elderly Units		As part of Sharswood Blumberg revitalization, possible façade improvements.		99 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
5.	Brewerytown	45		Acquisition, new development and	Possible demolition in connection with	May be requesting	Possible conversion of units/parcels for residential unit	Possible homeownership component, subject to

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to RD and/or PHA wholly-owned subsidiary and/or private entities.	Elderly or Disabled Only Designation Plan	reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
6.	Cambridge Plaza Phase I PA-002137	44 LIHTC Rental Units	Planning for RAD conversion	Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
7.	Cambridge Plaza Phase II PA-002129	40 LIHTC Rental Units	Planning for RAD conversion	Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
8.	Cambridge Plaza Phase III Phase I PA002147	40 LIHTC Rental Units	Planning for RAD conversion	Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				



No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
9.	Cassie Holly (Point Breeze Court) PA002062	71 Elderly Units	Security Upgrades done	Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.		71 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
10.	Champlost Homes PA002042	102 Family		Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.			Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
11.	City-Wide	To be determined		Provision of ACC subsidy, capital funds or HCV.	Dispo/Demo application to be submitted to HUD.			
12.	Collegeview Homes PA002065	54 Elderly	As part of Sharswood Blumberg revitalization, possible façade improvements	Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.		54 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
13.	Eastern Germantown Infill	45		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				Capital Funds to develop units.	owned subsidiary and/or private entities.			
14.	Eastern North Philadelphia	45		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
15.	Eight Diamonds PA00126 PA00141 (Formerly known as Raymond Rosen Off-Site PA002126)	Phases A & B; 152 Family		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units. Potential for conversion to project based assistance under RAD.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
16.	Emlen Arms PA002076	156 Elderly High Rise				156 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
17.	Fairhill Apartments	264 Family	Planning for RAD conversion	Possible candidate for modernization,	Possible demolition in connection with		Possible conversion of units/parcels for residential unit	

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
	PA002055			rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with RAD and/or LIHTC Application. Possible acquisition of adjacent land for development purposes.	modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities. Possible early relocation in connection with RAD conversion.		reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
18.	Falls Ridge			Development partner for vacant land.	Possible disposition of vacant land			
19.	Francisville	45		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase conventional sale and Housing Choice vouchers.
20.	Germantown House PA002152	133 Units	Planned renovation and leasing of adult care space. Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance			133 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
			period.					
21.	Gladys B. Jacobs PA002114	80 Elderly		Possible renovation for delivery of enhanced senior support services.		80 Elderly Units		
22.	Greater Grays Ferry Estates (Formerly known as Tasker Homes) New AMP#s: PA002139 PA002143	429 LIHTC rental units; 125 replacement home ownership units.		Possible mixed-finance development and commercial development including community building on PHA vacant lots and public parcels. Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.	Possible disposition in connection with non-dwelling commercial development including community building.			
23.	Haddington Homes PA002035	150 Family		Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.	Possible demolition in connection with the modernization and revitalization, and possible disposition in connection with mixed-finance development.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component in connection with potential modernization and revitalization.
24.	Harrison Plaza PA002015	300 Family High and Low Rise	Planned RAD Conversion	Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program income, private funds with RAD and/or LIHTC Application.			Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
25.	Haverford Homes PA002046	24 Family		Possible candidate for modernization, rehabilitation, with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.			Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component in connection with potential modernization and revitalization.
26.	Herbert Arlene Homes PA002104	32 Family		Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.	Possible demolition in connection with the modernization and revitalization, and possible disposition in connection with mixed-finance development.	Possible Elderly Designation	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
27.	Hill Creek Apts I & II PA002029	334 Family		Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.			Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
28.	Holmcrest Apartments PA002066	84 Elderly		Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.		84 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
29.	James Weldon Johnson House PA002001	535 Family	Master planning for historic renovations and modernization.	Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.		Possible Elderly Designation	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
30.	Katie B. Jackson PA002063	59 Elderly 9 Family		Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.		59 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
31.	Lucien E. Blackwell Homes Phase I PA002145	80 LIHTC Rental Units		Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
32.	Lucien E. Blackwell Homes Phase II PA002150	80 LIHTC Rental Units		Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
33.	Lucien E. Blackwell Homes Phase III PA002153	50 LIHTC Rental Units		Potential for refinancing, re-syndication, change of entity ownership related				

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
34.	Lucien E. Blackwell Homes Phase IV (Marshall Shepard Village) PA002156	80 LIHTC Rental Units		Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
35.	Ludlow HOPE 6 Area Scattered Sites PA #s: PA002154	Phases I, II, III, IV & V; 75 LIHTC and 103 Homeownership units		Development completed. Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
36.	Mantua Hall PA002045	152 Family High-Rise Units	Leasing of commercial space.					
37.	Martin Luther King Plaza PA002036 New PA#s: PA002128 PA002136 PA002149	Phases I, II, III, IV, V & VI; 136 LIHTC Rental Units and 109 Replacement Homeownership Units.		Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.	Possible disposition in connection with mixed-finance development and/or other sale transactions to City and private developers.			109 Homeownership Units. HOPE VI HO Middle income Program essential elements of Nehemiah, USHA of 1937.
38.	Mill Creek Extension East	100 Rental Units		Possible scattered sites acquisition.	Possible demolition in connection with			Possible homeownership component, subject to

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	modernization and revitalization.			Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
39.	Mill Creek Extension West	100 Rental Units		Possible scattered sites acquisition. Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization.			Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase conventional sale and Housing Choice vouchers.
40.	Morton Homes PA002049	65 Units	Electrical upgrades as part of the Better Building Challenge done.	Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.	Possible demolition in connection with the modernization and revitalization, and possible disposition in connection with mixed-finance development.	47 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component in connection with potential modernization and revitalization.



No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
41.	Mt. Olivet PA002138	161 LIHTC Rental Units		Possible major exterior envelope and air conditioner heating system to be improved. Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.		161 Elderly Units		
42.	Nellie Reynolds Garden PA002158	64 Elderly housing units.		Development completed. Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.		64 Elderly housing designation.		
43.	Neumann North PA002148	67 LIHTC Rental Units		Potential for conversion to project based assistance under RAD.		67 Elderly Units Designated		
44.	Norris Apartments PA002014	147 Rental Units	RAD Choice Neighborhood Redevelopment	Modernization, rehabilitation, revitalization, which will include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds. PHA will use Choice Neighborhood, RAD and/or LIHTC Application when available.	Demolition complete. Disposition of land in connection with development of homeownership phase.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Homeownership component in connection with potential modernization and revitalization.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
45.	Oak Lane	100 Rental Units		Possible scattered sites acquisition. Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only designation.	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase conventional sale and Housing Choice vouchers.
46.	Oxford Village PA002032	200 Family Units		Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.	Possible demolition I connection with the modernization and revitalization, and possible disposition in connection with mixed-finance development.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component in connection with potential modernization and revitalization.
47.	Parkview Apartments PA002054	20 Elderly Low Rises		Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.				
48.	Paschall Homes PA002061	223 Family		Potential for refinancing, re-		Possible Elderly Designation		Possible homeownership component

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
49.	Plymouth Hall PA002079	53 senior high-rise	RAD conversion completed					
50.	Poplar to Oxford: Planning and Development Initiative	45		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units. PHA plan to submit the LIHTC and/or other State, City funding sources for new development.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to RD and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase conventional sale and Housing Choice vouchers.
51.	Raymond Rosen On-Site PA002010	356 Family		Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.				

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
52.	Richard Allen Homes Phase III PA002133	178 LIHTC Rental Units		Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				Includes 15-year tax credit and lease to purchase homeownership components.
53.	Richard Allen Homes Phase II PA002003	150 Units		Possible new development for residential and non-residential on vacant undeveloped parcels. Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.	Possible disposition in connection with the new development.			Possible homeownership component in connection with potential modernization and revitalization.
54.	Scattered Site Disposition: City-Wide	To be determined		Disposition Plan to be developed and implemented. Disposition of properties at market rate, for affordable housing or transfer to Land Bank	Possible demolition in connection with the modernization and revitalization. Disposition application may be required.			Possible Homeownership Component: Revised 5(h)/Section 32 of USHA of 1937. Possible PHA affordable homeownership program.
55.	Scattered Sites PA002000906	425 Family Units	Intent for RAD Conversion - 0 units, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.				
56.	Scattered Sites PA002000907	406 Family Units	Intent for RAD Conversion - 23 units, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USH of 1937.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				sources when available.				
57.	Scattered Sites PA002000908	373 Family Units	Intent for RAD Conversion - 72 units, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.
58.	Scattered Sites PA002000901	399 Family	Intent for RAD TOA 26 units known, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937. Possible homeownership component in connection with potential modernization and revitalization.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.				
59.	Scattered Sites PA002000902	378 Family Units	Intent for RAD TOA 13 units known, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.
60.	Scattered Sites PA002000903	471 Family Units	Intent for RAD TOA 15 units known, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.				
61.	Scattered Sites PA002000904	325 Family Units	Intent for RAD TOA 23 units known, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.



No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				sources when available.				
62.	Scattered Sites PA002000905	431 Family Units	Intent for RAD TOA 9 units known, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.
63.	Scattered Sites PA002000909	413 Family Units	Intent for RAD TOA 31 units known, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.				
64.	Scattered Sites PA002000910	311 Family Units	Intent for RAD TOA 18 units known, potential additions being considered	Possible development, rehabilitation of existing buildings, demolition of existing buildings, disposition of properties and new construction of units in connection with replacement unit initiative or mixed-finance developments, or City of Philadelphia Neighborhood Transformation Initiative, or third party mixed-finance/revitalization developments. PHA plan to apply for Choice/RAD, Choice Neighborhood, LIHTC, RACP and any other state and city funding sources when available.	Possible demolition/disposition of non-viable units and imminently dangerous properties for neighborhood redevelopment activity.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Section 32 of USHA of 1937.
65.	Sharswood Area Condemnation	1300 parcels acquired	Complete condemnation process and pay just compensation to owners.	Land assembly activities to support revitalization activities in the Blumberg area. Activities to include demolition, disposition and new construction	Possible demolition in connection with the modernization and revitalization, and possible disposition in connection with mixed-		Possible conversion of units/parcels for residential unit reconfiguration and commercial economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component in connection with potential modernization and revitalization.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				activities by PHA and/or Development Partners. Complete URA relocation of owners and tenants of condemned property.	finance development or to private developers.			
66.	South Phila area planning	45		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
67.	Southwest Phila Area planning	45		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
68.	Spring Garden Apartments PA002020	203 Family		Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program	Potential demolition and disposition applications may be submitted for a portion of site.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component in connection with potential modernization and revitalization.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				incomes, private funds with Choice/RAD and/or LIHTC Application.				
69.	Spring Garden Area Unit Conversion	45		Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
70.	Spring Garden Revitalization: Phase 1 PA002127	84 LIHTC Rental Units		Potential for conversion to project based assistance under RAD.				
71.	Spring Garden Revitalization: Phase 2 PA002162	58 LIHTC Units 32 ACC units		Mixed-finance development by third party developer. Potential for conversion to project based assistance under RAD.	Disposition of scattered site properties for new development.			
72.	St Anthony's Senior Residence: PA002131	38 Elderly LIHTC Units		Potential for conversion to project based assistance under RAD.		38 Elderly Units		
73.	St Ignatius Phase I (Angela Court II) PA002146 PA002159	Phases I; 67 Elderly Units Phase II 64				67 and 54 Elderly Units Designated		
74.	Suffolk Manor PA002132	137 LIHTC Rental Units	PHA acquired ownership of interest of the limited partner;	Possible major exterior envelope and air conditioner heating system to be improved.		77 Elderly Units		

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
			Planning for RAD conversion	Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
75.	Transitional Housing	500 Rental Units		New construction of transitional housing units for homeless families and individuals and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
76.	Warnock PA002160	Phase I 50; TBD		Development completed. Potential for refinancing, re-syndication, change of entity ownership related to end of initial LIHTC compliance period. Potential for conversion to project based assistance under RAD.				
77.	Warnock PA002161	Phase II Transitional housing; 45 units		Acquisition, new development for 45 housing units and rehabilitation of		45 Elderly housing designation.		

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				housing stock along with neighborhood revitalization efforts with PHA offices and Elderly Services space. Potential for conversion to project based assistance under RAD.				
78.	Westpark Plaza PA002093	66 Units		Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD and/or LIHTC Application.			Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	
79.	West Philadelphia North of Market Street	45	Market West to be planned and begin acquisition activities.	Acquisition, new development and rehabilitation of housing stock along with neighborhood revitalization efforts. May be developed by PHA or alternative financing services by a CDC, non-profit, or for-profit organization. May use ACCs and/or Capital Funds to develop units.	Possible demolition in connection with modernization and revitalization, and possible disposition in connection with mixed-finance development. Additional disposition applications and conveyances to PRA and/or PHA wholly-owned subsidiary and/or private entities.	May be requesting Elderly or Disabled Only Designation Plan	Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space.	Possible homeownership component, subject to Section 32 of the USHA of 1937 will include lease to purchase, conventional sale and Housing Choice vouchers.
80.	West Park Apartments PA002039	325 Family High-Rise Units	Intent for RAD Conversion	Possible candidate for modernization, rehabilitation, revitalization, which may include some demolition with capital funds, bond proceeds, MTW, program incomes, private funds with Choice/RAD	Possible demolition in connection with the modernization and revitalization, and possible disposition in connection with mixed-finance development or to private developers.		Possible conversion of units/parcels for residential unit reconfiguration and commercial, economic development, management offices, community and supportive services offices and/or open space. Possible early relocation in connection with RAD conversion.	Possible homeownership component in connection with potential modernization and revitalization.

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				and/or LIHTC Application.				
81.	Whitehall Apartments I PA002034	188 Family		Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program income, private funds with Choice/RAD and/or LIHTC Application.				
82.	Wilson Park PA002013	741 Family, Low-rise; Elderly, High- rise		Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program income, private funds with Choice/RAD and/or LIHTC Application.		279 Elderly Units	Possible conversion of units/parcels for residential unit reconfiguration and commercial economic development, management offices, community and supportive services offices and/or open space.	
83.	Walton School			Redevelopment into Senior Housing. Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW, program income, private funds with Choice/RAD, ACC and/or LIHTC Application.				
84.	Reynolds School			Redevelopment of Vacant School in Sharswood Neighborhood. Possible candidate for modernization, rehabilitation with capital funds, bond proceeds, MTW,				

No.	Name, Number and Location	Number and Type of Units	Note for FY 2022 Plan	Development Activities	Demolition/ Disposition Activities	Designated Housing Activities	Conversion Activities	Homeownership Activities
				program income, private funds with RAD, and/or LIHTC Application.				



## Appendix D: Planned Demo/Dispo Additional Documentation

Listed below are scattered sites units that are planned for demolition and/or disposition in FY 2022 or subsequent periods. PHA may modify this listing in the future. Due to variances with disposition, demolition and/or development schedules, the listed units may also appear in prior or future Annual Plans. Approvals by the PHA Board of Commissioners and HUD are required in order to proceed with demolition/disposition activities.

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
<b>RAD Transfer of Assistance Units</b>					
589254	901	146 N REDFIELD ST	19139		3
589271	901	336 N ROBINSON ST	19139		3
589285	901	104 N RUBY ST	19139		3
599294	901	652 N 53RD STREET	19131		4
599295	901	415 N EDGEWOOD ST	19151		3
599297	901	18 N DEWEY ST	19139		3
599314	901	57 N DEWEY ST	19139		3
609348	901	431 N 59TH STREET	19151		4
609359	901	29 N YEWDALL ST	19139		3
609367	901	147 N CONESTOGA ST	19139		3
609380	901	36 N FRAZIER ST	19139		3
609387	901	210 N 59TH STREET	19139		3
609404	901	412 N WANAMAKER ST	19131		3
609426	901	119 N WANAMAKER ST	19139		3
690582	901	4949 OGDEN ST	19139		3
690667	901	5019 OGDEN ST	19139		3
690978	901	4936 HOOPEES ST	19139		3
857133	901	1740 N ROBINSON ST	19151		3
857197	901	5629 SANSOM ST	19139		3
857402	901	4942 HOOPEES ST	19139		2
857526	901	1317 N FRAZIER ST	19131		4
888559	901	5210 HARLAN ST	19131		3
888624	901	4838 WESTMINSTER AVE	19131		3
888833	901	1640 N ALLISON ST	19131		3
888875	901	116 S 55TH STREET	19139		3
976189	901	931 S 58TH STREET	19143		3
041545	902	732 N DEKALB ST	19104		3
041558	902	3851 MT VERNON ST	19104		3
042001	902	3837 FOLSOM ST	19104		3
042055	902	3934 ASPEN ST	19104	A	1
043993	902	3934 ASPEN ST	19104	B	2
125824	902	3927 MT VERNON ST	19104		3

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
125933	902	3550 MANTUA AVE	19104		3
690638	902	3906 RENO ST	19104		3
690753	902	3818 MT VERNON ST	19104		3
690939	902	3820 MT VERNON ST	19104		3
691025	902	710 N 37TH STREET	19104		3
818402	902	773 N 37TH STREET	19104		3
818537	902	4308 WYALUSING AVE	19104		3
125696	903	733 DALY ST	19148		2
818502	903	1305 S MARKOE ST	19143		3
857195	903	1126 S PEACH ST	19143		3
857324	903	5436 WINDSOR AVE	19143		3
857337	903	5416 BELMAR TERRACE	19143		3
857406	903	2010 S ALDEN ST	19143		3
857552	903	2017 S AVONDALE ST	19142		3
888797	903	1415 S VODGES ST	19143		3
888803	903	1011 S FRAZIER ST	19143		3
888850	903	1505 S BAILEY ST	19146		3
888901	903	5513 ANGORA TERRACE	19143		3
916037	903	5430 REGENT ST	19143		3
916057	903	5402 FLORENCE ST	19143		3
976177	903	2423 S MILDRED ST	19148		3
976248	903	1724 DORRANCE ST	19145		2
691184	904	53 E COLLOM ST	19144		3
818051	904	2618 W STERNER ST	19132		2
818083	904	315 E INDIANA AVE	19134		3
818165	904	2801 N RINGGOLD ST	19132		3
818272	904	1602 W LEHIGH AVE	19132		5
818345	904	2901 N 26TH STREET	19132		3
818424	904	3061 N 08TH STREET	19133		5
818552	904	3619 N 15TH STREET	19140		6
857135	904	4030 N 12TH STREET	19140		3
857328	904	63 E SEYMOUR ST	19144		3
857353	904	4332 N CARLISLE ST	19140		3
857417	904	120 W WISHART ST	19133		3
857427	904	1319 W LOUDEN ST	19141		4
857428	904	1106 W WYOMING AVE	19140		3
857548	904	5230 MARION ST	19144		3
888588	904	2637 W SELTZER ST	19132		3
888737	904	2916 N BAMBREY ST	19132		3
916085	904	806 W VENANGO ST	19140		3

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
916121	904	3222 N ETTING ST	19129		3
926777	904	2756 N TAYLOR ST	19132		2
976220	904	6746 N 17TH STREET	19126		3
976230	904	5837 ANDERSON ST	19138		3
976235	904	1829 E LIPPINCOTT ST	19134		2
041648	905	510 W YORK ST	19133		5
041896	905	2406 N REESE ST	19133		3
041941	905	2415 N MARSHALL ST	19133		5
043063	905	2112 N 05TH STREET	19122		4
690141	905	2531 N MARSHALL ST	19133		3
691100	905	724 W HUNTINGDON ST	19133		3
691246	905	416 W NORRIS ST	19122		6
804383	905	2422 N MARSHALL ST	19133	A	1
804384	905	2422 N MARSHALL ST	19133	B	4
041602	907	2540 N Jessup St	19133		3
041702	907	2006 N Darien St	19122		2
042242	907	1218 W SERGEANT ST	19133		3
042243	907	1221 W HAZZARD ST	19133		2
042641	907	1928 N MARSHALL ST	19122		4
043422	907	2517 N ALDER ST	19133		2
043944	907	623 W JEFFERSON ST	19122		4
043962	907	2552 N SARTAIN ST	19133		3
125095	907	619 WESTMONT ST	19122		2
125410	907	2306 N FAWN ST	19133		3
690146	907	2157 N 08TH STREET	19122		5
690370	907	1702 N MARSHALL ST	19122		5
691018	907	2202 N 07TH STREET	19133		5
691084	907	2241 N 10TH STREET	19133		3
691128	907	1214 W SERGEANT ST	19133		3
691266	907	2011 N 09TH STREET	19122		4
691318	907	2033 N 09TH STREET	19122		4
804353	907	1226 W TUCKER ST	19133		3
804539	907	2439 N DELHI ST	19133		4
804692	907	1722 N MARSHALL ST	19122	A	4
804693	907	1722 N MARSHALL ST	19122	B	3
818043	907	2324 N FAWN ST	19133		3
818324	907	914 W ARIZONA ST	19133		3
041565	908	2070 W GLENWOOD AVE	19132		4
041637	908	3023 W SUSQUEHANNA AVE	19121		5
041706	908	2344 N OPAL ST	19132		3

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
041831	908	2201 W SERGEANT ST	19132		2
041920	908	1426 W YORK ST	19132		6
041977	908	1921 W DAUPHIN ST	19132		5
042033	908	3143 W ARIZONA ST	19132		2
042122	908	2248 N 17TH STREET	19132	A	2
042123	908	2248 N 17TH STREET	19132	B	4
042363	908	2129 W DAUPHIN ST	19132		5
042444	908	2644 N 29TH STREET	19132		6
042825	908	2230 N 17TH STREET	19132	A	2
042826	908	2230 N 17TH STREET	19132	B	5
042887	908	2933 W ARIZONA ST	19132		2
042956	908	2220 N 17TH STREET	19132	A	2
042957	908	2220 N 17TH STREET	19132	B	5
125025	908	2534 N MARSTON ST	19132		3
125041	908	2318 N WOODSTOCK ST	19132		3
125232	908	2468 N CHADWICK ST	19132		3
125395	908	2649 N HOLLYWOOD ST	19132		3
125406	908	2534 N GARNET ST	19132		3
125429	908	2460 N DOVER ST	19132		2
125460	908	2649 N 31ST STREET	19132		3
125492	908	2457 N NAPA ST	19132		2
125592	908	2247 N 17TH STREET	19132		6
125654	908	2539 W HAROLD ST	19132		3
125658	908	3001 W DAKOTA ST	19132		3
125698	908	1625 W HUNTINGDON ST	19132		5
125873	908	2315 N VAN PELT ST	19132		3
255945	908	2406 N 15TH STREET	19132		5
255971	908	2258 N 17TH STREET	19132		6
690007	908	2524 N 16TH STREET	19132		4
690106	908	2334 N OPAL ST	19132		3
690109	908	2246 N BANCROFT ST	19132		3
690110	908	2356 N VAN PELT ST	19132		3
690118	908	2319 N CLEVELAND ST	19132		3
690135	908	2444 N GARNET ST	19132		3
690165	908	2242 N 17TH STREET	19132		6
690412	908	2269 N COLORADO ST	19132		3
690530	908	2335 N WOODSTOCK ST	19132		3
690558	908	2342 N 18TH STREET	19132		4
690565	908	2209 N COLORADO ST	19132		3
690573	908	2531 N BOUVIER ST	19132		3

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
690593	908	2645 N COLORADO ST	19132		3
690722	908	2452 N NATRONA ST	19132		3
690777	908	2525 N COLORADO ST	19132		3
690899	908	2355 N VAN PELT ST	19132		3
690904	908	2513 N COLORADO ST	19132		3
690957	908	2046 W GLENWOOD AVE	19132		4
690986	908	2444 N COLORADO ST	19132		3
690994	908	2426 N 32ND STREET	19132		4
691027	908	2327 N COLORADO ST	19132		3
691040	908	2560 N SYDENHAM ST	19132		3
691135	908	2619 N CORLIES ST	19132		3
691163	908	2469 N COLORADO ST	19132		3
691234	908	2531 W OAKDALE ST	19132		3
691296	908	2511 N NAPA ST	19132		3
804769	908	2260 N 17TH STREET	19132		6
818004	908	2323 N COLORADO ST	19132		3
818126	908	2614 N 16TH STREET	19132		5
818151	908	2528 N NATRONA ST	19132		3
818230	908	2455 N BOUVIER ST	19132		3
818241	908	2631 N STANLEY ST	19132		3
818300	908	1513 W CUMBERLAND ST	19132		5
818314	908	2605 N STANLEY ST	19132		3
818342	908	2232 N 17TH STREET	19132		6
818411	908	2513 N MARSTON ST	19132		3
818526	908	2225 N BANCROFT ST	19132		3
857219	908	2233 N CHADWICK ST	19132		3
857240	908	2324 N COLORADO ST	19132		3
926743	908	2347 N CLEVELAND ST	19132		3
926767	908	2403 W OAKDALE ST	19132		4
041607	909	2120 N 20TH STREET	19121		6
041802	909	2115 N NEWKIRK ST	19121		2
041816	909	2933 WESTMONT ST	19121		2
041907	909	2841 DIAMOND ST	19121	A	2
041908	909	2841 DIAMOND ST	19121	B	6
042030	909	2104 N 16TH STREET	19121	A	3
042031	909	2104 N 16TH STREET	19121	B	3
042032	909	2104 N 16TH STREET	19121	C	1
042062	909	2936 WESTMONT ST	19121		2
042810	909	2117 N 15TH STREET	19121	A	3
042811	909	2117 N 15TH STREET	19121	B	3

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
042812	909	2117 N 15TH STREET	19121	C	3
043472	909	2020 N BAMBREY ST	19121	A	3
043473	909	2020 N BAMBREY ST	19121	B	3
043511	909	1803 N 18TH STREET	19121	A	3
043512	909	1803 N 18TH STREET	19121	B	3
043513	909	1803 N 18TH STREET	19121	C	3
125184	909	2138 N CARLISLE ST	19121		5
125488	909	1866 N JUDSON ST	19121		5
125912	909	2117 N 17TH STREET	19121		6
690851	909	2151 N NATRONA ST	19121		3
690962	909	1822 N 28TH STREET	19121		5
804208	909	1843 N 17TH STREET	19121	A	3
804209	909	1843 N 17TH STREET	19121	B	3
804210	909	1843 N 17TH STREET	19121	C	3
818011	909	2135 N NATRONA ST	19121		3
818362	909	1816 N RINGGOLD ST	19121		5
818404	909	3218 W SUSQUEHANNA AVE	19121		6
818416	909	3110 EUCLID ST	19121		6
818463	909	3113 W NORRIS ST	19121		3
857247	909	2710 W SUSQUEHANNA AVE	19121		3
041531	910	2126 W MASTER ST	19121		5
041548	910	2520 CECIL B MOORE AVE	19121		5
041787	910	1751 N BAILEY ST	19121		3
041838	910	2320 SHARSWOOD ST	19121		4
042340	910	2046 TURNER ST	19121		5
042524	910	1515 N 33RD STREET	19121	A	3
042525	910	1515 N 33RD STREET	19121	B	3
042526	910	1515 N 33RD STREET	19121	C	2
042995	910	2324 SHARSWOOD ST	19121		5
043114	910	2443 W OXFORD ST	19121		6
125254	910	2406 REDNER ST	19121		4
690028	910	1523 N NEWKIRK ST	19121		3
690619	910	2313 W THOMPSON ST	19121		4
690758	910	1710 N BAILEY ST	19121		3
804730	910	2410 W THOMPSON ST	19121		5
818250	910	2709 W THOMPSON ST	19121		4
818501	910	3139 CLIFFORD ST	19121		6
926750	910	1345 N HOLLYWOOD ST	19121		3
Dispo of Vacant Properties					
690680	901	5042 HOOPEES ST	19139		3

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
690681	901	5068 HOOPEs ST	19139		3
042393	902	3604 WALLACE ST	19104		3
043031	902	636 N 36TH STREET	19104	A	2
043032	902	636 N 36TH STREET	19104	B	5
125118	902	714 N 34TH STREET	19104		6
125816	902	4234 W STILES ST	19104		5
125844	902	4223 VIOLA ST	19104		6
125884	902	3606 WALLACE ST	19104		5
690940	902	4508 OGDEN ST	19139		3
690941	902	4513 OGDEN ST	19139		3
888677	902	4203 MANTUA AVE	19104		4
888765	903	1052 S PAXON ST	19143		3
888861	903	6055 REINHART ST	19142		3
888913	903	1365 S 54TH STREET	19143		4
125731	904	1946 W HILTON ST	19140		2
888554	904	344 W PENN ST	19144		4
926781	904	2054 E WILLIAM ST	19134		2
690795	905	2052 N 03RD STREET	19122		4
042464	906	1507 BROWN ST	19130		4
804598	906	1518 GREEN ST	19130	A	4
804599	906	1518 GREEN ST	19130	B	4
804600	906	1518 GREEN ST	19130	C	4
042115	907	1818 N FRANKLIN ST	19122	A	2
042116	907	1818 N FRANKLIN ST	19122	B	6
042319	907	1836 N FRANKLIN ST	19122		6
042567	907	1820 N FRANKLIN ST	19122	A	2
042568	907	1820 N FRANKLIN ST	19122	B	2
042569	907	1820 N FRANKLIN ST	19122	C	3
042570	907	1830 N FRANKLIN ST	19122	A	1
042571	907	1830 N FRANKLIN ST	19122	B	5
042668	907	1828 N FRANKLIN ST	19122	A	3
042669	907	1828 N FRANKLIN ST	19122	B	4
042782	907	1834 N FRANKLIN ST	19122	A	2
042783	907	1834 N FRANKLIN ST	19122	B	6
043152	907	1835 N 08TH STREET	19122		6
043225	907	1822 N FRANKLIN ST	19122	A	2
043226	907	1822 N FRANKLIN ST	19122	B	6
043227	907	1824 N FRANKLIN ST	19122	A	2
043228	907	1824 N FRANKLIN ST	19122	B	6
125828	907	2512 N 10TH STREET	19133		5

Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
041523	909	1830 N 26TH STREET	19121		5
042996	909	1839 N 31ST STREET	19121		5
125484	909	1840 N ETTING ST	19121		2
125870	909	1846 N ETTING ST	19121		2
690013	909	1812 N 27TH STREET	19121		5
690070	909	1816 N NEWKIRK ST	19121		3
690071	909	1822 N 26TH STREET	19121		5
690557	909	1825 N 26TH STREET	19121		3
690595	909	1833 N TANEY ST	19121		3
690780	909	1842 N MARSTON ST	19121		2
690783	909	1821 N MARSTON ST	19121		2
926765	909	1946 N NEWKIRK ST	19121		3
041685	910	1736 N HOLLYWOOD ST	19121		2
041744	910	2703 W JEFFERSON ST	19121		5
042326	910	1509 N MARSTON ST	19121		3
042496	910	1511 N MARSTON ST	19121		3
042637	910	1205 N ETTING ST	19121		2
042730	910	1216 N PENNOCK ST	19121		2
042991	910	1551 N MARSTON ST	19121		3
043049	910	1236 N 27TH STREET	19121		6
043313	910	1439 N MARSTON ST	19121		2
043331	910	1229 N ETTING ST	19121		3
043410	910	1419 N MYRTLEWOOD ST	19121		2
043691	910	1400 N MARSTON ST	19121		5
043836	910	1451 N MARSTON ST	19121		2
124854	910	1412 N 27TH STREET	19121		4
124905	910	1270 N DOVER ST	19121		6
124983	910	1519 N MARSTON ST	19121		3
125113	910	2403 CECIL B MOORE AVE	19121	A	3
125114	910	2403 CECIL B MOORE AVE	19121	B	4
125273	910	1430 N MYRTLEWOOD ST	19121		2
125411	910	1458 N MARSTON ST	19121		2
125497	910	1239 N 30TH STREET	19121		2
125544	910	1416 N MARSTON ST	19121		2
125640	910	1428 N MARSTON ST	19121		2
125643	910	1434 N MARSTON ST	19121		2
125665	910	1223 N MYRTLEWOOD ST	19121		3
125738	910	1415 N MARSTON ST	19121		2
125776	910	1462 N MYRTLEWOOD ST	19121		3
125864	910	1235 N 30TH STREET	19121		2



Unit ID	AMP	Unit Address	Zip Code	Apt #	BR Size
125928	910	1446 N 27TH STREET	19121		4
125931	910	1426 N MYRTLEWOOD ST	19121		2
690011	910	1608 N NEWKIRK ST	19121		3
690023	910	1242 N DOVER ST	19121		3
690052	910	1427 N HOLLYWOOD ST	19121		3
690056	910	1246 N DOVER ST	19121		3
690406	910	1236 N DOVER ST	19121		3
690462	910	2711 CABOT ST	19121		3
690684	910	1216 N 30TH STREET	19121		6
690685	910	2425 CECIL B MOORE AVE	19121		6
690816	910	1232 N DOVER ST	19121		3
804571	910	2410 CECIL B MOORE AVE	19121		5
804576	910	1300 N DOVER ST	19121		6
804757	910	1460 N MARSTON ST	19121		2
818202	910	2928 W MASTER ST	19121		4
818303	910	1706 N 27TH STREET	19121		5
818326	910	2436 CECIL B MOORE AVE	19121		6
818369	910	2707 W JEFFERSON ST	19121		3
888642	910	1715 N 26TH STREET	19121		6
N/A	N/A	2215 Stewart St	19121		
N/A	N/A	2217 Stewart St	19121		
N/A	N/A	2219 Stewart St	19121		
N/A	N/A	2221 STEWART ST	19121		
N/A	N/A	2223 STEWART ST	19121		
N/A	N/A	2225 Stewart St	19121		
N/A	N/A	2227 Stewart St	19121		
N/A	N/A	2229 Stewart St	19121		
N/A	N/A	2212 W Jefferson St	19121		
N/A	N/A	2214 W Jefferson St	19121		
N/A	N/A	2216 W Jefferson St	19121		
N/A	N/A	2218 W Jefferson St	19121		
N/A	N/A	2220 W Jefferson St	19121		
N/A	N/A	2222 W Jefferson St	19121		
N/A	N/A	740 GREEN ST	19123		

## Appendix E: MTW TDC/HCC

PHA's current HUD-approved MTW TDC and HCC cost limits are shown below. PHA last updated the MTW TDC/HCC cost limits in 2009. Subject to HUD approval, PHA will periodically review and update the MTW TDC/HCC cost limits.

	0		1		2		3		4		5	
Type of Unit	HCC	TDC	HCC	TDC	HCC	TDC	HCC	TDC	HCC	TDC	HCC	TDC
Detached			\$225,373	\$394,402	\$266,207	\$465,863	\$319,931	\$559,880	\$374,708	\$655,740	\$429,310	\$751,292
Row House			\$203,374	\$355,904	\$239,263	\$418,710	\$287,115	\$502,451	\$334,969	\$586,195	\$382,821	\$669,937
Walk-up	\$176,055	\$308,097	\$176,055	\$308,097	\$203,708	\$356,490	\$269,787	\$472,286	\$331,729	\$580,525	\$390,368	\$683,144
Elevator			\$213,541	\$341,665	\$249,365	\$398,985	\$331,717	\$530,747	\$411,330	\$658,128	\$486,550	\$778,480

## Appendix F: Impact Analyses: Rent Simplification

Pursuant to the Moving To Work (MTW) Agreement, the Philadelphia Housing Authority (PHA) conducted an income and rent analysis of MTW households. Low Income Housing Tax Credit sites managed by PAPMC, Moderate Rehab units and non-MTW vouchers are not subject to rent simplification and are not included in this analysis.

PHA's rent simplification program currently includes the following components:

- A single working household deduction;
- An asset income exclusion;
- Exclusion of full-time student earned income;
- Modification of the definition of medical related expenses to include only certain medical-related insurance premiums;
- Elimination of all other deductions;
- Application of a cap on gas utility allowances for income eligible households who are responsible for gas heat;
- Reduction of the standard rent calculation percentage based on family size; and
- Application of a minimum rent of \$50.

The following is a summary of the results of the rent impact analysis.

### Affordability

PHA's MTW rent policies resulted in affordable household rents in both the public housing and HCV programs. The following chart shows average Total Tenant Payment (TTP) as a percentage of adjusted income. The chart excludes households earning \$2,100 or less annually, who are subject to a minimum rent payment and, therefore, tend to pay a higher percentage of income towards rent and HCV households with a gross rent that exceeds their payment standard, who also pay a higher percentage of income towards rent. Alternatively, higher income PH households on ceiling rent pay a lower percentage of their gross income. Table 1 highlights the fact that for all households earning more than \$2,100 annually, MTW residents pay 28% or less of adjusted income as Total Tenant Payment. Note that HCV households have the choice to select a housing unit that exceeds established Payment Standards, a choice that results in the tenant paying a higher percentage of adjusted income towards rent.

**Table 1: Total Tenant Payment as a Percentage of Adjusted Income**

	Housing Choice Voucher Households	Public Housing Households
Average	28%	28%
25 <sup>th</sup> Percentile	27%	27%
Median	28%	28%
75 <sup>th</sup> Percentile	28%	28%
Max	28%	28%

### CRP

Under MTW, HCV Tenant-Based households who are responsible for paying gas heat and who are income eligible to participate in the PGW Customer Responsibility Program (CRP) have the gas portion of their utility allowances calculated using PHA's CRP MTW utility policy. Participation in the PGW CRP program places a cap on the amount of money that eligible tenants will be required to pay for their gas utility payments based on household income, not consumption. Gas utility allowances are calculated using the PGW CRP calculation method. Table 2 illustrates the current annual savings resulting from PHA's adoption of this policy.

**Table 2: Utility Allowance Savings due to CRP MTW UA Policy**

	<b>Households on CRP</b>
# of HCV participants who are eligible for a gas utility allowance	13,349
# of HCV participants who pay gas heat and are eligible for CRP	2,124
Total gas portion without application of CRP	\$ 411,267
Total gas portion with application of CRP	\$ 354,560
Monthly Savings	\$ 56,707
<b>Annual Savings to PHA</b>	<b>\$680,484</b>

## **Appendix G: RAD Significant Amendment**

**Philadelphia Housing Authority**  
**Fiscal Year 2022 Moving to Work Annual Plan**  
**Rental Assistance Demonstration Significant Amendment**

The Philadelphia Housing Authority (PHA) is incorporating this Rental Assistance Demonstration (RAD) Significant Amendment into its Fiscal Year 2022 Moving to Work (MTW) Annual Plan as required by the US Department of Housing and Urban Development (HUD). The Amendment provides information on PHA's planned activities under the Rental Assistance Demonstration (RAD) program.

Pursuant to this Amendment, PHA will transfer assistance from: 1) 30 vacant, uninhabitable scattered site units to the proposed Sharswood Phase II new construction development to be developed by Hunt-Pennrose as part of the Sharswood/Blumberg Transformation Plan; 2) 95 vacant, uninhabitable scattered site units to the proposed Sharswood Phase III new construction development also to be developed by Hunt-Pennrose as part of the Sharswood/Blumberg Transformation Plan; and, 3) 40 vacant, uninhabitable scattered site units to the proposed Henry Avenue Tower substantial rehabilitation development to be developed by New Courtland.

### **Background**

Subject to HUD approval, PHA intends to proceed with RAD transfer of assistance at Sharswood Phase II, Sharswood Phase III, and Henry Avenue Tower pursuant to the guidelines of PIH Notice 2019-23, Revision 4 dated September 5, 2019 and PIH Notice 2016-17 dated November 10, 2016 ("HUD RAD Notices") and any other successor Notices issued by HUD.

PHA is required to submit a Significant Amendment to the MTW Annual Plan that incorporates required information on PHA's RAD conversion plans. This document provides the required information and serves as PHA's RAD Significant Amendment for the subject units. PHA intends to propose further Significant Amendment(s) for additional HUD-approved RAD conversions, including transfers of assistance, at future dates. PHA will provide a thirty-day public comment period, and conduct a Public Hearing to allow residents and the general public an opportunity to review and comment on the RAD Significant Amendment. The PHA Board of Commissioners will conduct a vote on the RAD Significant Amendment at a future public meeting.

### **RAD Conversion Plan**

This Significant Amendment provides information on PHA's plans to convert public housing units to project-based assistance under RAD at the three (3) listed sites, as further described in Attachment 1. Attachment 1 includes the following information:

*Current Units:* Total number of units, bedroom size distribution and unit type.

*Post-Conversion Units:* If applicable, any changes proposed to the current number of units, the bedroom size distribution or the unit type including de minimis reductions.

<i>Transfer of Assistance:</i>	Whether PHA intends to transfer assistance to another development as part of the RAD conversion and, if so, the location, number of units, bedroom size distribution, and unit type where known.
<i>PBV or PBRA:</i>	Whether PHA intends to convert the development to the Project Based Voucher (PBV) program or to the Project Based Rental Assistance (PBRA) program, along with information on resident rights, resident participation, waiting list and grievance procedures applicable to each program. PHA intends to convert assistance to the PBV program.
<i>Capital Fund Impact:</i>	The current amount of Capital Fund dollars received prior to RAD conversion. Developments converted through the RAD program are not eligible for Public Housing Capital Funds after conversion.
<i>Transfer of Waiting List:</i>	How existing waiting lists will be addressed as part of the conversion.

### **Conversion to Project Based Vouchers or Project Based Rental Assistance**

Public housing developments that are converted to project-based assistance will no longer be subject to HUD rules and regulations pertaining to the public housing program. Upon conversion to RAD, the former public housing units will be subject to the rules and regulations pertaining to either the PBV or PBRA programs, depending on which program option is selected by PHA. HUD has modified the PBV and PBRA program rules and regulations to incorporate additional provisions that apply solely to units converted under RAD. These additional provisions provide important protections to current residents of public housing that are impacted by a RAD conversion.

PHA intends to convert the developments/units listed in Attachment 1 to the PBV program. As part of the conversion initiative, PHA will adopt all required RAD PBV rules except where MTW or other waivers are approved by HUD, and will modify its existing Housing Choice Voucher Program Administrative Plan as needed to incorporate those rules related to resident rights, resident participation, waiting list, lease, waiting list, grievance processes and other areas.

Attachment 2 provides information on the RAD PBV program as required by the HUD RAD Notices related to resident rights and participation, waiting list and grievance procedures.

### **Capital Fund Budget**

Conversion of existing public housing developments under the RAD program will enable PHA to leverage existing funds to secure additional private and other funding. This new funding will be used to undertake long-deferred capital improvements and, in instances where transfer of assistance is involved, to construct or rehabilitate new or existing affordable housing units.

PHA currently receives HUD Capital Funds on an annual basis, subject to Congressional appropriations for the majority of its public housing units. Attachment 1 includes the most

recent Capital Fund allocation for each RAD conversion site. Upon conversion to RAD, PHA will no longer receive a Capital Fund allocation for units that have been converted, and the annual Capital Fund grant will be decreased.

The total estimated reduction in PHA Capital Funds on an annual basis for the subject units covered under this Significant Amendment is approximately \$813,408 based on FY2020 funding levels. Over a five-year period, the estimated Capital Fund reduction is approximately \$4,067,040 based on FY2020 funding levels. The actual amount of the reduction may vary depending on Congressional appropriations. As RAD conversions are completed, PHA will modify its existing capital plans to reflect the reduction in funding and change in work scopes.

The RAD conversions will not impact PHA's existing Capital Fund Financing Program (CFFP) obligations. PHA currently projects that it will utilize MTW Block Grant funds for capital improvements and to establish a RAD reserve for the subject developments. Actual amounts will be incorporated into the final financing plan.

### **Site and Neighborhood Standards**

The RAD conversions described herein comply with all applicable site selection and neighborhood review standards. PHA has included individual certifications for each proposed project in Attachment 1. PHA certifies that:

1. The sites are suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed projects, PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

### **Relocation Plan**

Resident relocation will not be required as the scattered sites transfer of assistance units are currently vacant. Where applicable, resident relocation related to RAD conversions will be performed in accordance with the HUD RAD Notices.

### **Compliance**

PHA is not presently subject to a voluntary compliance agreement, consent order, consent decree, final judicial ruling or administrative ruling that has any relation to or impact on the planned RAD conversion.

### **Moving To Work**

PHA may utilize MTW Block Grant fungibility and programmatic flexibility to support the RAD conversion effort subject to any necessary Board and HUD approvals. PHA certifies that



regardless of any funding changes that may occur as a result of conversion under RAD, PHA will continue to administer and maintain service levels for its remaining portfolio of public housing units subject to funding availability. PHA will do this by utilizing available funding including Public Housing Operating Fund, Capital Fund, and Tenant Rental Income.

### **Significant Amendment Definition**

As part of the RAD conversion initiative, a Significant Amendment to the MTW Plan will not be required for the following RAD-specific actions:

- Changes to the Capital Fund budget produced as a result of each approved RAD conversion regardless of whether the proposed conversion will include use of additional Capital Funds;
- Decisions to apply MTW funding or programmatic flexibility to post-conversion RAD developments;
- Decisions or changes related to the ownership and/or financing structures for each approved RAD conversion including decisions to allocate PHA financial resources as a source of funds to support the RAD conversion initiatives;
- Changes to the construction and rehabilitation plans and scheduled for each approved RAD conversion;
- Changes to the project names or sponsor entity names;
- Changes in the post-conversion bedroom size distribution and/or the number of de minimis unit reductions up to the 5% permitted under RAD program rules;
- Changes to the pre-conversion bedroom size distribution and/or the project or AMP from which transfer of assistance units will be converted; and,
- Decisions to convert to either Project Based Vouchers or Project Based Rental Assistance.

**Philadelphia Housing Authority**  
**Moving to Work Annual Plan Amendment**  
**Rental Assistance Demonstration Significant Amendment**  
**Attachment 1 – Information on Public Housing Developments to be Converted**

The following pages provide required information on each development and/or Asset Management Project (AMP) to be converted from public housing assistance to Project Based Voucher (PBV) assistance under the Rental Assistance Demonstration (RAD) program.

## RAD Significant Amendment Attachment 1

**Development Name** Scattered Sites  
**PIC Development ID #** PA002000903, PA002000904, PA002000907  
**Conversion Type (PBV or PBRA)** PBV  
**Capital Fund Grant (FFY20)** \$ 142,046

**Pre-Conversion Total Units** 30  
**Pre-Conversion Unit Type** Scattered Sites

	PA002000903	PA002000904	PA002000907
	# of Units	# of Units	# of Units
0 BR	0	0	0
1 BR	0	0	0
2 BR	0	2	3
3 BR	4	8	5
4 BR	0	0	5
5 BR	0	1	1
6 BR	0	1	0

**Post-Conversion Total Units** 59  
**Post-Conversion RAD Units** 30  
**Post-Conversion Unit Type** Family  
**Post- Conversion Development Name and Address** Sharswood Phase II  
 2401-55 and 2408 Stewart Street; 2409 and 2446 Sharswood Street; 1431-33 N 25th Street; 2401-29, 2433-35, 2441, 2406-14, 2422-32, and 2436-38 Harlan Street; 2401 Master Street

**Post - Conversion Sponsor** Hunt  
**Project Description** Sharswood Phase II is a new construction development for low-income families consisting of 1-, 2-, and 3-bedroom townhomes along four blocks of Sharswood in Philadelphia. Only 30 units of this property will use RAD vouchers. An on-site coordinator will deliver supportive services to residents.

**Post-Conversion Bedroom Size**

	Total # of Units	# of RAD Units
0 BR	0	0
1 BR	0	1
2 BR	30	17
3 BR	29	12
4 BR	0	0
5 BR	0	0
6 BR	0	0

**Transfer of Assistance** Yes  
**De Minimis Reduction** N/A  
**Transfer of Waiting List** This is a new construction, transfer of assistance project. A new site-based waiting list will be established for the development prior to the initial lease up. The owner will manage and maintain the site-based waiting list, including any PHA-approved selection preferences, in accordance with PHA's Housing Choice Voucher Program Administrative Plan. PHA will post information on how to apply for the PBV site-based waiting list on the PHA website.

### Certification

For the Sharswood Phase II Rental Assistance Demonstration (RAD) project located in Philadelphia, the Philadelphia Housing Authority certifies that site complies with all site selection requirements applicable to Project Based Voucher (PBV) RAD projects, including:

1. The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

## RAD Significant Amendment Attachment 1

**Development Name** Scattered Sites  
**PIC Development ID #** PA002000901,PA002000902,PA002000903, PA002000904,PA002000905,  
 PA002000907, PA002000908, PA002000909, PA002000910  
**Conversion Type (PBV or PBRA)** PBV  
**Capital Fund Grant (FFY20)** \$ 468,627

**Pre-Conversion Total Units** 95  
**Pre-Conversion Unit Type** Scattered Sites  
**Pre-Conversion Bedroom Size**

	PA002000901	PA002000902	PA002000903	PA002000904	PA002000905
	# of Units	# of Units	# of Units	# of Units	# of Units
0 BR	0	0	0	0	0
1 BR	0	1	0	0	1
2 BR	0	1	2	1	0
3 BR	0	11	6	8	3
4 BR	2	0	0	1	2
5 BR	0	0	0	1	2
6 BR	0	0	0	0	1

	PA002000907	PA002000908	PA002000909	PA002000910
	# of Units	# of Units	# of Units	# of Units
0 BR	0	0	0	0
1 BR	0	0	0	0
2 BR	1	1	2	1
3 BR	5	0	1	6
4 BR	1	5	0	2
5 BR	2	7	3	3
6 BR	0	7	3	2

**Post-Conversion Total Units** 181  
**Post-Conversion RAD Units** 95  
**Post-Conversion Unit Type** Family  
**Post- Conversion Development Name and Address** Sharswood Phase III is a new construction development for low-income families consisting of 1-, 2-, 3-, and 4-bedroom units in the Sharswood neighborhood. Boundaries are between 24th and 25th, Jefferson Oxford Streets, and then between 22nd and 25th Oxford to Turner.  
**Post - Conversion Sponsor** Hunt  
**Project Description** Sharswood Phase III is a new construction development for low-income families consisting of 1-, 2-, 3-, and 4-bedroom units in the Sharswood neighborhood.

## RAD Significant Amendment Attachment 1

### Post-Conversion Bedroom Size

	Total # of Units	# of RAD Units
0 BR	0	0
1 BR	9	9
2 BR	81	30
3 BR	75	40
4 BR	16	16
5 BR	0	0
6 BR	0	0

### Transfer of Assistance

Yes

### De Minimis Reduction

N/A

### Transfer of Waiting List

This is a new construction, transfer of assistance project. A new site-based waiting list will be established for the development prior to the initial lease up. The owner will manage and maintain the site-based waiting list, including any PHA-approved selection preferences, in accordance with PHA's Housing Choice Voucher Program Administrative Plan. PHA will post information on how to apply for the PBV site-based waiting list on the PHA website.

### Certification

For the Sharswood Phase III Rental Assistance Demonstration (RAD) project located in Philadelphia, the Philadelphia Housing Authority certifies that site complies with all site selection requirements applicable to Project Based Voucher (PBV) RAD projects, including:

1. The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

## RAD Significant Amendment Attachment 1

**Development Name** Scattered Sites  
**PIC Development ID #** PA002000901, PA002000908  
**Conversion Type (PBV or PBRA)** PBV  
**Capital Fund Grant (FFY20)** \$202,735

**Pre-Conversion Total Units** 40  
**Pre-Conversion Unit Type** Scattered Sites

	PA002000901	PA002000908
	# of Units	# of Units
0 BR	0	0
1 BR	0	0
2 BR	1	4
3 BR	22	13
4 BR	0	0
5 BR	0	0
6 BR	0	0

**Post-Conversion Total Units** 158 (estimated)

**Post-Conversion RAD Units** 40

**Post-Conversion Unit Type** Senior

**Post- Conversion Development** Name TBD

**Name and Address** 3232 Henry Avenue

**Post - Conversion Sponsor** New Courtland

**Project Description** Henry Avenue Tower is a vacant 11 story building that will be rehabilitated as an inclusive housing model comprised of market rate and affordable senior apartments with shared amenities along with commercial space and programming to foster interaction among all the residents. The rehabilitated building will complement the amenities and uses of the larger 3232 Henry Avenue development. It will consist of 158 units (estimated) of which 40 will be RAD. Multiple, connected buildings, adjacent to the 11 story tower include 85 units of affordable senior apartments and a LIFE Center (adult day care with medical services).

**Post-Conversion Bedroom Size** The 40 RAD units will be 1-bedroom. The development will include an estimated 118 non-RAD units and the unit mix for those units is being finalized.

**Transfer of Assistance** Yes

**De Minimis Reduction** N/A

**Transfer of Waiting List** This is an existing building that will be rehabilitated. A new site-based waiting list will be established for the development prior to the initial lease up. The owner will manage and maintain the site-based waiting list, including any PHA-approved selection preferences, in accordance with PHA's Housing Choice Voucher Program Administrative Plan. PHA will post information on how to apply for the PBV site-based waiting list on the PHA website.



### Certification

For the Henry Avenue Tower Rental Assistance Demonstration (RAD) project located in Philadelphia, the Philadelphia Housing Authority certifies that site complies with all site selection requirements applicable to Project Based Voucher (PBV) RAD projects, including:

1. The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

**Moving to Work Annual Plan Amendment**  
**Rental Assistance Demonstration Significant Amendment**  
**Attachment 2 – Project Based Voucher Program (PBV)**

Information on resident rights and participation, waiting list and grievance procedures for Rental Assistance Demonstration (RAD) program conversions to the Project Based Voucher (PBV) program are included in this attachment:

HUD PIH Notice 2019-23, Revision 4 dated September 5, 2019, Sections 1.6.C and 1.6.D and Table 1B.

HUD Joint Housing Notice H-2016-17, PIH-2016-17 dated November 10, 2016 in its entirety.

Excerpts from HUD PIH Notice 2019-23, Revision 4 dated September 5, 2019

**C. PBV Resident Rights and Participation.**

- 1. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.<sup>36</sup> Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the 1937 Act and 24 CFR § 982.201, concerning eligibility and targeting of

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<sup>36</sup> 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.

tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement. Further, so as to facilitate the right to return to the assisted property, HUD waives Section 8(o)(4) and 24 CFR § 982.201 to the extent necessary for this provision to apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR Part 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.

2. **Right to Return.** See Section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
3. **Phase-in of Tenant Rent Increases.** If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBV program (the tenant's TTP) would increase the tenant's TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

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

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full Calculated PBV TTP<sup>37</sup>

Five Year Phase in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 5 AR and all subsequent recertifications – Full Calculated PBV TTP

*Please Note:* In either the three year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. MTW agencies must also implement a three or five-year phase-in for impacted residents, but may alter the terms above as long as it establishes a written policy setting forth the alternative terms. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

**4. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are currently FSS participants will continue to participate in the PHA's FSS program.

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<sup>37</sup> For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TTP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, PHAs should note that until provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act are implemented, there are certain FSS requirements (e.g., escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and PHAs must follow such requirements accordingly. All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR part 984 (current, or as amended), the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.<sup>38</sup> Further, upon conversion to PBV, if the PHA no longer has a public housing program, funds already escrowed for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.<sup>39</sup>

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

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

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<sup>38</sup> The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

<sup>39</sup> Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.

which, by statute, can only serve public housing residents. At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local Resident Association and this consequence of a RAD conversion may impact those entities. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

5. **Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
6. **Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum (HUD Form 52530-c), as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.
  - a. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD and to non-RAD PBV units located at the Covered Project. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be :
    - i. A reasonable period of time, but not to exceed 30 days:
      1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
      2. In the event of any drug-related or violent criminal activity or any felony conviction;
    - ii. Not less than 14 days in the case of nonpayment of rent; and
    - iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

- b. **Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),<sup>40</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
  2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
- iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- iv. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

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<sup>40</sup> § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.



To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

- 7. Earned Income Disregard (EID).** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in 24 CFR § 5.617(b) limiting EID to disabled persons is waived. The waiver, and resulting alternative requirement, apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants that move into the property following conversion or tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

- 8. Jobs Plus.** Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project. If the program is continued, the Project Owner must agree to continue to implement the program according to HUD's program requirements. Jobs Plus target public housing projects must enroll public housing residents into the Jobs Plus rent incentive, JPEID, prior to conversion. Any resident of the Covered Project that had not enrolled prior to conversion is not eligible to enroll in JPEID but may utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the Covered Project may voluntarily utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion.

- 9. When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.<sup>41</sup> In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

Unless a waiver is requested and approved as described below, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an

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<sup>41</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

alternative requirement that the PHA must reinstate the unit after the family has left the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where “floating units have been permitted, Section 1.6.B.10 of the Notice.

A PHA may request a waiver from HUD for the Covered Project in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not made a housing assistance payment for a family in 180 days.

For a Covered Project that consists of 100 percent RAD PBV units, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty at the Covered Project. A PHA may evidence this by providing data showing, for example:

- how eligible income-certified applicants on the waiting list must be passed over because their incomes result in zero HAP at admission causing a higher concentration of poverty at the covered project; or
- how the income of newly admitted families is causing a markedly higher concentration of poverty than the PHA’s non-RAD PBV projects.

The resulting impact on the property must be compared with the concentration of poverty at non-RAD PBV projects in the PHA’s jurisdiction. If there are no non-RAD PBV projects in the PHA’s jurisdiction, the PHA may alternatively demonstrate that the median income of families that could be admitted to the Covered Project is significantly lower than the median income of new admissions from the waiting list to the PHA’s HCV program since the time of the RAD conversion.

For any other Covered Project, the PHA must demonstrate that the property contains specific units (e.g., units suitable for large families or accessible units) for which there are insufficient alternative housing opportunities.

If the waiver is approved, the new admission[s] families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family, and the unit is subject to all program requirements. Such waiver requests should be submitted to the PIH Field Office in accordance with Notice PIH 2018-16.

**10. Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate

sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived for current residents remaining or returning to the Covered Project. MTW agencies may not modify this requirement. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

#### **D. PBV: Other Miscellaneous Provisions**

- 1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.
- 2. Ongoing PHA Board Review of Operating Budget.** The Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. The PHA's Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.<sup>42</sup>
- 3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to [1.4.A.13 and 1.4.A.14](#).
- 4. Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:
  - a. Transferring an existing site-based waiting list to a new site-based waiting list.

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<sup>42</sup> For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

- b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other

outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).<sup>43</sup>

When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c). To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

5. **Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.
6. **Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC but HUD review of liens must be performed prior to execution.
7. **Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the "year of conversion"), RAD PBV projects will be funded

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<sup>43</sup> For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

with public housing funds. For example, if the project's assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to "section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998" and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

- 8. Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA's HCV program becomes PBV assistance, it is possible for most or all of a PHA's turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory

turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

- 9. Reserve for Replacement.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

- 10. Initial Certifications and Tenant Rent Calculations.** The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV site-specific utility allowance, if applicable) to determine the PBV HAP and tenant rent. This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility allowance.) To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project shall be subject to the terms of this provision. To effectuate this provision, HUD is waiving 24 CFR 5.601 and 983.3(c)(6)(iii).



**Attachment 1B – Resident Provisions in Conversions of Assistance  
from Public Housing to PBRA and PBV**

This Attachment contains two sections, describing:

- 1B.1 Summary of Resident Provisions
  - 1B.2 Resident Participation and Funding
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**1B.1 Summary of Resident Provisions**

The following is a summary of special provisions and alternative requirements related to tenants of public housing projects converting under RAD (including for those that will reside in non-RAD PBV units in the Covered project):

- Conversion will be considered a significant action requiring discussion in the PHA's Five-Year Plan, Annual Plan or MTW Plan or requiring a significant amendment to a PHA Plan (see [Section 1.5.E](#) of this Notice);
- Notification of proposed conversion, meetings during the conversion process, written response to residents comments on conversion, and notification of conversion approval and impact (see [Section 1.8](#) of this Notice);
- No rescreening at conversion (see [Section 1.6.C.1](#) of this Notice for conversions to PBV and [Section 1.7.B.1](#) for conversions to PBRA);
- A right to return, which covers the right to return to the rent-assisted property after temporary relocation (when temporary relocation is necessary to facilitate rehabilitation or construction), or the right to occupancy of the new unit if the rental assistance is transferred to a new unit. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Phase-in of tenant rent increases (see [Section 1.6.C.3](#) of this Notice for conversions to PBV and [Section 1.7.B.3](#) for conversions to PBRA);
- Relocation protections, including procedural rights, assistance with moving, and applicable relocation payments. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Continued participation in the ROSS-SC FSS and JobsPlus programs (see [Sections 1.6.C.5 and 1.6.C.9](#) of this Notice, for conversions to PBV and [Section 1.7.B.4](#) for conversions to PBRA);
- Continued Earned Income Disregard (see [Section 1.6.C.8](#) of this Notice, for conversions to PBV and [Section 1.7.B.7](#) for conversions to PBRA);

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

- Continued recognition of and funding for legitimate residents organizations (see [Section 1.6.C.6](#) of this Notice for conversions to PBV, [Section 1.7.B.5](#) of this Notice for conversions to PBRA, and below in Attachment 1B.2 for additional requirements for both programs);
- Procedural rights consistent with section 6 of the Act (see [Section 1.6.C.7](#) of this Notice for conversions to PBV and [Section 1.7.B.6](#) of this Notice for conversions to PBRA); and
- Choice-mobility option allowing a resident to move with a tenant-based voucher after tenancy in the Covered Project (see 24 CFR § 983.260 for conversions to PBV and Section 1.7.C.5 of this Notice for conversions to PBRA).

The foregoing is a summary of special provisions and alternative requirements relating to residents of public housing projects converting to RAD and does not attempt to capture all program requirements and details. For additional information, refer to the full text of this Notice and to the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17; PIH 2016-17).

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

### **1B.2 Resident Participation and Funding<sup>98</sup>**

The following provisions contain the resident participation and funding requirements for public housing conversions to PBRA and PBV, respectively.

#### **A. PBRA: Resident Participation and Funding**

Residents of Covered Projects converting assistance to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR Part 245 (Tenant Participation in Multifamily Housing Projects). In addition, a Project Owner must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate tenant organization at the covered property. Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation. These funds must be used for resident education, organizing around tenancy issues, and training activities.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible uses of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the HUD Field Office for intervention only after documented efforts to at direct resolution have proven unsuccessful.

#### **B. PBV: Resident Participation and Funding**

To support resident participation following conversion of assistance, residents of Covered Projects converting assistance to the PBV program will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living

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<sup>98</sup> For the purposes of this Attachment, HUD uses the term “Project Owner” to refer to the owner of a Converting Project or Covered Project, as applicable to the context.

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

- 1. Legitimate Resident Organization.** A Project Owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate if it has been established by the residents of a Covered Project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

- 2. Protected Activities.** Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:
  - a. Distributing leaflets in lobby areas;
  - b. Placing leaflets at or under residents' doors;
  - c. Distributing leaflets in common areas;
  - d. Initiating contact with residents;
  - e. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
  - f. Posting information on bulletin boards;
  - g. Assisting resident to participate in resident organization activities;
  - h. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
  - i. Formulating responses to Project Owner's requests for:
    - i. Rent increases;
    - ii. Partial payment of claims;
    - iii. The conversion from project-based paid utilities to resident-paid utilities;
    - iv. A reduction in resident utility allowances;
    - v. Major capital additions; and

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

### **vi. Prepayment of loans.**

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

- 3. Meeting Space.** Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
- a.** Residents or a resident organization and used for activities related to the operation of the resident organization; or
  - b.** Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. A PHA may waive this fee.

- 4. Resident Organizers.** A resident organizer is a resident or non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

Project Owners must allow resident organizers to assist residents in establishing and operating resident organizations.

- 5. Canvassing.** If a Covered Project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the project.

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

A resident has the right not to be re-canvassed against his or her wishes regarding participation in a resident organization.

- 6. Funding.** Project Owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization at the covered property.<sup>99</sup> These funds must be used for resident education, organizing around tenancy issues, and training activities. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible use of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the Contract Administrator for intervention only after documented efforts to at direct resolution have proven unsuccessful.

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<sup>99</sup> Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation.



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**Office of Public and Indian Housing**  
**Office of Housing**

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<b>Special Attention of:</b>	<b>Notice</b>	H 2016-17 PIH 2016-17 (HA)
Public Housing Agencies		
Public Housing Hub Office Directors		
Public Housing Program Center Directors	Issued:	November 10, 2016
Multifamily HUB Directors		
Multifamily Program Center Directors	Effective:	November 10, 2016
Regional and Field Office Directors		
Regional Administrators	Expires:	This Notice remains in effect until amended, superseded, or rescinded
Performance Based Contract Administrators		
RAD Transaction Managers		
Regional Relocation Specialists	Supplements:	PIH Notice 2012-32 (HA) REV-2
	Supersedes:	H 2014-09/PIH 2014-17

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**SUBJECT:** Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.<sup>1</sup>

**SECTION 1. Purpose, Applicability and Major Provisions of this Notice**

**1.1. Purpose**

This notice (Notice) provides PHAs,<sup>2</sup> Project Owners, and their RAD development partners with guidance regarding key fair housing and civil rights statutory and regulatory requirements, explains the situations in which HUD is requiring front-end fair housing and civil rights reviews, and provides information regarding the types of information that must be submitted to facilitate HUD’s review of certain fair housing and civil rights requirements in connection with public housing conversions under the First Component of RAD. This Notice also includes guidance

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<sup>1</sup> While this Notice addresses fair housing and civil rights requirements and relocation requirements, the fair housing and civil rights requirements are not limited to relocation issues.

<sup>2</sup> Consistent with PIH Notice 2012-32 (HA) REV-2 (PIH 2012-32 (HA) REV-2) (the “RAD Notice”), this Notice uses the term “PHA” to refer to the owner of the project prior to the RAD conversion and “Project Owner” to refer to the owner of the project after the RAD conversion.

regarding key relocation statutory and regulatory requirements, and details relocation requirements under RAD. This Notice only applies to projects converting under the First Component of RAD; it does not apply to the Second Component of RAD.<sup>3</sup>

The RAD program was established as a tool for preserving and improving low-income housing stock. RAD is intended to facilitate reinvestment in or redevelopment of the long-term-affordable stock of HUD-assisted housing properties. RAD also provides mobility benefits for assisted residents of converted properties through the choice mobility option, allowing these households to access tenant-based Housing Choice Vouchers. In some cases, RAD can be a tool for transfer of rental assistance from distressed or poorly selected sites to new sites in high opportunity areas. In all cases, the objective is to better serve low-income residents and the broader community in complying with fair housing, other civil rights, and relocation laws.

This Notice provides PHAs and Project Owners with guidance relating to planning and implementing public housing (First Component) RAD conversions in a manner consistent with existing fair housing and other civil rights requirements, including, but not limited to, those associated with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, the Architectural Barriers Act of 1968, and their implementing regulations. Section 4 of this Notice summarizes key provisions of existing law applicable to RAD transactions.

To further compliance with these existing requirements, PIH 2012-32 (HA) REV-2, issued June 15, 2015 (the “RAD Notice”) established that specific PHA decisions and activities planned to be part of a First Component RAD conversion must be reviewed by HUD prior to implementation (the “front-end” fair housing and civil rights reviews). Through a front-end review of the enumerated PHA decisions, HUD seeks to assist PHAs and Project Owners in meeting their fair housing, other civil rights, and relocation obligations. Section 5 of this Notice explains the situations in which HUD is requiring front-end fair housing, other civil rights, and relocation reviews, details the procedures for HUD’s front-end review and the type of information that must be submitted for these reviews, and the timeframes for these reviews.

Finally, in Sections 6 and 7 this Notice provides PHAs and Project Owners with guidance regarding RAD program and other statutory and regulatory relocation assistance requirements when planning for or implementing resident moves as a result of a conversion of a public housing project under RAD. This guidance includes reiterated and new requirements, the corresponding required reviews, and explanation of the interaction between RAD relocation procedures and certain existing public housing requirements. PHAs and Project Owners implementing RAD transactions may be subject to (a) the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA),

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<sup>3</sup> Important fair housing, other civil rights, and relocation considerations apply also to the Second Component of RAD as provided in the RAD Notice. Participants in the Second Component of RAD must continue to comply with applicable fair housing, civil rights, and relocation statutes and regulations, and HUD may, at any time, initiate compliance or enforcement actions in connection with such requirements. The RAD Notice will continue as the primary source of information on fair housing and other civil rights requirements covering the Second Component of RAD without any change until further notice.



(b) the requirements of Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)) if CDBG or HOME funds are included as part of the project, (c) fair housing and other civil rights considerations implicated by relocation activities, and (d) requirements for relocating residents under the RAD Notice.

## **1.2. PHA and Project Owner Responsibilities**

This Notice explains RAD's front-end fair housing and other civil rights review requirements in greater detail than was provided in the RAD Notice and this Notice restates and revises RAD's relocation requirements. However, the fair housing, other civil rights, and relocation requirements that apply to RAD conversions are neither limited to those discussed in this Notice, nor to those specifically reviewed by HUD in the front-end review.

### **MEETING HUD'S PROCESS AND REVIEW REQUIREMENTS NEVER CONSTITUTES COMPLIANCE WITH SUCH LAWS. THE OBLIGATION TO COMPLY WITH APPLICABLE FAIR HOUSING, OTHER CIVIL RIGHTS, AND RELOCATION LAWS REMAINS WITH THE PHA AND PROJECT OWNER.**

The fair housing and civil rights requirements that apply to RAD conversions are not limited to those discussed in this Notice. PHAs and Project Owners are responsible at all times for ensuring that their RAD activities (including those activities implemented by their agents, consultants, contractors, or other RAD team members) comply with all applicable fair housing and civil rights requirements. PHAs and Project Owners shall be accountable for all fair housing and civil rights compliance issues with respect to their RAD activities, whether those activities are undertaken directly or through agents, consultants, contractors, or other RAD team members. While HUD provides this non-exhaustive guidance to assist PHAs and Project Owners during transactions, complying with the requirements set forth in this Notice does not necessarily mean that they, or their agents or consultants, are in compliance with fair housing and civil rights requirements.<sup>4</sup>

This Notice is not intended to, and shall not be construed to, reduce or in any way limit the application of fair housing, other civil rights, and relocation laws and regulations to RAD transactions. For example, HUD's reliance on a PHA's certification that a site meets the site and neighborhood standards required by the RAD Notice is not a determination of compliance with the duty to affirmatively further fair housing or other fair housing and civil rights requirements. As another example, HUD's approval of a site for new construction does not, by itself, constitute a determination of the PHA's compliance with all provisions of Title VI and its duty to affirmatively further fair housing found in the Fair Housing Act and other fair housing and civil rights requirements, nor indicate HUD's approval of the PHA's or locality's overall housing strategy. HUD's approval of a RAD conversion after front-end review reflects only that the project may proceed through the RAD conversion process; it does not constitute a determination

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<sup>4</sup> The PHA's or Project Owner's agents, consultants, contractors, and other RAD team members may also have fair housing and other civil rights obligations (whether under this Notice or otherwise) and the forgoing does not, in any way, limit the independent obligation of any such parties to ensure their own compliance with applicable fair housing and other civil rights laws.

that the project is in compliance with applicable fair housing, civil rights, and relocation requirements.

HUD's approval of a front-end review submission is based on limited information and is intended to assist the PHA or Project Owner in meeting their fair housing, civil rights, and relocation obligations.<sup>5</sup> The PHA is responsible for ensuring that its RAD conversion is consistent with its certification to affirmatively further fair housing and complies with applicable civil rights laws.<sup>6</sup> The front-end reviews described in this Notice shall not be construed to limit other fair housing and civil rights investigations that HUD may conduct. HUD retains all compliance and enforcement authority.

HUD's determination that the PHA or Project Owner has failed to meet submission, certification, or approval requirements with respect to fair housing, other civil rights, or relocation requirements is grounds for terminating a Commitment to enter into a Housing Assistance Payments Contract (CHAP), denying the issuance of a RAD Conversion Commitment (RCC), or denying authority to convert under RAD.

### **1.3. Applicability**

The content of this Notice should not be relied upon in carrying out any other activities funded under any other HUD program, except where specifically directed by HUD.

This Notice supplements the RAD Notice with respect to fair housing and civil rights requirements applicable to public housing properties converting under RAD and with respect to all matters related to the relocation of residents as a result of RAD public housing conversions. To the extent that there is a conflict between this Notice and the RAD Notice, this Notice shall govern. This Notice replaces and supersedes Notice H 2014-09/PIH 2014-17 (issued July 14, 2014).

Upon issuance, the terms of this Notice will apply to all projects that have applied for conversion of assistance under the First Component of RAD but have not yet converted. As this Notice provides guidance, clarification, and explanation regarding fair housing and civil rights requirements that are already applicable to RAD conversions, this Notice shall not affect any front-end civil rights approvals provided by HUD prior to the effective date of this Notice and otherwise shall be effective with respect to front-end civil rights approvals without exception. However, with respect to relocation activities for Converting Projects under the First Component where a PHA has already submitted a Financing Plan pursuant to the RAD Notice at the time of issuance of this Notice, and provided that the Financing Plan has been accepted for full review after initial screening for completeness, the PHA may, within sixty (60) days after issuance of this Notice, request (in writing uploaded to the RAD Resource Desk) to be governed by H 2014-

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<sup>5</sup> For example, the front-end review is specific to an individual site. A PHA that does not promote fair housing choice outside areas of minority concentration and continues to site affordable housing in minority concentrated areas may be in noncompliance with the duty to affirmatively further fair housing and other fair housing and civil rights obligations, even if the specific site is approved based on the information provided and pursuant to the front-end review of the PHA's site and neighborhood standards submission.

<sup>6</sup> See 24 C.F.R. § 5.105 and, as applicable, 24 C.F.R. § 983.57(b)(2) or Appendix III of the RAD Notice.

09/PIH 2014-17. For such projects and where otherwise appropriate in cases of hardship as determined by HUD, HUD may apply the terms of H 2014-09/PIH 2014-17 with respect to relocation activities, but not with respect to fair housing and civil rights requirements.

RAD projects which have been awarded Choice Neighborhoods Implementation (CNI) grants are subject to the provisions of the applicable Choice Neighborhoods Notice of Funding Availability (NOFA) and grant agreement regarding site and neighborhood standards and are not subject to the RAD front-end civil rights transaction reviews described in this Notice. For properties being redeveloped with funding under a CNI grant, the relocation requirements set forth in this Notice are superseded by guidance regarding relocation included in the CNI NOFA. Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a Choice Neighborhood project's conversion of assistance.

#### **1.4. Explanation of Major Provisions**

This Notice adds to and revises pre-existing guidance related to fair housing, civil rights, and relocation (as contained in the RAD Notice and H 2014-09/PIH 2014-17) with respect to RAD transactions. Among the key provisions and changes are the following:

##### Fair Housing & Civil Rights

- Reaffirms the applicability of fair housing and civil rights requirements to all RAD-related activities (see, e.g., Section 3.3 and Section 4);
- Reiterates when HUD front-end civil rights review (originally outlined in the RAD Notice) is required in addition to the PHA's analysis and certification of compliance, to assist the PHA and Project Owner to comply with fair housing and civil rights requirements (see Section 5.3);
- Outlines certain conditions under which HUD will conduct a front-end review to determine whether the site is in an area of minority concentration relative to the site's housing market area (see Section 5.4(A));
- Provides guidance, for purposes of the RAD front-end civil rights review, on the concepts of "area of minority concentration" and "housing market area" that are reviewed when determining whether a site is in an area of minority concentration (see Section 5.4(B));
- Elaborates on specific information that HUD will consider, and that PHAs should provide evidence of, in order for a proposed site to meet the existing exceptions to permit new construction in an area of minority concentration, identifies presumptions for meeting the sufficient comparable opportunities exception and describes factors that HUD may consider in evaluating the overriding housing needs exception (see Section 5.4(C) and Section 5.4(D));
- Articulates issues that HUD will consider in completing the front-end civil rights review for transfers of assistance, including, for example, accessibility and minority concentration (see Section 5.5);
- Outlines the information to be submitted for HUD's front-end civil rights review of transactions where unit reductions, unit reconfigurations, or changes in occupancy are proposed (see Section 5.6);
- Identifies the situations where front-end civil rights reviews are required when changes in the accessibility features of a site are made (see Section 5.7(B)); and

- Prohibits the Project Owner of a Converted Project with a PBRA HAP contract from initiating any new leasing or marketing activities (other than leasing and outreach to households holding a right to return to the Covered Project), including the solicitation, distribution or acceptance of applications or development of a waiting list, until HUD has approved the Affirmative Fair Housing Marketing Plan (“AFHMP”) (see Section 5.8).

### Relocation

- Requires PHAs or Project Owners to prepare a written relocation plan for all transactions that involve permanent relocation or temporary relocation anticipated to exceed 12 months (see Section 6.1);
- Requires PHAs to provide residents with a RAD Information Notice (RIN) in order to ensure that residents are informed of potential project plans and of their rights in connection with RAD prior to submission of the RAD application (see Section 6.6(A));
- Clarifies that the General Information Notice (GIN), when applicable, should be provided as soon as feasible and no later than 30 days following the issuance of the CHAP (see Section 6.6(B));
- Requires Project Owners to provide a notification of Return to the Covered Project, when applicable (see Section 6.6(F));
- Moves the date before which PHAs are prohibited from beginning any physical relocation earlier in the conversion process (specifically, from the date of Closing to the later of the effective date of the RCC and the expiration of the 30- or 90-day RAD Notice of Relocation period, as applicable) (see Section 6.8);
- Clarifies the specific requirements applicable to different types of relocation (e.g., moves within a property, temporary relocation of less than 12 months, etc.) (see, e.g., Section 6.4);
- Provides enhanced guidance on the right to return requirements, any offers of alternative housing options and the documentation that must be retained when tenants choose an alternative housing option and decline their right to return (see, e.g., Section 6.2 and Section 6.10);
- Describes how HUD has administratively implemented URA requirements and URA relocation assistance and payments for displaced persons, when applicable, to residents who choose to decline the right of return and, instead, choose voluntary permanent relocation (see, e.g., Section 6.4(C) through (F) and Section 6.10);
- Requires PHAs to maintain detailed data regarding each household that will be relocated, with key dates of notices and moves (see Section 6.9); and
- Identifies key fair housing and civil rights requirements applicable during relocation (see, e.g., Section 4).

## **1.5. Request for Public Comment**

HUD acknowledges the complexity of the issues addressed in this Notice. This Notice is effective immediately upon issuance, but HUD also seeks comment from the public regarding the clarity and organization of the Notice and regarding areas where the policies and procedures described are unclear or ambiguous. HUD will consider whether changes in response to comments are justified and will implement any appropriate changes in a revision of this Notice. Please submit all comments to [RAD@hud.gov](mailto:RAD@hud.gov) within 30 days of the issuance of this Notice.

## **1.6. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act (PRA), HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. OMB approved information collection forms will be posted on the RAD website and the Federal Register.

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## **SECTION 3. Background**

### **3.1. RAD Authority**

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, enacted November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, enacted January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, enacted December 6, 2014), and the Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2016), collectively and as it may be further amended from time to time, the “RAD Statute.” RAD allows certain eligible properties to convert assistance to long-term project-based Section 8 contracts and has two separate components. The First Component allows projects funded under the public housing program to convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, public housing agencies (PHAs) may choose between two different Section 8 housing assistance programs: project based vouchers (PBVs) or project-based rental assistance (PBRA). The “Second Component” of RAD allows owners of projects funded under the Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Moderate Rehabilitation programs to convert certain units to PBV or PBRA Section 8 units following certain contract expirations or terminations. The RAD Statute is implemented by the RAD Notice.

### **3.2. Definitions**

All capitalized terms defined in the RAD Notice, as amended, shall have the definitions ascribed to them therein unless otherwise specifically noted in this Notice.<sup>7</sup> Pre-conversion projects whose assistance is converting from public housing to Section 8 under RAD are referred to in the RAD Notice and in this Notice as “Converting Projects.” Post-conversion projects are referred to in the RAD Notice and this Notice as “Covered Projects.”

### **3.3. Applicable Legal Authorities**

Appendix I to this Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. Part 2 of Appendix I provides greater detail regarding federal accessibility requirements set forth in three of the legal authorities described in Appendix I,

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<sup>7</sup> Many of the fair housing and civil rights concepts used throughout this Notice are terms of art that are defined in applicable statutes and regulations identified in Appendix I of this Notice, while others have been developed through judicial interpretation. PHAs and Project Owners should familiarize themselves with these terms of art and should consult 42 U.S.C. § 3602 (Fair Housing Act); 24 C.F.R. §§ 5.152-100.20 (Fair Housing Act); 42 U.S.C. §§ 2000d-2000d-4a (Title VI of the Civil Rights Act of 1964); 24 C.F.R. § 1.2 (Title VI); 29 U.S.C. § 705 (Rehabilitation Act); 24 C.F.R. § 8.3 (Section 504); 42 U.S.C. §§ 12102, 12132, 12181 (Americans with Disabilities Act (ADA)); 28 C.F.R. § 35.104 (Title II of the ADA); and 28 C.F.R. § 36.104 (Title III of the ADA). In addition, many of the relocation concepts are terms of art that are defined in 42 U.S.C. § 4601 *et seq.* (Uniform Relocation Act (URA)), Section 104(d) of the Housing and Community Development Act of 1974 codified at 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.



Part 1. PHAs and Project Owners must be familiar with these legal authorities and must evaluate, based on the facts of their situation, which legal authorities are applicable in which situations. **Failure to comply with any legal authority as applicable to the PHA's or Project Owner's actions or inactions may result in liability under such authority.** Appendix I does not attempt to provide a complete and exhaustive explanation of the legal authorities, nor to fully inventory the situations in which each legal authority is applicable. Instead, Appendix I is an overview intended to serve as a general introduction or reminder for PHAs and Project Owners of these fair housing, other civil rights, and relocation authorities and to facilitate their identification of appropriate topics for further research or expert counsel. The recitation of these legal authorities neither expands nor diminishes their applicability to the PHA's and Project Owner's activities in connection with their RAD conversion.

The RAD Statute authorizes the Secretary of HUD to waive or specify alternative requirements for certain provisions of law, except for requirements related to, among others, fair housing and nondiscrimination.<sup>8</sup> In addition to the general application of various federal statutes and their implementing regulations as discussed in Appendix I, below, HUD regulations at 24 C.F.R. § 5.105 apply such authorities to all HUD programs, including RAD.

### **3.4. Further Information**

Because each RAD proposal varies in its scope, this Notice may not address each PHA's or Project Owner's specific circumstances. PHAs and Project Owners should carefully review the laws, regulations, notices, and guidance material referenced in this Notice. Any questions related to the administration of the RAD program should be referred to the appropriate RAD Transaction Manager (TM) or may be emailed to [rad@hud.gov](mailto:rad@hud.gov).

## **SECTION 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant Throughout the RAD Conversion Process**

This Section provides a summary overview of key principles regarding program implementation and an overview of generally applicable fair housing and civil rights requirements. Appendix I identifies the key legal authorities from which these principles are derived. These key principals, together and with the legal authorities identified in Appendix I, frame the PHA's efforts to implement a RAD conversion. In some cases, these requirements are particularly relevant to the process of planning the RAD conversion, while in others they have particular relevance for the structure of the RAD transaction itself, and in yet other cases, both. Elements of RAD transactions that have civil rights implications include, but are not limited to, transfers of assistance, temporary and permanent relocation, demolition, site selection, new construction, occupancy policies, changes in unit configuration, increases or reductions in units, waiting list administration policies, policies regarding return of temporarily relocated tenants, substantial rehabilitation or alteration, program accessibility, tenant selection policies and priority transfers, providing information to and communicating with persons with Limited English Proficiency (LEP) and persons with disabilities, reasonable accommodation policies, and Affirmative Fair

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<sup>8</sup> See Pub. L. No. 112-55, as amended.

Housing Marketing Plans (AFHMPs). All PHAs must consider civil rights when structuring these and other elements of their RAD transaction.

RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally.<sup>9</sup> Converting Projects are subject to civil rights and equal opportunity requirements under the public housing regulations, and Covered Projects are subject to civil rights and equal opportunity requirements under the PBV regulations or the PBRA regulations, as applicable.<sup>10</sup> As described further below, the Fair Housing Act prohibits discrimination in housing<sup>11</sup> and requires all federal executive departments and agencies to “administer their programs and activities relating to housing and urban development ... in a manner affirmatively to further” fair housing.<sup>12</sup> In addition, all programs or activities receiving Federal financial assistance are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color, and national origin<sup>13</sup> and Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that programs or activities receiving Federal financial assistance make such programs or activities “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities.<sup>14</sup> RAD transactions are also subject, as applicable, to the requirements of Titles II and III of the Americans with Disabilities Act, Executive Order 11063, and HUD regulations at 24 C.F.R. part 107. Thus, as with the administration of all HUD programs and all HUD-assisted activities, fair housing and civil rights issues must be considered in the administration of the RAD program. PHAs must not implement actions and policies that may have a discriminatory effect on the basis of race, color, sex, national origin, religion, disability, or familial status or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing.<sup>15</sup> Note, in particular, the following requirements:

- **Affirmatively Furthering Fair Housing (AFFH):** The Fair Housing Act requires that HUD administer its programs and activities in a manner that affirmatively furthers the purposes of the Fair Housing Act. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD’s recipients, including PHAs, to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination. Through various statutes, regulations, and executive orders, PHAs must take various actions in accordance and in conjunction with their Fair Housing Act obligation to affirmatively further fair housing. For example, under regulations implementing the United States Housing Act of 1937 (the Act), HUD recipients must, among other requirements, certify that they will affirmatively further fair housing. In addition, under HUD’s Affirmatively Furthering Fair Housing (AFFH) rule promulgated July 16, 2015, PHAs must periodically conduct an Assessment

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<sup>9</sup> See 24 C.F.R. § 5.105.

<sup>10</sup> See, e.g., 24 C.F.R. §§ 880.601, 881.601 and 983.8 for civil rights related regulations applicable to PBV and PBRA transactions.

<sup>11</sup> See 42 U.S.C. §§ 3601 *et seq.*, and HUD regulations in 24 C.F.R. part 100

<sup>12</sup> 42 U.S.C. § 3608(d) and (e).

<sup>13</sup> See 42 U.S.C. §§ 2000d *et seq.*, and HUD regulations in 24 C.F.R. part 1.

<sup>14</sup> See 29 U.S.C. §§ 701 *et seq.*, and HUD regulations in 24 C.F.R. part 8.

<sup>15</sup> See 24 C.F.R. part 1 and part 100 subpart G.

of Fair Housing (AFH) as set out by the rule, either individually or in collaboration with other program participants.<sup>16</sup> Under the AFFH rule, in order to develop a successful affirmatively furthering fair housing strategy, the PHA must assess the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. PHAs must ensure that their activities in connection with a RAD conversion are consistent with their AFH, including any applicable joint or regional AFH in which they are a joint participant, and with any applicable Analysis of Impediments to Fair Housing Choice (AI), Fair Housing Equity Assessment, PHA 5-Year Plan, PHA Annual Plan, Moving to Work (MTW) Plan, or related planning documents and other regulatory and programmatic requirements implementing the obligation to affirmatively further fair housing to which they are a party.<sup>17</sup>

- Nondiscriminatory Site Selection:** HUD’s site and neighborhood standards require that the proposed site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provision of Title VI of the Civil Rights Act, the Fair Housing Act, Executive Order 11063, and Department regulations implementing these authorities. The site must meet the Section 504 site selection requirements in 24 C.F.R. § 8.4(b)(5). Additional provisions appear in 24 C.F.R. § 983.57(b) of the PBV rules and, for PBRA, in Appendix III of the RAD Notice. HUD’s Title VI regulation specifically prohibits site selection that has the “purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination” on the basis of race, color, or national origin.<sup>18</sup> The Title VI regulations also impose an obligation on the part of an applicant or recipient of HUD financial assistance to take actions to overcome the effect of prior discrimination or conditions that limit participation by persons of a particular race, color, or national origin.<sup>19</sup> In addition, HUD’s Section 504 regulation prohibits recipients from selecting sites the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefit of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>20</sup> ADA regulations likewise prohibit site selections that have the purpose or effect of excluding individuals with disabilities (including members of the public with disabilities), denying them benefits, or subjecting them to discrimination.<sup>21</sup> Finally, the Fair Housing Act prohibits discriminatory site selection, including perpetuation of segregation in transfers of assistance and new construction.
- Meaningful Access for Persons with Limited English Proficiency (LEP):** The PHA or Project Owner is required to take reasonable steps to ensure (a) they provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English; (b) any person with LEP who will be temporarily relocated or

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<sup>16</sup> 24 C.F.R. § 5.150 *et seq.*

<sup>17</sup> See 24 C.F.R. § 5.150 *et seq.* and 24 C.F.R. §§ 91.225, 91.325, or 91.425.

<sup>18</sup> See 24 C.F.R. § 1.4(b)(3).

<sup>19</sup> See 24 C.F.R. § 1.4(b)(6).

<sup>20</sup> See 24 C.F.R. § 8.4(b)(5).

<sup>21</sup> See 28 C.F.R. § 35.130(b)(4); 28 C.F.R. § 36.301.

permanently displaced has meaningful access to any public meetings regarding the project; and (c) they provide meaningful access to LEP persons to any information provided to residents including, but not limited to, any relocation notices. Generally, the PHA or Project Owner will be responsible for providing oral interpreters at meetings, including ensuring their competence, and covering any associated translation and interpretation costs.<sup>22</sup>

- **Effective Communication for Persons with Disabilities:** Communications and materials must be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (24 C.F.R. § 8.6) and with 49 C.F.R. § 24.5, and as applicable, the Americans with Disabilities Act. This includes ensuring that, unless such actions would result in undue financial and administrative burdens or fundamental alterations, notices and resident meetings are provided in appropriate alternative formats as needed, e.g., Braille, audio, large type, accessible electronic communications, assistive listening devices, and sign language interpreters. Even in cases where the proposed actions may result in undue financial and administrative burdens or fundamental alterations, certain actions must still be taken. Specifically, appropriate auxiliary aids and services that would not result in such undue burdens or fundamental alterations must still be provided to ensure effective communication.
- **Accessible Meeting Facilities for Persons with Disabilities:** Pursuant to regulations implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as applicable, all programs and activities must be held in accessible locations unless doing so would result in an undue financial and administrative burden on the PHA and/or Project Owner, in which case the PHA or Project Owner must take any action that would not result in such undue burden but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity, e.g., briefings at an alternate accessible site or in-home briefing.<sup>23</sup> Individuals with disabilities must receive services in the most integrated setting appropriate to their needs. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible.<sup>24</sup>

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<sup>22</sup> For more information about LEP obligations, see HUD's Limited English Proficiency (LEP) Frequently Asked Questions guidance at

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq#q26](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q26).

<sup>23</sup> In selecting locations for consultation with residents, the PHA and/or Project Owner shall be guided by the goal of maximizing participation in an integrated setting so that residents with disabilities and residents without disabilities may hear and consider each other's views. Priority shall be given to using on-site accessible locations (including, e.g., TV rooms or informal gathering places), even if doing so may require multiple sessions with smaller groups of residents. In addition, Title III of the Americans with Disabilities Act requires private entities that operate places of public accommodation, including social service establishments, leasing offices of private housing developments, and certain private housing providers, to comply with certain physical accessibility requirements which are similar to the requirements under Section 504 and Title II.

<sup>24</sup> See 28 C.F.R. part 35, Appendix B.

- **Accessibility for Persons with Disabilities Throughout the Planning and Implementation Process:** A number of accessibility requirements, including but not limited to site selection, apply to all RAD conversions, as they do to the PHA's activities regardless of the PHA's participation in RAD.<sup>25</sup> PHAs and Project Owners should also be aware that state or local laws, regulations, and codes may contain greater accessibility requirements. This Notice provides, in Appendix I, Part 2, an overview of accessibility requirements under existing law. The information in Appendix I, Part 2 is intended to assist with the PHA's or Project Owner's compliance with accessibility requirements. PHAs and Project Owners must review Appendix I, Part 2 early-on in planning for the RAD transaction. PHAs and Project Owners may determine that it is most efficient to address accessibility matters early in the project planning. In addition, PHAs and Project Owners must evaluate, throughout the transaction and based on the facts of their situation, which requirements are applicable in which situations to ensure they appropriately address accessibility requirements. PHAs and Project Owners are responsible for ensuring that the architectural drawings and construction comply with the PHA's and Project Owner's obligations and all Federal civil rights requirements, including accessibility requirements under the Fair Housing Act, Section 504, and the ADA.

Accessibility requirements also apply during all stages of a RAD transaction, including during relocation. Existing information (e.g., resident characteristics forms, including identification of the need for accessible unit features; records of approved reasonable accommodations; and records of the presence of accessible unit features) and the residents themselves should be consulted throughout the process of developing and implementing a RAD conversion. Related activities include, but are not limited to:

- Identifying and maintaining existing and pending reasonable accommodations, including the need for larger units to accommodate live-in aides or special equipment;
- Determining what direct services may be needed as a reasonable accommodation (e.g., packing, moving, identification of temporary housing);
- Identifying accessible unit features and assuring that temporary or permanent replacement housing contains comparable features;
- Budgeting appropriately to ensure that reasonable accommodations are addressed.

For more information about compliance with accessibility requirements, the PHA or Project Owner should refer to appropriate notices concerning civil rights requirements and may contact HUD's Office of Fair Housing and Equal Opportunity in either the Washington, D.C. or applicable field offices for more specific guidance. For additional, non-exhaustive guidance on providing relocation assistance to persons with disabilities, see Exhibit 3-1 in HUD Handbook 1378.

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<sup>25</sup> For more detailed information on these laws and their requirements, see PIH Notice 2010-26, issued July 26, 2010 (available at <http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>). While this notice has an expiration date in 2011, because the notice summarizes and discusses regulatory requirements, the information in the notice provides helpful guidance.

- Reasonable Accommodations in Rules, Policies, Practices and Services:** Under the Fair Housing Act, the PHA or Project Owner must make reasonable accommodations in rules, policies, practices, and services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.<sup>26</sup> Under Section 504, the PHA or Project Owner must also make reasonable accommodations to residents with disabilities, which may include providing and paying for structural modifications to dwelling units and public or common use areas. Titles II and III of the ADA provide similar requirements. Common examples of reasonable accommodations that may occur during relocation are permitting an individual with a disability to relocate near public transportation, providing a unit larger than otherwise permitted for a live-in aide, and making exceptions to no-animal rules for assistance and service animals. Accommodations generally need not be made where providing such an accommodation would be an undue financial and administrative burden or a fundamental alteration of the nature of the service. However, reasonable accommodations must be made to the extent the accommodation does not impose an undue financial and administrative burden or a fundamental alteration of the nature of the service. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. Furthermore, PHAs and Project Owners may be required to provide particular reasonable accommodations during relocation, such as assistance moving household items.<sup>27</sup>
- Physical Changes to Dwelling Units, Public and Common Use Areas and Other Facilities for Accessibility:** Under the Fair Housing Act, the PHA or Project Owner may be required to permit reasonable modifications. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. When relocating an individual with a disability who has such modifications in their dwelling unit or public and common use areas because of the individual's disability, regardless of who made them, the PHA or Project Owner has an obligation to provide and pay for such modification in the new dwelling. When considering requests by individuals with disabilities for structural changes to units or public and common use areas, PHAs and Project Owners should take particular note that they may be required to make and pay for such structural modifications as reasonable

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<sup>26</sup> For additional information regarding reasonable accommodations under the Fair Housing Act, *see* the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004), at <http://www.hud.gov/offices/fheo/library/hud DOJstatement.pdf>.

<sup>27</sup> *See* 49 C.F.R. part 24, Appendix A, § 24.2(a)(8)(vii), which states that under the URA, "Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs."

accommodations under Section 504 and because of similar requirements under the ADA even though the Fair Housing Act may only require the owner to allow such changes to be made and paid for by the individual with a disability. Before determining that they are not required to make or pay for structural changes, PHAs and Project Owners are encouraged to consider carefully their obligations under each applicable statute.

## **SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions**

The generally applicable fair housing and other civil rights requirements described above, and in Appendix I, apply throughout the planning and implementation of a RAD transaction and the PHA is responsible for ensuring compliance with these requirements. As key requirements may be misunderstood, the RAD program has established specific additional procedures to assist RAD participants to ensure they comply with the applicable requirements. Specifically, the RAD Notice established a civil rights eligibility review and criteria for front-end civil rights reviews.

This Section elaborates on these requirements from the RAD Notice. The front-end review procedures described below establish procedures and criteria for the supplemental front-end review and technical assistance, criteria which are specific to the RAD program. Criteria for this supplemental front-end review are informed by, but not the same as, fair housing or civil rights rules and policies generally.

This Section is organized to loosely follow the stages of a RAD conversion transaction, beginning with RAD eligibility and continuing through site selection, transfer of assistance, unit design requirements and marketing. In addition, this Section describes the timing and procedures for submitting data and documents to HUD so that HUD may complete its front-end review. The submission procedures are also designed to serve as a tool for PHAs to identify issues of potential concern at appropriate stages of the RAD conversion and as a tool for HUD to identify potential needs for technical assistance.

### **5.1. RAD Eligibility Review**

To be eligible for RAD, the PHA must meet all eligibility requirements set forth in Section 1.3 of the RAD Notice, including the civil rights threshold requirements found at Section 1.3.G of the RAD Notice. A PHA must not have a charge, cause determination, lawsuit, or letter of findings, referenced in Section 1.3.G of the RAD Notice, against the PHA itself, its transferees, proposed development partners, or sub-recipients that has not been resolved, or is not in the process of being resolved, to HUD's satisfaction. This determination shall be made prior to issuance of the CHAP.

The CHAP may be revoked by HUD if HUD determines that the terms of the conversion would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement. HUD may terminate a CHAP or RCC if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or is inconsistent with, would hinder, or would delay satisfaction of a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.



HUD may terminate an approval to proceed with a RAD conversion if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

## **5.2. PHA's Proposed Site Selection and Certification**

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2).<sup>28</sup> Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.<sup>29</sup> PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

It is the PHA's responsibility to ensure that the site selection complies with all applicable site selection requirements, including the requirements of this Notice and the RAD Notice. Pursuant to the RAD Notice, the PHA must certify with the submission of its Annual Plan, Significant Amendment to its Annual Plan, or MTW Plan that it complies with the applicable site selection requirements and must maintain records of its analysis and the data relied upon in making its determination of compliance. The PHA must also determine and subsequently state in the certification that the site is "suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto."<sup>30</sup> Although this Notice provides detail regarding certain civil rights-related site and neighborhood standards, PHAs must certify compliance with all applicable site and neighborhood standards.<sup>31</sup>

The PHA must also certify that, in conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA. The site and neighborhood standards for PBV and PBRA require the site to be "suitable from the standpoint of facilitating and furthering full compliance with" the Fair Housing Act and require the site to meet the Section 504 site selection

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<sup>28</sup> See the provisions of Section 1.6.A.4 of the RAD Notice.

<sup>29</sup> 42 U.S.C. § 1437f(bb).

<sup>30</sup> For RAD conversions to PBRA, the RAD Notice uses the term "the site and neighborhood is suitable," rather than "the site is suitable." See Appendix III of the RAD Notice, paragraph (a).

<sup>31</sup> See 24 C.F.R. § 983.57 and the RAD Notice at Section 1.4(A)(7)



requirements described in 24 C.F.R. § 8.4(b)(5).<sup>32</sup> The Fair Housing Act, as implemented at 24 C.F.R. § 100.205, requires “covered multifamily dwellings” built for first occupancy after March 13, 1991, to contain accessible design features. HUD’s Section 504 regulations at 24 C.F.R. § 8.4(b)(5) require that, in determining the site or location of a federally assisted facility, an applicant for assistance or recipient may not make selections the purpose or effect of which would: (i) exclude qualified individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from HUD, or (ii) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities. Title II of the ADA contains a similar requirement that a public entity, such as the PHA, may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.<sup>33</sup> Factors relevant to a site review under these standards may include, among others:

- Site features, such as inaccessible slopes in routes, lack of accessible sidewalks, curb ramps, accessible parking spaces, and placement of dumpsters or other physical features that would impede access to and movement within the site;
- Building features, such as inaccessible building entrances, other methods of ingress and egress, public and common use areas (e.g., the rental office, parking areas, mail areas, trash areas, community rooms, shared use toilet rooms, laundry facilities and walkways inside and outside that connect these public and common use areas to units), and barriers to access by members of the public; and
- Lack of accessible transit or para-transit and accessible public sidewalks and accessible transportation stops.

When such conditions are present at the site and would exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination, or would defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to individuals with disabilities, the site must not be selected unless the proposal includes remediation of the barriers to achieve compliance with accessibility requirements (including identification and remediation of any nonconforming design and construction conditions in “covered multifamily dwellings” under the Fair Housing Act). Remediation of the barriers may include, for example, physical accessibility improvements to the site, arrangements for access to accessible supportive services, or reasonable accommodations for current or prospective residents with disabilities, including members of the public. The Financing Plan submitted to HUD must describe and document resources sufficient to pay for the remediation of accessibility barriers.<sup>34</sup>

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<sup>32</sup> See 24 C.F.R. § 983.57(b)(2) (PBV conversions); *see also*, Appendix III (a) of the RAD Notice (PBRA conversions).

<sup>33</sup> See 28 C.F.R. § 35.130(b)(4).

<sup>34</sup> In conducting its review prior to certification, and in preparing for the certification, PHAs and Project Owners may find it useful to consult with their local or regional FHEO office, the United States Access Board, local or state

While all PHAs must certify their compliance with applicable site selection requirements as described in this Section, some RAD transactions will also be subject to a front-end review of the site selection. For transactions involving activities that present site selection issues of greater complexity, as described in Sections 5.3 through 5.5 below, front-end review will allow HUD's Office of Fair Housing and Equal Opportunity (FHEO) to assist the PHA to consider relevant laws and regulations while completing its site selection review and certification.

### **5.3. RAD Front-End Civil Rights Transaction Review**

Fair Housing Act and other civil rights issues may arise throughout a RAD transaction. Under the Fair Housing Act, an assessment of site suitability includes an analysis of the impact that the siting of the project would have on patterns of segregation for protected classes. The Fair Housing Act is of particular importance when a RAD proposal concerns site selection for new construction or reconfiguration of housing on the original public housing site – for example, the unit size distribution (e.g., conversion of larger bedroom size units to one-bedroom units, which may have an adverse impact on housing opportunities for families with children) or a reduction in the number or distribution of accessible units (which may have an adverse impact on housing opportunities for persons with disabilities). RAD conversions involving new construction must also comply with the Fair Housing Act's accessibility requirements.

Compliance with all applicable fair housing and civil rights requirements is the responsibility of both the PHA and the Project Owner. However, to assist with compliance, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will conduct a front-end civil rights review of project proposals containing activities identified as particularly at risk of violating applicable fair housing and civil rights laws. The activities that must be submitted for front-end civil rights review are listed in Section 5.3(A), below.

#### *A) Activities Subject to Front-End Civil Rights Review*

All RAD conversions that include one or more of the activities listed below (Sections 5.3(A)(1) through 5.3(A)(9)) are subject to a front-end review for compliance with certain civil rights and fair housing requirements. The specific items that HUD will review in the front-end review will depend on which activities are involved in the specific transaction. A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion:

- (1) Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration. Front-end review of this activity shall be pursuant to Section 5.4(B), below and, in addition, the PHA shall

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architectural access board or other accessibility authority for information on accessibility standards. Other sources of information on accessibility requirements may include protection and advocacy organizations or independent living centers. In addition, the non-HUD resources may provide advice on how to assess accessibility needs and formulate physical accessibility strategies.

certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.

- (2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.
- (3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.
- (4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.
- (5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.
- (6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).
- (7) Conversions of assistance involving new construction or substantial alteration,<sup>35</sup> as those terms are defined in Section 504 of the Rehabilitation Act of 1973. Front-end review of this activity shall be pursuant to Section 5.7(B).
- (8) Conversions of assistance involving a Converting Project subject to a Voluntary Compliance Agreement or Conciliation Agreement with HUD or a Consent Decree or Settlement Agreement with the U.S. Department of Justice or HUD, or where the PHA is subject to such an agreement affecting its entire housing portfolio or otherwise related to the Converting Project. Front-end review of this activity shall be pursuant to Section 5.7(C).

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<sup>35</sup> Section 504 defines substantial alteration of a housing project as alterations where a housing project has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility. *See* 24 C.F.R. § 8.23 (a).

- (9) Conversions of assistance where HUD has identified potential fair housing and civil rights concerns or a history of such concerns. Front-end review of this activity shall be pursuant to Section 5.7(C).

PHAs should note that a proposed RAD conversion may trigger front-end review regarding more than one of the activities listed in subsections (1) through (9) of this Section. For example, depending on the details of the proposal, a new construction on-site project could require review under subsections (1), (3), (4), (5), (6), and (7), or could require review under only subsections (1) and (7).

As part of HUD's review of these elements of the RAD conversion plans, HUD may require that PHAs that are carrying out portfolio or multi-phased conversions provide information on their conversion plans for other projects or subsequent phases to ensure that the overall plans for RAD conversion are consistent with civil rights and fair housing.

*B) Fair Housing, Civil Rights, and Relocation Checklist*

In connection with HUD's front-end fair housing and civil rights and relocation reviews described in this Section 5 and in Section 6, HUD is requiring submission of a Fair Housing, Civil Rights, and Relocation Checklist (the "Checklist"). The Checklist will facilitate the PHAs' and Project Owners' submission of necessary information to complete these reviews.<sup>36</sup> HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

The Checklist will outline the minimum information or documentation which HUD will need in order to review each part of the Checklist. After HUD's initial review of any portion of the Checklist, HUD may determine that the data provided in the Checklist is insufficient for HUD to complete its review, in which case HUD may require the PHA or Project Owner to provide supplemental information. The PHA should submit each part as early as possible once the information covered in the applicable part is known. All information specified in the applicable

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<sup>36</sup> The Checklist is available at [www.hud.gov/rad](http://www.hud.gov/rad). As of the publication of this Notice, references to the Checklist refer to the existing FHEO Accessibility and Relocation Plan Checklist under OMB Approval 2577-0276. The PHA shall use the existing Checklist to provide information related to demonstrating compliance with fair housing, other civil rights, and relocation requirements (including accessibility requirements) and, as necessary, may require additional materials for HUD to complete its review, which the PHA may provide in such form as the PHA determines appropriate. Also at [www.hud.gov/rad](http://www.hud.gov/rad), HUD has provided a listing of information that, depending on the circumstances, HUD may require to complete different components of its front-end review. The Checklist is being revised to fully capture the submission requirements described in this Notice. The revised Checklist will be subject to Paperwork Reduction Act approval and will be posted at the website listed above when available for use.

part of the Checklist must be submitted to HUD for HUD to begin its civil rights review – partial submissions of any applicable part of the Checklist will not be accepted.<sup>37</sup>

*C) Timing of Front-End Review Submissions*

PHAs and Project Owners are encouraged to submit applicable portions of the Checklist and information associated with a particular activity subject to front-end review as early as possible in the development of their plans. The PHA must ensure that HUD has approved all applicable parts of the Checklist prior to submission of the Financing Plan. Upon request from the PHA, HUD may, at HUD's sole discretion, permit submission of the Financing Plan prior to receipt of approval of the applicable parts of the Checklist and conditioned upon subsequent receipt of such approvals, in which event the PHA and Project Owner may proceed at their own risk.

Early approval of the site of the Covered Project is critical for RAD transaction proposals subject to front-end civil rights review involving site selection standards, specifically new construction in areas of minority concentration (see Section 5.3(A)(1)) and transfers of assistance (see Section 5.3(A)(2)). The PHA must conduct its own assessment of the site during the early stages of planning its RAD transaction. The guidance in this Notice and the Checklist are tools intended to assist the PHA in conducting its own assessment of the site.

The PHA must provide HUD with the Checklist and backup information sufficient for HUD to review the site with respect to the applicable standards. The site selection information should be provided to HUD no later than ninety (90) days following the issuance of the CHAP or, if the CHAP has already been issued as of the publication of this Notice, within ninety (90) days following publication of this Notice. In the event of a change in plans for the Converting Project that would require a front-end review of the site selection standards, the PHA must provide the Checklist and backup documentation within sixty (60) days of the change in plans. PHAs are strongly encouraged to provide front-end review submissions and secure HUD approval prior to applying for LIHTCs or taking action the reversal of which (in the event of non-approval of the site) would be detrimental to the PHA or the Project Owner. PHAs are also encouraged to contact FHEO for technical assistance prior to submission of these materials.

All PHAs shall submit a certification consistent with the requirements of Section 5.2, above. This certification may be prepared specifically in connection with the Checklist or as part of the PHA Annual Plan or Significant Amendment. However, HUD will not consider a submission complete for front-end civil rights review without this certification. All RAD conversions must submit the PHA certification described in Section 5.2 no later than at the time of submission of the Financing Plan.

*D) Completion of HUD's Front-End Review*

HUD will not approve a RAD conversion if HUD determines that the conversion would operate to discriminate in violation of applicable fair housing and civil rights laws. HUD will not approve proposals that have the purpose, intent, or effect of discriminating on the basis of

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<sup>37</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

protected class (*i.e.*, race, color, national origin, religion, sex, disability, and familial status). If HUD does not approve a proposed activity based on a front-end review, then it will provide a written description of concerns or deficiencies. The PHA may resubmit the front-end review materials with a changed proposal and/or with additional information addressing HUD's concerns and any deficiencies in the proposal or the submission.

In some circumstances, a special condition to the transaction's RCC will be necessary to ensure that a RAD transaction conforms to fair housing and civil rights requirements. Special conditions to the RCC reflect the conditions necessary in order to complete the RAD conversion. For example, if there is an outstanding remedial agreement or order requiring particular development activities or operating policies to correct a violation of a fair housing or other civil rights requirement, the RCC generally will condition participation in RAD upon agreement by the PHA or the Project Owner, as applicable, to comply with the provisions of such agreements or orders after conversion.

#### **5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction**

##### *A) Conditions Triggering Review*

If the proposed project is located in an area of minority concentration, the new site may be approved only if it falls under a permitted exception and meets the other site selection requirements described in Section 5.2. Under the PBV and PBRA site and neighborhood standards, HUD may approve new construction in an area of minority concentration, consistent with the regulatory requirements cited above, only if:

- a. Sufficient, comparable housing opportunities for minority families in the income range to be served by the proposed project exist outside areas of minority concentration; or
- b. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.<sup>38</sup>

As described in the RAD Notice and in Section 5.3(A) of this Notice, above, HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. This Notice specifies that for conversions of assistance involving new construction where there are indications that the site may be located in an area of minority concentration per the criteria in subsections (i), (ii), or (iii), below (whether the construction is located on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether the site is in an area of minority concentration and, if so, whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA shall submit for HUD front-end review the PHA's findings, together with backup documentation, regarding site selection when the site meets any of the following criteria:

- i. The PHA self-identifies the area of the site as an area of minority concentration,

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<sup>38</sup> 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

- ii. The census tract of the site meets the extent of minority concentration described in Section 5.4(B)(1), below, or
- iii. An area comprised of the census tract of the site together with all adjacent census tracts, analyzed as a whole, meets the extent of minority concentration described in Section 5.4(B)(1), below.

If any of these three criteria is applicable, HUD will conduct a review to determine whether the site is in an area of minority concentration and, if applicable, whether the proposed site fits one of the exceptions permitting new construction in an area of minority concentration described in this Section 5.4. A proposed RAD transaction which does not meet one of these triggers must still be evaluated by the PHA and the PHA must certify compliance with the site selection requirements as described in Section 5.2, above.

A PHA seeking to undertake new construction must receive written approval from HUD of any site selection subject to front-end review prior to entering into any construction contract for that new construction.

#### *B) Analysis of Areas of Minority Concentration*

This Section sets forth the methodology that HUD will use in the analysis of the extent of minority concentration, the area of the site, and the housing market area for purposes of the RAD front-end civil rights review. As noted below, this analysis is fact specific and PHAs may submit documentation to inform HUD's analysis in cases where there is strong evidence that an alternative methodology would be more appropriate.

- (1) For purposes of RAD, a site is considered to be in an area of minority concentration when either (i) the percentage of persons of a particular racial or ethnic minority within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market area as a whole or (ii) the total percentage of minority persons within the area of the site is at least 20 points higher than the total percentage of minorities in the housing market area as a whole.<sup>39</sup>
- (2) For purposes of RAD, the analysis of an area of minority concentration will use census tracts to approximate the "area" of the site but the analysis may consider alternate proposed geographies instead of the census tract in instances where there is strong evidence that such geography is more appropriate. Strong evidence that an alternative geography is more appropriate includes: (i) that the site is close to the edge of the census tract, (ii) that the population of the census tract is heavily influenced by the size of the Converting Project, or (iii) that the local community

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<sup>39</sup> The percentage of minorities shall be calculated by subtracting the percentage of White Non-Hispanic persons in the relevant area from 100%. The analysis shall be based on the most recently available decennial census data found at [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1&src=pt](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&src=pt). However, if such data is more than five years old, and if either the PHA or HUD requests the use of more recent data based on such party's awareness of significant and material shifts in the demographics of the relevant area in the intervening years, the analysis shall be based on the most recent American Communities Survey data.

understanding of the immediate neighborhood dictates a different boundary. Local community understanding of the immediate neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways), among other factors.<sup>40</sup> HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

- (3) For purposes of the RAD analysis under this Section 5.4, a "housing market area" is the geographic region from which it is likely that residents of housing at the proposed site would be drawn for a given multifamily housing project. A housing market area generally corresponds to, as applicable: (i) the Metropolitan Statistical Area (MetroSA); (ii) the Micropolitan Statistical Area (MicroSA); or (iii) if the site is in neither a MetroSA nor a MicroSA, either (x) the county or statistically equivalent area, or (y) the PHA's service area, whichever is larger.<sup>41</sup> The analysis may consider a larger or smaller housing market area in instances where there is strong evidence that such housing market area is more appropriate. Strong evidence that an alternative housing market area is more appropriate may include factors such as regional employment centers and commuting patterns serving such employment centers. A PHA seeking to use an alternative housing market area must consult with HUD and establish to HUD's satisfaction that the methodology for identifying and documenting the alternative housing market area is warranted and sound.

### *C) The Sufficient Comparable Opportunities Exception*

As required by the RAD Notice and noted in Section 5.4(A), one of the exceptions under which the site and neighborhood standards permit new construction in areas of minority concentration is if sufficient, comparable housing opportunities for low-income minority families exist outside areas of minority concentration. This section clarifies HUD's procedures for assessing comparable housing opportunities and evaluating how the proposed new construction will impact the balance of housing choices within and outside areas of minority concentration. It also includes a list of the information PHAs should submit to inform HUD's assessment of relevant factors, and key considerations guiding HUD's analysis of each factor.

Under the governing PBV and PBRA requirements, units are considered comparable opportunities if they are the same household type (e.g., elderly, disabled, family, large family), tenure type (owner, renter), require approximately the same total tenant payment toward rent,

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<sup>40</sup> For further explanation, see, e.g., *King v. Harris*, 464 F.Supp.827, 839-41 (E.D.N.Y. 1979).

<sup>41</sup> Items (i) and (ii) are consistent with a Core Based Statistical Area as defined by the Office of Management and Budget. For reference, a Core Based Statistical Area consists of the county or counties or equivalent entities associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties associated with the core.



serve the same income group, are located in the same housing market area, and are in standard condition.<sup>42</sup>

It is important to note that the sufficient comparable housing opportunities exception “does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality’s population.”<sup>43</sup>

HUD will assess “the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice.”<sup>44</sup> Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

- “A significant number of assisted housing units are available outside areas of minority concentration.”<sup>45</sup> While HUD must consider all factors relevant to housing choice, 30% or more of deeply subsidized housing units for very low-income persons would be a significant number. To facilitate HUD’s consideration of this factor, a PHA should provide the number, occupancy type, and location of all comparable assisted units.<sup>46</sup>
- “There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.”<sup>47</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and location of assisted housing projects constructed or rehabilitated in the PHA’s jurisdiction in the past 10 years and the demographic characteristics of the residents of each of these projects;
- “There are racially integrated neighborhoods in the locality.”<sup>48</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and census tracts where these racially integrated neighborhoods are located. In general, HUD will consider a neighborhood racially integrated if the neighborhood does not have a high concentration of persons of a particular race or ethnicity when compared to the housing market area in which the neighborhood is located.

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<sup>42</sup> See 24 C.F.R. § 983.57(e)(3)(iv) and Appendix III of the RAD Notice, paragraph (e)(1)(A).

<sup>43</sup> 24 C.F.R. § 983.57(e)(3)(iii); see also Appendix III of the RAD Notice, paragraph (e)(1).

<sup>44</sup> 24 C.F.R. § 983.57(e)(3)(v); see also Appendix III of the RAD Notice, paragraph (e)(1)(B).

<sup>45</sup> 24 C.F.R. § 983.57(e)(3)(v)(A) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(i).

<sup>46</sup> Note that this factor is in reference to comparable assisted units that may or may not be in the PHA’s portfolio. The presumption stated at the end of this Section (i.e., that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA’s portfolio, including PBV developments using the PHA’s subsidy, are outside areas of minority concentration) is focused on units within the PHA’s portfolio.

<sup>47</sup> 24 C.F.R. § 983.57(e)(3)(v)(B) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(ii).

<sup>48</sup> 24 C.F.R. § 983.57(e)(3)(v)(C) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(iii).

- “Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.”<sup>49</sup> Such programs may include measures such as increasing payment standards in excess of 110% of FMR or the use of Small Area FMRs, including in setting exception rents, or reservation of a percentage of HCVs dedicated to support choice mobility selections or implementation of proven mobility counseling and supports for residents, provided the PHA provides sufficient evidence that it will continue such measures. To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable program(s); the entity responsible for implementing the program(s) (e.g., city, county, state government); and any information demonstrating that the program(s) has been successful or predictably will achieve success in assisting persons who wish to move to non-concentrated areas.
- “Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.”<sup>50</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable activity(s); the entity responsible for implementing the activity(s) (e.g., city, county, state government); and any information demonstrating that the activity(s) has been successful in expanding choice for minority families outside of areas of minority concentration;
- “A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs” (e.g., the Housing Choice Voucher programs).<sup>51</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the number of minority households receiving Housing Choice Vouchers; the number of minority households using HCVs in non-minority areas; and the non-minority census tracts where the HCVs are being used. While each local situation is distinct and HUD must consider all factors relevant to housing choice, 30% or more of new leases signed by minority heads of household using HCVs located in non-minority areas over a period greater than three years prior to the date of HUD’s analysis would be a significant proportion.
- “Comparable housing opportunities have been made available outside areas of minority concentration through other programs.”<sup>52</sup> To facilitate HUD’s consideration of this factor, a PHA should describe the opportunities that have been made available, the location of those opportunities, and the number of minority families that have benefitted from the program in recent years. Such programs could include choice mobility strategies, acquisition strategies to acquire and add to the PHA’s portfolio existing apartments in high opportunity areas and transfers of assistance to high opportunity areas.

HUD may consider evidence based on a reliable housing market analysis in evaluating the foregoing factors, along with other factors relevant to housing choice. In the event HUD

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<sup>49</sup> 24 C.F.R. § 983.57(e)(3)(v)(D); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(iv).

<sup>50</sup> 24 C.F.R. § 983.57(e)(3)(v)(E); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(v).

<sup>51</sup> 24 C.F.R. § 983.57(e)(3)(v)(F); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(vi).

<sup>52</sup> 24 C.F.R. § 983.57(e)(3)(v)(G) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(vii).

determines such an analysis would assist in this evaluation, HUD will consult with appropriate parties to establish or accept an appropriate methodology for such an analysis to address HUD's civil rights concerns and to ensure appropriate independence between the analyst and the PHA or Project Owner commissioning and paying for the study.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration.<sup>53</sup> The PHA's portfolio includes all public housing, PBV and PBRA hard units (including those developed under HOPE VI or Choice Neighborhoods) controlled by the PHA and its instrumentalities or funded using PHA-controlled subsidy. Upon adequate documentation of this presumption, the PHA need not provide additional documentation for HUD's front-end review of the sufficient comparable opportunities exception. This presumption may be rebutted by information to the contrary, including information regarding the preceding factors. In assessing whether sufficient comparable opportunities exist when the presumption does not apply, HUD will consider the factors listed above.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if a set of RAD conversions from a single public housing property, individually or in a combination of transactions, will result in the creation of as many similarly-affordable housing units outside areas of minority concentration as are constructed on the original public housing site. To evaluate the creation of similarly-affordable units, HUD will compare (i) the number of affordable units that will be redeveloped on site, to (ii) the number of similarly-affordable housing units that will be created through new construction, imposition of new long-term affordability restrictions or transfer of RAD assistance to one or more sites outside areas of minority concentration.<sup>54</sup> Similarly-affordable shall mean RAD units compared to RAD units and LIHTC/non-RAD units compared to LIHTC/non-RAD units. The newly created similarly-affordable units must be owned, controlled, sponsored, under common ownership, control or sponsorship, or financially supported by the PHA or by an entity with a managing ownership interest in the Project Owner. When a PHA seeks to claim this exception, HUD prefers that the transaction creating the similarly-affordable units on the site outside areas of minority concentration close (with an immediate or delayed HAP effective date, if applicable) prior to the closing of the RAD conversion in the area of minority concentration. However, if the PHA determines that such a sequence is not reasonably possible, unless otherwise approved by HUD the PHA must provide evidence to HUD that the transfer of assistance to a site outside areas of

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<sup>53</sup> When determining the percentage of units outside of areas of minority concentration, the PHA must include the number of units planned at the proposed site in its calculations. While not required, PHAs or Project Owners may assist HUD in consideration of this presumption by submitting to HUD a map produced by the Affirmatively Furthering Fair Housing Data and Mapping Tool ("AFFH-T"), as may be available on the HUD website from time to time, showing the location of publicly assisted housing.

<sup>54</sup> For example, if the PHA proposes to build 25 RAD units, 20 non-RAD LIHTC units and 15 unrestricted units on-site, such a plan could be acceptable if paired with creation of 15 RAD units at one site and 10 RAD units plus 20 non-RAD LIHTC units at a second site. The 15 unrestricted units in the minority concentrated area are not part of the analysis as they are not affordable units.

minority concentration is highly likely to occur and the PHA must contractually agree with HUD to create such units. Evidence that the transfer is highly likely to occur must include:

- The project name and property address of the site of the similarly-affordable units to be created,
- The census tract and data to confirm that it is not in an area of minority concentration,
- Evidence of site control,
- Evidence of zoning to permit construction of the similarly-affordable units if the affordable units are to be created through new construction,
- A reasonable and feasible sources and uses statement for the transaction, and
- Evidence of financing commitments exceeding 90% of the necessary sources to complete the transaction. Evidence of financing commitments must include an LIHTC allocation if the use of LIHTCs is projected.

*D) The Overriding Housing Needs Exception*

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD<sup>55</sup> outline two examples of circumstances, consistent with fair housing and other civil rights objectives, that would permit the application of the overriding housing needs exception: (1) when the site is “an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood;” or (2) when the site is “located in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”).”<sup>56</sup>

(1) Establishing that a Site is an Integral Part of an Overall Local Strategy for the Preservation or Restoration of the Immediate Neighborhood

To establish that a site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, a PHA must document that the locality has a demonstrated commitment to revitalization that includes or is in addition to the RAD conversion, as demonstrated by the following:

- i. The site is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
- ii. The Covered Project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

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<sup>55</sup> See 24 C.F.R. § 983.57(e)(2) for PBV transactions and paragraph (e) of Appendix III of the RAD Notice for PBRA transactions.

<sup>56</sup> 24 C.F.R. § 983.57(e)(3)(vi); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(viii)(2). In demonstrating an overriding housing need, the “neighborhood” is determined in each situation based on the overall facts and circumstances and cannot be mechanically determined. The “immediate neighborhood” is generally a smaller geographic area than the “neighborhood.”

In determining whether such an official, currently operational and realistically achievable plan for the improvement or revitalization of the area exists, HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been enacted, adopted, or ratified by a municipal, county, or state legislative body;
- There has been progress to implement the plan, or the strategy as a whole.<sup>57</sup>
- The plan or strategy as a whole, or the elements applicable to the Covered Project, are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are incorporated in current public, quasi-public agency or major institutional work plans;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the preservation or restoration of a geography larger than the Converting Project and any associated public housing site;
- A jurisdiction has published solicitations or incentives for development projects in the improvement or revitalization area;
- The plan is incorporated in the applicable jurisdiction's Consolidated Plan or other comprehensive community development plan;
- A jurisdiction has explicitly designated the geographic area for improvement or revitalization (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has retained a construction firm to break ground on the improvement or revitalization; and/or
- An implementing agency has secured financing, such as the issuance of bonds or final approval for tax increment financing.

(2) Establishing that the Site is Located in a “Revitalizing Area”

Evidence that the site is located in a revitalizing area experiencing significant private investment that is demonstrably improving the economic character of the area is also an example of a site which meets an overriding housing need. HUD will consider all relevant factors in making a determination that the site is located in a “revitalizing area” but in particular will consider whether:

- i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining census tract poverty rates, low or declining violent crime rates or evidence of high or increased educational opportunity, high or increasing median

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<sup>57</sup> Indicators of progress should be appropriate to the amount of time since the plan or strategy was developed and there must be a reasonable, supportable expectation that the plan will continue to be implemented. For example, if a plan was launched 3-4 years prior and the initial steps of the plan required implementation of an initiative (such as real estate development) which has a long pre-development planning period, HUD may consider whether there has been activity to seek land development approvals or to develop construction drawings or to secure funding commitments or other activities providing evidence that one or more material elements of the plan or strategy are actually being implemented.

- household income, high or increasing homeownership rates and/or high or increased employment; and
- ii. There is high private and public investment in retail, commercial, or housing development that has occurred or will imminently occur in the area which may include, among other considerations:
    - Evidence of new or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood;
    - Evidence of private and public investment or housing development that has occurred or will imminently occur in the area;
    - Evidence of economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising more sharply in the neighborhood than in the jurisdiction overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children.

### (3) Circumstances in Which an Overriding Housing Needs Exception Does Not Apply

A PHA cannot establish that a site meets the overriding housing needs exception if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.<sup>58</sup> For example, the overriding housing needs exception may not be applied if the reason that the project cannot be sited outside of an area of minority concentration is due to community opposition to the project based on the actual or perceived protected characteristics of the residents or prospective residents of the project. In addition, a recipient may not exclusively rely on this exception as a means of siting projects without creating housing opportunities outside of areas of minority concentration or without preserving existing housing outside of areas of minority concentration.

## 5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance

### A) *Applicable Standards*

Transfers of assistance are subject to the site selection standards for existing or rehabilitated housing set forth in 24 C.F.R. § 983.57(a)-(d), with the exception of 24 C.F.R. § 983.57(b)(1) and (c)(2), for PBV conversions and Appendix III of the RAD Notice for PBRA conversions. All transfers of assistance to a new site(s) are subject to front-end review by HUD, as required by the RAD Notice and noted in Section 5.3(A)(2) of this Notice. Conversions involving a transfer of assistance may also involve one or more of the other activities which trigger front-end review as described in Section 5.3(A). In transfers of assistance involving any of these activities, HUD

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<sup>58</sup> 24 C.F.R. § 983.57(e)(3)(vi) and Appendix III of the RAD Notice, paragraph (e)(2). The PBRA site and neighborhood standards use the phrase “on the basis of race, color, creed, sex or national origin.” See Appendix III of the RAD Notice.

will conduct a front-end review based on the requirements applicable to each activity. A PHA must submit documentation for the front-end civil rights review of each specific activity as required by the relevant sections of this Notice.

*B) Analysis of Transfers of Assistance*

Through the front-end review of transfers of assistance by FHEO, HUD seeks to assist the PHA in avoiding discrimination on the basis of race, color, national origin, religion, sex, disability or familial status. The front-end review of transfers of assistance will apply the site selection standards for existing/rehabilitated housing.<sup>59</sup> This review shall consider:

- (1) The accessibility of the proposed site for persons with disabilities;
- (2) The ability of the RAD conversion to remediate accessibility concerns;
- (3) Whether the transfer of assistance would result in assisted units being located in an area where the total percentage of minority persons is significantly higher than the total percentage of minority persons in the area of the original public housing site or in an area where the percentage of persons of a particular racial or ethnic minority is significantly higher than the percentage of that minority group in the area of the original public housing site.<sup>60</sup> For purposes of this analysis, HUD will examine the minority concentration of:
  - (a) the census tract of the original public housing site compared to the census tract of the proposed site; and
  - (b) an area comprised of the census tract of the original public housing site together with all adjacent census tracts compared to an area comprised of the census tract of the proposed site together with all adjacent census tracts.
- (4) Whether the site selection has the purpose or effect of:
  - (a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the RAD program or the applicable rental assistance program;
  - (b) Excluding qualified individuals with disabilities from or denying them the benefit of the RAD program or the applicable rental assistance program, or otherwise subjecting them to discrimination;
  - (c) Defeating or substantially impairing the accomplishment of the objectives of the RAD program or the applicable rental assistance program with respect to qualified individuals with disabilities; and

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<sup>59</sup> 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, paragraphs (a) through (d). The site selection standards for existing/rehabilitated housing do not apply the minority concentration test used for new construction found at 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

<sup>60</sup> While this review is not explicitly called out in 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, it is derived from HUD's and the PHA's obligations to comply with civil rights laws and regulations, including those referenced in 24 C.F.R. § 983.57(b)(2) and Appendix III of the RAD Notice.

- (d) Excluding individuals with disabilities (including members of the public with disabilities), denying them benefits or subjecting them to discrimination.

Under the RAD Notice, there are other standards for review of a transfer of assistance which are not examined as part of the front-end civil rights review but are examined as part of the RAD Financing Plan review (e.g., criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937 regarding neighborhoods with highly concentrated poverty). Identification of considerations for the front-end review do not preclude review by HUD of all standards referenced in the RAD Notice.

## **5.6. Front-End Civil Rights Review for RAD Transactions Involving Reduction in Number of Units, Changes in Bedroom Distribution of Units and Changes in Occupancy Requirements**

The RAD Notice allows PHAs to reduce the number of units, change the bedroom distribution of units, or change the occupancy of projects as part of their RAD conversion.<sup>61</sup> However, the RAD Notice also provides that such changes (including de minimis changes) must undergo a front-end civil rights review and receive approval from HUD prior to submission of the Financing Plan. The Checklist will require data for review along with an explanation, backed by sufficient evidence, of how the PHA determined that the proposed change will not result in discrimination on the basis of race, color, national origin, religion, sex, disability, familial status, actual or perceived sexual orientation, gender identity or marital status.<sup>62</sup>

### *A) Review of Reductions in the Number of Units, Reductions or Increases in the Number of UFAS Accessible Units or Changes in Bedroom Distribution*

This Section describes the considerations relevant to a front-end review of reductions in units, changes in the number of UFAS accessible units or changes in bedroom distribution. Such changes must not be the result of an intentional effort to discriminate against members of a protected class. For example, reductions or changes, including reductions in UFAS accessible units or which would impede residents with disabilities from having live-in aides, that intended to exclude persons with disabilities would be unlawful discrimination because of a disability.

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<sup>61</sup> See Sections 1.4.A.4 and 1.4.A.10 of the RAD Notice.

<sup>62</sup> Reductions in the number of units, changes in the bedroom distribution of units, or changes in occupancy violate the Fair Housing Act (the Act) if they have a discriminatory effect on the basis of race, color, national origin, religion, sex, disability, or familial status. Unlawful housing discrimination may be established by a policy's or practice's discriminatory intent or by its discriminatory effect, even if not motivated by discriminatory intent, consistent with the standards outlined in 24 C.F.R. § 100.500. A policy or practice can have an unjustified discriminatory effect, even when the provider had no intent to discriminate. Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. In addition, the policy or practice violates the Act if the housing developer or provider intentionally discriminates, including for example, by reducing the number of bedrooms with the intent of limiting families with children. Furthermore, the policy or practice may also violate the Act where it creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. In addition, any changes must conform with the Equal Access rule requirement that determinations of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the FHA shall be made in accordance with program eligibility requirements, and the housing must be made available, without regard to actual or perceived sexual orientation, gender identity or marital status. 24 C.F.R. § 5.105(a)(2).



Similarly, replacing larger units with smaller units so as to exclude families with children would be unlawful discrimination because of familial status.

Additionally, reductions in units or changes in bedroom distribution must not have an unjustified discriminatory effect on members of a protected class. For example, a reduction in units could have a discriminatory impact if it excludes members of a particular race or religion. Reductions or changes that have a disparate impact on a protected class are unlawful under the Fair Housing Act if they are not necessary to achieve a substantial, legitimate, nondiscriminatory interest of the developer or housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

The RAD Notice allows for a de minimis reduction in units at Converting Projects, which includes both a small number of units as well as the reduction of certain units that have been vacant for 24 months prior to application, that are being or will be used for social service delivery, or efficiencies that will be reconfigured to one-bedroom units.<sup>63</sup> In addition, a PHA converting multiple properties can consolidate the de minimis reductions derived from multiple properties at a small number of sites. The RAD Notice also allows for changes in bedroom distribution. Such de minimis reductions are still subject to front end civil rights review and applicable fair housing and civil rights laws.

HUD shall conduct a front-end civil rights review if the plan for a Converting Project results in:

- A reduction in the number of dwelling units in any of the following categories: (i) units with two bedrooms, (ii) units with three bedrooms or (iii) units with four or more bedrooms.
- A reduction in the number of UFAS accessible units;
- An increase in the number of UFAS accessible units for persons with mobility impairments beyond 10% of the units in the Covered Project or 1 unit, whichever is greater.
- An increase in the number of UFAS accessible units for persons with vision and hearing impairments beyond 4% of the units in the Covered Project or 1 unit, whichever is greater.

When a Converting Project is subject to a front-end civil rights review under this subsection, the PHA shall submit to HUD the relevant part of the Checklist together with a justification which must demonstrate that the changes are not the result of discriminatory intent and will not have a discriminatory effect on members of protected classes, particularly families with children and individuals with disabilities. Relevant data for this analysis of the proposed change at the project may include the PHA's overall affordable housing stock, the demand for affordable housing in the market as evidenced by information such as the overall jurisdiction and regional demographic data available from the AFFH Data and Mapping Tool (e.g., both basic demographic and disproportionate housing needs data), the PHA's waiting list or a reliable market study of households seeking assisted housing, compared to the relative proportions of

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<sup>63</sup> See Section 1.4.A.4 of the RAD Notice.

units serving any particular household type in the proposed project, the PHA's total housing stock or all assisted housing in the area.

For any increase in UFAS units subject to front-end review, HUD will assess indicators of local need (see Section 5.7(B), below) and whether the change would operate to concentrate individuals with disabilities in a particular property or to exclude individuals with certain types of disabilities from a particular property.

*B) Review of Changes in Occupancy Type*

RAD conversions that result in the implementation of an admissions preference (e.g., residency preferences or restrictions) at the Covered Project that would alter the occupancy of the property (e.g., family units converting to elderly units, elderly/disabled units converting to elderly only units) are subject to a front-end civil rights review by HUD pursuant to the RAD Notice and Section 5.3(A). A PHA must demonstrate that the proposed change in occupancy type is consistent with the demand for affordable housing in its jurisdiction as demonstrated by factors such as the demographics of its current occupancy, the demographics of its waiting list or a market study. Such preferences, restrictions, or geographic residency preferences must be reflected in a PBRA project's Affirmative Fair Housing Marketing Plan (AFHMP) or, for a PBV project, the PHA's Administrative Plan.

**5.7. Other Front-End Civil Rights Review for RAD Transactions**

*A) Conversions of Assistance in Which the Construction Schedule Indicates that Relocation is Likely to Exceed 12 Months.*

The front end civil rights review shall focus on whether the relocation will result in discrimination on the basis of race, color, national origin, religion, sex, disability, and familial status, based primarily, but not exclusively, on the data required in the Checklist.

*B) Conversions of Assistance Involving New Construction or Substantial Alteration, as those terms are defined by Section 504.*

While the PHA is responsible for compliance with all requirements described in Section 4, above and in this subsection, the front-end review will be conducted based on a review of the Checklist and shall include confirming the provision of any required accessible units and confirming the PHA is applying the appropriate accessibility standards. HUD will require the PHA to provide information regarding the provision of at least the minimum number of units accessible for persons with mobility impairments and units accessible for persons with hearing and vision impairments as required by applicable law (generally 5% of units accessible for persons with mobility impairments and an additional 2% of units accessible for persons with hearing and vision impairments). For purposes of establishing an upper threshold of accessible units below which RAD front-end review will not be required, HUD will accept that up to 10% of units accessible for persons with mobility impairments and up to 4% of units accessible for persons with hearing and vision impairments is consistent with local need, without further review, absent information to the contrary. HUD will consider a PHA's request for higher percentages based, to HUD's satisfaction, on reliable indicators of local need, such as census data or other available current data. HUD is available to assist PHAs in determining appropriate indicators of local

need for units with accessible features. The RAD conversion scope of work submitted with the Financing Plan must reflect the construction or retrofitting of residential units and public and common use areas to comply with all applicable accessibility requirements.

*C) Remedial Agreements and Orders.*

Front-end review in situations where the Converting Project or PHA is subject to enforcement actions or binding voluntary compliance agreements, settlement agreements, conciliation agreements, or consent decrees or orders of the nature described in Sections 5.3(A)(8) and 5.3(A)(9) shall be conducted on a case-by-case basis as appropriate to the specific situation.

**5.8. Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance**

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.<sup>64</sup> Affirmative Fair Housing Marketing requirements are designed to achieve a condition in which individuals of similar income levels in the same housing market area have similar housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.<sup>65</sup> They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act that HUD administer its programs and activities in a manner to affirmatively further fair housing. These requirements mandate that PHAs or Project Owners identify groups that are least likely to apply for upcoming housing opportunities and to implement special marketing and outreach activities to ensure that these groups are aware of these opportunities.

The AFHMP must be submitted to HUD with the Financing Plan. A separate AFHMP is required for each distinct PBRA HAP contract. The PHA must submit an AFHMP even if the project has an existing waiting list and is not accepting new applicants. The PHA or Project Owner should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

When submitting an AFHMP for HUD approval, the PHA or Project Owner must ensure that the occupancy designation and any residency preferences are consistent with the PHA Plan or Significant Amendment to the PHA Plan, that such designation and preferences are consistent with the Checklist submitted to HUD and that the AFHMP includes affirmative marketing

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<sup>64</sup> The most recent version of the AFHMP is HUD Form 935.2A, OMB Approval Number 2529-0013. *See* 24 C.F.R. § 880.601(a)(2) and 24 C.F.R. § 200.615; *see also* Section 10.8 of the Multifamily Accelerated Processing (MAP) Guide. The PHA or its management agent should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

<sup>65</sup> *See* 24 C.F.R. § 200.610.

activities that are consistent with its occupancy designation and the populations identified as least likely to apply. Any subsequent changes to occupancy designation or residency preferences shall be proposed, submitted and reviewed in accordance with standard PBRA requirements. If a PHA or Project Owner plans to adopt any local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4).

The Multifamily Housing Office of Asset Management and Portfolio Oversight and the Office of Fair Housing and Equal Opportunity (“FHEO”) review the AFHMP. FHEO issues HUD’s official letter of approval or disapproval. Disapproval letters will specify the reason a plan was rejected and the revisions required. The PHA or Project Owner must make the required changes and resubmit a corrected plan to HUD for approval.

The PBRA contract becomes effective on the first day of a month, following closing. Approval of the AFHMP is not a condition to closing of the RAD conversion. When the project is preparing to accept applications, it must follow its approved AFHMP to ensure that groups least likely to apply are aware of the housing opportunities. The Project Owner is responsible for ensuring that the AFHMP is in place throughout the life of any FHA mortgage or PBRA contract. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Marketing or leasing includes the solicitation, distribution or acceptance of applications or development of a waiting list.

## **SECTION 6. RELOCATION REQUIREMENTS**

In some cases, as explained in this Section, the activities associated with the RAD transaction may require the relocation of residents. In the event of acquisition, demolition, construction or rehabilitation activities performed in connection with a RAD conversion, the PHA and/or Project Owner<sup>66</sup> should plan such activities to reasonably minimize any disruption to residents’ lives, to ensure that residents are not exposed to unsafe living conditions and to comply with applicable relocation, fair housing and civil rights requirements. As discussed in Section 6.1, below, a written relocation plan is required in some circumstances and strongly encouraged for any conversion resulting in resident moves or relocation. Further, the obligations due to relocating residents under RAD are broader than URA relocation assistance and payments and RAD specifies requirements which are more protective of residents than standard URA requirements, including additional notices (see Section 6.6) and a right to return (see Section 6.2). This Notice requires that certain information be provided to all households, beginning prior to submission of the RAD application.

Any resident who moves as a direct result of acquisition, rehabilitation or demolition for an activity or series of activities associated with a RAD conversion may, depending on the circumstances and length of time of the relocation, be eligible for relocation assistance and payments under the URA. Additionally, Section 104(d) relocation and one-for-one replacement

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<sup>66</sup> Under the URA, the term “displacing agency” refers to the agency or person that carries out a program or project which will cause a resident to become a displaced person. Projects vary and, for any specific task described in this Notice, the displacing agency may be either the PHA or the Project Owner, as determined by the allocation of roles and responsibilities between the PHA and Project Owner.

housing requirements may also apply when CDBG- or HOME-funds are used in connection with a RAD conversion. The applicability of the URA or Section 104(d) to RAD conversions is fact-specific, which must be determined in accordance with the applicable URA and Section 104(d) regulations.<sup>67</sup>

Eligibility for specific protections under this Notice applies to any person residing in a Converting Project who is legally on the public housing lease, has submitted an application to be added to an existing lease, or is otherwise in lawful occupancy at the time of the issuance of the CHAP and at any time thereafter until conversion of assistance under RAD. All such residents of a Converting Project have a right to return and are eligible for relocation protections and assistance as provided by this Notice. The eligibility criteria set forth in this paragraph apply to the protections under this Notice regardless of whether residents or household members meet the statutory and regulatory requirements for eligibility under URA.<sup>68</sup>

## **6.1. Planning**

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a Converting Project, PHAs must undertake a planning process in conformance with the URA statutory and regulatory requirements in order to minimize the adverse impact of relocation (*see* 49 § C.F.R. 24.205). PHAs must also ensure that their relocation planning is conducted in compliance with applicable fair housing and civil rights requirements.

The PHA shall prepare a written relocation plan if the RAD conversion involves permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year. While a written relocation plan is not required for temporary relocation lasting one year or less, HUD strongly encourages PHAs, in consultation with any applicable Project Owners, to prepare a written relocation plan for all RAD conversions to establish their relocation process clearly and in sufficient detail to permit consistent implementation of the relocation process and accurate communication to the residents. Appendix II contains recommended elements of a relocation plan.

During the planning stages of a RAD transaction and based on the results of this planning process, a PHA must submit applicable portions of the Checklist described in Section 5.3(B) to HUD, together with any required backup documentation, as early as possible once the information covered in the applicable part is known.<sup>69</sup> All parts of the Checklist must be submitted to HUD prior to submission of the Financing Plan. The Checklist will allow HUD to assist the PHA to comply, and to evaluate the PHA's compliance, with relocation requirements, including civil rights requirements related to relocation.

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<sup>67</sup> 42 U.S.C. § 4601 *et seq.*, 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

<sup>68</sup> A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 C.F.R. 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378. See Section 6.5 of this Notice for discussion of the date of "initiation of negotiations."

<sup>69</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

The following presents a general sequencing of relocation planning activities within the RAD conversion process for informational and planning purposes only. Specific requirements are set forth in the provisions of this Notice.

Stage	Activities
1. Prior to submission of RAD application	<ul style="list-style-type: none"> <li>• Determine potential need for relocation in connection with proposed conversion plans.</li> <li>• Meet with residents to discuss proposed conversion plans, communicate right to return, and solicit feedback.</li> <li>• Provide the <i>RAD Information Notice</i> (RIN) to residents as described in Section 6.6(A) of this Notice.</li> </ul>
2. After submission of RAD application	<ul style="list-style-type: none"> <li>• Assess the need for relocation planning in connection with proposed conversion plans. Determine if technical assistance would be beneficial to ensuring compliance with relocation requirements.</li> <li>• Survey residents to inform relocation planning and relocation process.</li> <li>• Develop a relocation plan (see Appendix II for recommended content).</li> <li>• Prepare Significant Amendment to PHA Plan and engage with the Resident Advisory Board, residents and the public regarding Plan amendment.<sup>70</sup></li> </ul>
3. Following issuance of the CHAP, or earlier if warranted	<ul style="list-style-type: none"> <li>• Provide the <i>General Information Notice</i> (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.</li> </ul>
4. While preparing Financing Plan	<ul style="list-style-type: none"> <li>• Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager.</li> <li>• Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities.</li> <li>• Identify relocation housing options .</li> <li>• Budget for relocation expenses and for compliance with accessibility requirements.</li> <li>• Submit the Checklist and, where applicable, the relocation plan.</li> <li>• If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA).</li> <li>• If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as</li> </ul>

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<sup>70</sup> Alternatively, the PHA may submit a new PHA Five-Year or Annual Plan, especially if it is on schedule to do so. Under any scenario, the PHA must consult with the Resident Advisory Board and undertake the community participation process.

Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	<ul style="list-style-type: none"> <li>• Meet with residents to describe approved conversion plans and discuss required relocation.</li> <li>• The effective date of the RCC marks the date of “Initiation of Negotiations” (ION), as defined in the URA (49 § C.F.R. 24.2(a)(15)).</li> <li>• If no NOIA was provided while preparing the Financing Plan, provide residents with appropriate relocation notices as described in Section 6.6(C) through 6.6(E) of this Notice.</li> <li>• Resident relocation may begin following the effective date of the RCC, subject to applicable notice requirements.</li> </ul>
6. Post-Closing	<ul style="list-style-type: none"> <li>• Ongoing implementation of relocation</li> <li>• Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice</li> <li>• Implementation of the residents’ right to return</li> </ul>

## 6.2. Resident Right to Return

Any public housing or Section 8 assisted resident that may need to be relocated temporarily to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is complete.<sup>71</sup> Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a project’s conversion of assistance. The Project Owner satisfies the RAD right to return to a Covered Project if the Project Owner offers the resident household either: a) a unit in the Covered Project in which the household is not under-housed; or b) a unit in the Covered Project which provides the same major features as the resident’s unit in the Converting Project prior to the implementation of the RAD conversion. In the case of a transfer of assistance to a new site, residents of the Converting Project have the right to reside in an assisted unit meeting the requirements set forth in this paragraph at the Covered Project (the new site) once the Covered Project is ready for occupancy in accordance with applicable PBV or PBRA requirements.

If proposed plans for a Converting Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. Examples of project plans that may preclude a resident from returning to the Covered Project include, but are not limited to:

- Changes in bedroom distribution which decrease the size of units such that the resident would be under-housed;<sup>72</sup>

<sup>71</sup> The right to return is not a right to any specific unit in the Covered Project. Tenancies other than public housing or Section 8 assisted residents (such as commercial tenants) do not hold a right to return and are subject to standard relocation requirements applicable to such tenants under the URA.

<sup>72</sup> See the RAD Notice for a description of the procedures that must be undertaken if a resident is over-housed.

- Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible;<sup>73</sup> and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.<sup>74</sup>

If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.

If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the PHA or Project Owner may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the PHA or Project Owner seeks to have the resident exercise the right of return at a future phase, the PHA or Project Owner would need to secure the resident's consent to such plan as an alternative housing option pursuant to Section 6.10, below.

In implementing the right of return, the Project Owner shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act,

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<sup>73</sup> In these cases, a PHA may elect to exclude some units from the applicable financing program, for example, claiming LIHTC for a subset of the units and not claiming tax credits in connection with the units occupied by households over the LIHTC maximum eligibility of 60% of AMI.

<sup>74</sup> Refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act (March 5, 2008), at [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf) for additional detail regarding applicable standards for reasonable accommodations and accessibility features which must be provided. If the resident has paid for installation of accessibility features in the resident's prior unit, the PHA or Project Owner shall pay for the installation of comparable features in the new unit. Violations of law may also result in other sanctions.



Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

### **6.3. Admissions and Continued Occupancy Requirements**

Resident households may not be denied relocation housing or the right to return based on rescreening, income eligibility, or income targeting. PHAs may only offer housing options with screening, income eligibility or income targeting requirements if the impacted residents meet the admission and occupancy policies applicable to such housing. However, whether or not in a temporary relocation situation, the household remains subject to the applicable program policies regarding continued occupancy of an assisted unit by an incumbent resident of the unit.

### **6.4. Types of Moves and Relocation**

Any time project plans require a resident to move from their current unit, the resident is eligible for assistance as described in this Notice. Assistance may vary depending on the options provided to residents, whether the relocation is temporary or permanent and, if applicable, the length of time the resident is in temporary accommodations.<sup>75</sup> In all circumstances, the move or relocation must be in compliance with applicable requirements of this Notice and consistent with applicable fair housing and civil rights requirements. Each type of move is discussed below.

#### *A) Moves within the same building or complex of buildings<sup>76</sup>*

Temporary or permanent moves within the same building or complex of buildings may be appropriate given the extent of work to be completed to permit phasing of rehabilitation or construction. Moves within the same building or complex of buildings are not considered relocation under RAD and a tenant generally does not become displaced under the URA. Whether permanent (i.e., the tenant will move to and remain in an alternative unit) or temporary (i.e., the tenant will move to another unit and return to their original unit), the PHA or Project Owner must reimburse residents for all reasonable out-of-pocket expenses incurred in connection with any move and all other terms and conditions of the move(s) must be reasonable.<sup>77</sup> The final move must be to a unit which satisfies the right to return requirements specified in Section 6.2 of this Notice.

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<sup>75</sup> PHAs should note that the definitions of “permanent” vary between the URA and RAD. For example, “permanent displacement” under the URA includes moves from the original building or complex of buildings lasting more than one year. The RAD Notice, meanwhile, considers “permanent relocation” to be separation from the RAD-assisted unit upon completion of the conversion and any associated rehabilitation and construction. The duration of a temporary move may exceed one year. In the case of a transfer of assistance, it is not permanent relocation under RAD when the resident must move from the original complex of buildings to the destination site in order to retain occupancy of the RAD-assisted unit.

<sup>76</sup> An example of relocation within the same building or complex of buildings would be if one floor of a multi-story building is vacant, and the PHA is moving residents from another floor to the vacant units.

<sup>77</sup> Failure to reimburse residents for moving or other out-of-pocket expenses and any other terms and conditions of the move which may be unreasonable may result in the resident becoming a displaced person under the URA if the resident subsequently moves from the property.

*B) Temporary relocation lasting one year or less*

If a resident is required to relocate temporarily, to a unit not in the same building or complex of buildings, for a period not expected to exceed one year in connection with the RAD conversion, the resident's temporarily occupied housing must be decent, safe, and sanitary and the resident must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses include, but are not limited to, moving expenses, increased housing costs (e.g., rent and utilities), meals if the temporary housing lacks cooking facilities (e.g., during a short hotel stay, whether or not on an emergency basis) and other applicable expenses.<sup>78</sup>

*C) Temporary relocation initially expected to last one year or less, but which extends beyond one year*

In the event that a resident has been temporarily relocated, to a unit not in the same building or complex of buildings, for a period which was anticipated to last one year or less but the temporary relocation in fact exceeds one year, the resident qualifies as a "displaced person" under the URA and as a result immediately becomes eligible for all permanent relocation assistance and payments as a "displaced person" under the URA, including notice pursuant to Section 6.6(E). This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

In such event, the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate with the offered URA assistance or to choose to remain temporarily relocated based on updated information from the PHA or Project Owner about when they can return to the completed RAD unit. The PHA or Project Owner must present this opportunity to the resident when the temporary relocation extends beyond one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration. In presenting such opportunity, the PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*D) Temporary relocation anticipated to last more than one year*

When the PHA anticipates that the temporary relocation, to a unit not in the same building or complex of buildings, will last more than one year, but the resident is retaining the resident's right to return to the Covered Project, the resident is considered temporarily relocated under RAD and is eligible to receive applicable temporary relocation assistance and payments. Under the URA, the resident becomes eligible to receive applicable relocation assistance and payments as a "displaced person" when the temporary relocation period exceeds one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration, at

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<sup>78</sup> HUD Handbook 1378, Chapter 2, Section 2-7 governs activities subject to URA requirements and informs, but is not binding upon, any RAD activities not governed by the URA. PHAs may also refer to HUD Form 40030.

which time the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate or to remain temporarily relocated, as described in Section 6.4(C), above.

In order to allow residents to make the election earlier than required under the URA (thereby avoiding a year in temporary relocation housing prior to electing voluntary permanent relocation), if the PHA or Project Owner anticipates that temporary relocation will last more than one year, the PHA or Project Owner shall provide the resident with an initial option to (a) be temporarily relocated, retain the right to return to the Covered Project when a unit becomes available and receive assistance, including temporary housing and reimbursement for all reasonable out-of-pocket expenses associated with the temporary relocation, or (b) accept RAD voluntary permanent relocation assistance and payments equivalent to what a “displaced person” would receive under the URA. The PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident’s right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*E) Permanent moves in connection with a transfer of assistance*

In cases solely involving a transfer of assistance to a new site, resident relocation from the Converting Project to the Covered Project is not, by itself, generally considered involuntary permanent relocation under RAD. However, the URA and/or Section 104(d) is likely to apply in most cases. In cases of a transfer of assistance to a new site where it has also been determined that the URA and/or Section 104(d) apply to the transfer of assistance, residents may be eligible for all permanent relocation assistance and payments for eligible displaced persons under the URA and/or Section 104(d). If the URA applies to a move of this type, the PHA or Project Owner must make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a). However, provided the transfer of assistance unit meets the URA definition of a comparable replacement dwelling pursuant to 49 C.F.R. § 24.2(a)(6), that unit could in fact represent the most comparable replacement dwelling as determined by the agency for purposes of calculating a replacement housing payment, if any, under 49 C.F.R. § 24.402.

Whether or not the URA and/or Section 104(d) apply, under RAD the residents are entitled to relocation assistance and payments, including counseling in preparation for the relocation, written notices of the relocation (including a 90-day RAD Notice of Relocation), and reimbursement for all reasonable out-of-pocket expenses, including moving expenses, incurred in connection with the move. It should be noted that the RAD relocation assistance and payments provided to transferring residents in this paragraph differ from those required under the URA and/or Section 104(d) as described above. Where both frameworks apply, the residents must receive the more extensive protections offered under either framework.

If HUD determines that the distance from the Converting Project to the site of the Covered Project is significant and the resident could not reasonably be required to move to the new site, then HUD will require the PHA to adjust project plans to accommodate the resident in an assisted unit (e.g., a public housing unit, some other project-based Section 8 unit or a market unit

with a housing choice voucher) within a reasonable distance of the site of the Converting Project. HUD will evaluate whether this requirement applies on a case by case basis, considering whether the distance would impose a significant burden on residents' access to existing employment, transportation options, schooling or other critical services. Accommodating the resident may also be satisfied by the resident's consent to an alternative housing option pursuant to Section 6.10. The requirement set forth in this paragraph is in addition to all protections, including, for example, the offer of comparable replacement dwellings, which are required in all instances where a transfer of assistance is subject to the URA and/or Section 104(d).

*F) Voluntary permanent relocation*

A resident may elect to relinquish their right of return and consent to voluntary permanent relocation pursuant to an alternative housing option offered and accepted according to the procedures described in Section 6.10, which Section specifies protections to ensure the resident's decision is fully informed. By selecting voluntary permanent relocation, the resident is electing to receive RAD permanent relocation assistance and payments which are equivalent to the relocation payments and assistance required to be provided to a "displaced person" pursuant to the regulations implementing the URA.

## **6.5. Initiation of Negotiations (ION) Date**

Eligibility for URA relocation assistance is effective on the date of initiation of negotiations (ION) (49 C.F.R. § 24.2(a)(15)). For Converting Projects, the ION date is the effective date of the RCC. The ION date is also typically the date when PHAs can begin to issue RAD Notices of Relocation (except in the case of acquisitions when the PHA can issue a Notice of Intent to Acquire and RAD Notices of Relocation prior to the ION date). Any person who is in lawful occupancy on the ION date is presumed to be entitled to relocation payments and other assistance.

PHAs and Project Owners should note that prior to the ION date, a resident may be eligible as a displaced person for permanent relocation assistance and payments under the URA if HUD determines, after analyzing the facts, that the resident's move was a direct result of the project. However, resident moves taken contrary to specific instructions from the PHA or Project Owner (for example, contrary to instructions not to move if contained in a General Information Notice) are generally not eligible as a displaced person under the URA.

## **6.6. Resident Relocation Notification (Notices)**

PHAs and Project Owners are encouraged to communicate regularly with the residents regarding project plans and, if applicable, the resulting plans for relocation. When residents may be relocated for any time period (including, without limitation, a move in connection with a transfer of assistance), written notice must be provided to the resident heads of households, including the notices listed below as applicable.<sup>79</sup> PHAs and Project Owners are also encouraged to provide

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<sup>79</sup> The notices required under Sections 6.6(B) through 6.6(E) must be delivered in accordance with URA resident notification requirements, including the requirement that the notice be personally served or delivered by certified or registered first class mail return receipt requested. All notices must be delivered to each household (i.e., posting in

additional relocation notices and updates for the residents' benefit as appropriate for the specific situation.

To ensure that all residents understand their rights and responsibilities and the assistance available to them, consistent with URA requirements at 49 C.F.R. § 24.5 and civil rights requirements, PHAs and Project Owners must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services, such as interpreters and alternative format materials. Similarly, PHAs and Project Owners are required to take reasonable steps to ensure meaningful access for LEP persons in written and oral materials. Each notice shall indicate the name and telephone number of a person to contact with questions or for other needed help and shall include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable, pursuant to 24 C.F.R. §8.6(a)(2).

The purpose of these notifications is to ensure that residents are informed of their potential rights and, if they are to be relocated, of the relocation assistance available to them. Two initial notices launch this effort and provide critical information regarding residents' rights. The first, the RAD Information Notice, is to be provided at the very beginning of the RAD conversion planning process in order to ensure residents understand their rights, to provide basic program information and to facilitate residents' engagement with the PHA regarding project plans. The GIN, meanwhile, provides information specifically related to protections the URA provides to impacted residents. Subsequent notices provide more detailed information regarding relocation activities specific to the household, including tailored information regarding eligibility and timelines for relocation.

PHAs should note that a resident move undertaken as a direct result of the project may be eligible to receive relocation assistance and payments under the URA even though the PHA has not yet issued notices to them. Sample notices which may be used as-is or modified to fit the peculiarities of each situation are provided on the RAD website at [www.hud.gov/rad](http://www.hud.gov/rad).

#### *A) RAD Information Notice*

The RAD Information Notice is to be provided to residents at the very beginning of the RAD conversion planning process in order to convey general written information on potential project plans and residents' basic rights under RAD, and to facilitate residents' engagement with the PHA regarding the proposed RAD conversion. The PHA shall provide a RAD Information Notice to all residents of a Converting Project prior to the first of the two meetings with residents required by the RAD Notice, Section 1.8.2, and before submitting a RAD Application. This RAD Information Notice shall be provided without regard to whether the PHA anticipates any relocation of residents in connection with the RAD conversion. The RAD Information Notice must do the following:

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common areas is insufficient) and methods of delivery (e.g., certified mail, U.S. mail, or hand delivery) must be documented in the PHA's or Project Owner's files.

- Provide a general description of the conversion transaction (e.g., the Converting Project, whether the PHA anticipates any new construction or transfer of assistance, whether the PHA anticipates partnering with a developer or other entity to implement the transaction);
- Inform the resident that the early conceptual plans are likely to change as the PHA gathers more information, including, among other items, resident opinions, analysis of the capital needs of the property and financing options;
- Inform the resident that the household has a right to remain in the unit or, if any relocation is required, a right to return to an assisted unit in the Covered Project (which may be at the new site in the case of a transfer of assistance);
- Inform the resident that they will not be subject to any rescreening as a result of the conversion;
- Inform the resident that the household cannot be required to move permanently without the resident's consent, except in the case of a transfer of assistance when the resident may be required to move a reasonable distance, as determined by HUD, in order to follow the assisted unit;
- Inform the resident that if any relocation is involved in the transaction, the resident is entitled to relocation protections under the requirements of the RAD program and, in some circumstances, the requirements of the URA, which protections may include advance written notice of any move, advisory services, payment(s) and other assistance as applicable to the situation;
- Inform the resident that any resident-initiated move from the Converting Project could put any future relocation payment(s) and assistance at risk and instruct the resident not to move from the Converting Project; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

*B) General Information Notice (49 C.F.R. § 24.203(a))*

The purpose of the General Information Notice (GIN) is to provide information about URA protections to individuals who may be displaced as a result of federally-assisted projects involving acquisition, rehabilitation or demolition. A GIN provides a general description of the project, the activities planned, and the relocation assistance that may become available.

A GIN shall be provided to any person scheduled to be displaced *as soon as feasible* based on the facts of the situation. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, “as soon as feasible” may be simultaneous with issuance of the RAD Information Notice. For any RAD conversion involving acquisition, rehabilitation or demolition, “as soon as feasible” shall be no later than 30 days following the issuance of the CHAP. In instances where acquisition, rehabilitation or demolition is not anticipated at the time of the CHAP but project plans change to include such activities, pursuant to this Notice the PHA shall provide the GIN as soon as feasible following the change in project plans.

For RAD, the GIN must do at least the following:

- Inform the resident that he or she may be displaced for the project and generally describe the relocation payment(s) for which the resident may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced resident successfully relocate;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will not be required to move without 90 days advance written notice;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
- Inform the resident that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see 49 C.F.R. § 24.208(h) for additional information);
- Describe the resident's right to appeal the PHA's determination as to a resident's eligibility for URA assistance; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

Because of the potential confusion caused by evolving policy directions in the RAD program regarding delivery of the GIN, for actions taken prior to the issuance of this Notice, HUD will consider the facts and circumstances of each conversion, with emphasis on the underlying URA requirements, in monitoring and enforcing a PHA's compliance with this requirement.

*C) Notice of Intent to Acquire (49 C.F.R. § 24.203(d))*

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA).<sup>80</sup> The NOIA may be provided no earlier than 90 days prior to the PHA's reasonable estimate of the date of submission of a complete Financing Plan. While eligibility for URA relocation assistance is generally effective on the effective date of the RCC (the ION date), a prior issuance of a NOIA establishes a resident's eligibility for relocation assistance and payments on the date of issuance of the NOIA and prior to the ION date.

*D) RAD Notice of Relocation*

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide written notice of such relocation by means of a RAD Notice of Relocation. The RAD Notice of

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<sup>80</sup> Acquisition includes a new ownership entity's purchase of the Covered Project from the PHA, such as a purchase by a single purpose entity, an affiliate or a low-income housing tax credit ownership entity.

Relocation may not be issued until: 1) the effective date of the RCC (the ION date) if the conversion does not involve acquisition; or 2) the earlier of the issuance of the Notice of Intent to Acquire (see Section 6.6(C)) or the effective date of the RCC (the ION date) if the conversion involves acquisition. Prior to issuance of the RAD Notice of Relocation, PHAs and Project Owners should meet with each resident household to provide preliminary relocation advisory services and to determine their needs and preferences.<sup>81</sup>

A RAD Notice of Relocation is not required for residents who will not be relocated. As a best practice, PHAs or Project Owners should notify residents that they are not being relocated once that determination has been made if they were previously informed by the GIN and/or by other methods that relocation was a possibility.<sup>82</sup>

A RAD Notice of Relocation shall provide either: 1) 30-days' notice to residents who will be relocated for twelve months or less; or 2) 90-days' notice to residents who will be relocated for more than twelve months.<sup>83</sup> The RAD Notice of Relocation must conform to the following requirements:

- (1) The notice must state the anticipated duration of the resident's relocation.
- (2) The notice must specify which entity (the PHA or the Project Owner) is primarily responsible for management of the resident's relocation and for compliance with the relocation obligations during different periods of time (i.e., before vs. after Closing).
- (3) For residents who will be relocated for twelve months or less:
  - The PHA or Project Owner must provide this notice a minimum of 30 days prior to relocation.<sup>84</sup> PHAs or Project Owners may deem it appropriate to provide longer notice periods for persons who will be temporarily relocated

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<sup>81</sup> PHAs and Project Owners should note the URA relocation advisory services requirement for personal interviews. See Section 6.7 of this Notice. In sequencing the RAD Notice of Relocation, PHAs and Project Owners wishing to offer alternative housing options pursuant to Section 6.10 should also note the additional complexity in the timeline of notices. Pursuant to Section 6.10(D), the resident can consent to an alternative housing option only after issuance of the NOIA or the effective date of the RCC and 30 days after presentation of the alternative housing options. In some cases, for example, when the resident would not otherwise be relocated for over twelve months, the RAD Notice of Relocation must include both the information described in Section 6.6(D)(3) and the information in Section 6.6(D)(4). The PHA or Project Owner should consider discussing the alternative housing options prior to issuing the RAD Notice of Relocation so that the RAD Notice of Relocation can be tailored to the resident's situation.

<sup>82</sup> The RAD program does not require a "notice of non-displacement," which HUD relocation policy generally uses for this purpose.

<sup>83</sup> The 90-day notice is required for residents relocated for more than twelve months, whether or not they intend to return to the Covered Project and whether or not they are eligible for assistance and payments as a displaced person under URA. Recipients of the 90-day notice would include those residents who have voluntarily accepted a permanent relocation option as well as those residents who are relocated within the same building or complex of buildings.

<sup>84</sup> Note that residents may elect to move to the relocation housing before the 30 days have elapsed. However, a PHA may not require a resident to move prior to this time.



for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.

- The notice must explain that the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move (including, but not limited to, increased housing costs and moving costs).
- The notice must explain the reasonable terms and conditions under which the resident may exercise the right to return to lease and occupy a unit in the Covered Project.

(4) For residents who will be relocated for more than twelve months, including for residents who may wish to voluntarily accept a permanent relocation option:

- The PHA or Project Owner must provide this notice a minimum of 90 days prior to relocation of residents.<sup>85</sup>
- The notice must offer the choice to be temporarily relocated, thereby preserving the resident's right to return, or the choice to be voluntarily permanently relocated pursuant to the procedures set forth in Section 6.10, together with guidance that the resident has at least thirty (30) days to consider the choice.
- For residents who voluntarily elect to be permanently relocated, the 90-day notice period may only begin once the PHA or Project Owner has made available at least one comparable replacement dwelling consistent with 49 C.F.R. § 24.204(a).<sup>86</sup>
- The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
- The notice must comply with all requirements for a URA Notice of Relocation Eligibility as described in 49 C.F.R. § 24.203(b).

(5) The notice must inform the resident that the relocation will be completed consistent with fair housing and civil rights requirements, and it must provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

For short-term relocations, the RAD Notice of Relocation may also contain the information required in the Notice of Return to the Covered Project (see Section 6.6(F)).

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<sup>85</sup> Note that residents may elect to move to the relocation housing before the 90 days have elapsed. However, a PHA may not compel a resident to move prior to this time.

<sup>86</sup> PHAs should note that URA regulations also require, where possible, that three or more comparable replacement dwellings be made available before a resident is required to move from his or her unit.

*E) URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))*

After a resident has been temporarily relocated for one year, notwithstanding a prior issuance of a RAD Notice of Relocation, the PHA or Project Owner must provide an additional notice: the notice of relocation eligibility in accordance with URA requirements (“URA Notice of Relocation Eligibility”). The URA Notice of Relocation Eligibility is not required if the resident has already accepted permanent relocation assistance.<sup>87</sup>

The URA Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 C.F.R. part 24 and shall:

- Provide current information as to when it is anticipated that the resident will be able to return to the Covered Project.
- Give the resident the choice to remain temporarily relocated based upon the updated information or to accept permanent URA relocation assistance at that time instead of exercising the right to return at a later time.

If the resident chooses to accept permanent URA relocation assistance and this choice requires the resident to move out of their temporary relocation housing, the URA requires that the PHA or Project Owner make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a), which comparability analysis is in reference to the resident’s original unit. The URA further requires that the resident receive 90 days’ advance written notice of the earliest date they will be required to move pursuant to 49 C.F.R. § 24.203(c).

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<sup>87</sup> To illustrate, consider the following examples.

- Example 1: The household is expected to be relocated for 11 months. The resident would receive a RAD Notice of Relocation offering only temporary relocation. Construction delays result in the extension of the relocation such that, in fact, it exceeds 12 months. When the temporary relocation exceeds 12 months, the resident must receive a URA Notice of Relocation Eligibility offering a choice between continuation in temporary relocation status and permanent relocation.
- Example 2: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects temporary relocation, the URA Notice of Relocation Eligibility is required as an additional notice following twelve months in temporary relocation status.
- Example 3: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects permanent relocation, the URA Notice of Relocation Eligibility is not required.
- Example 4: The household can be accommodated with temporary relocation of 3 months, but has been offered and seeks to accept permanent relocation pursuant to an alternative housing option. This resident would receive a RAD Notice of Relocation under Section 6.6(D)(4) offering a choice between temporary relocation status (the default option) and permanent relocation (the alternative housing option), instead of the RAD Notice of Relocation under Section 6.6(D)(3) which would be expected absent a permanent relocation option. The URA Notice of Relocation Eligibility is not required in either case because a temporary relocation exceeding 12 months was never anticipated nor experienced.

#### *F) Notification of Return to the Covered Project*

With respect to all temporary relocations, the PHA or Project Owner must notify the resident in writing reasonably in advance of the resident's expected return to the Covered Project, informing the resident of:

- The entity (the PHA or the Project Owner) with primary responsibility for managing the resident's relocation;
- The address of the resident's assigned unit in the Covered Project and, if different from the resident's original unit, information regarding the size and amenities of the unit;
- The date of the resident's return to the Covered Project or, if the precise date is not available, a reasonable estimate of the date which shall be supplemented with reasonable additional notice providing the precise date;
- That the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the return relocation; and
- The resident's options and the implications of those options if the resident determines that he or she does not want to return to the Covered Project and wants to decline the right of return.<sup>88</sup>

Reasonable advance notice shall be 15% of the duration of the resident's temporary relocation or 90 days, whichever is less. For short-term relocations, the PHA or Project Owner may include this information within the RAD Notice of Relocation.

### **6.7. Relocation Advisory Services**

Throughout the relocation planning process, the PHA and Project Owner should be in communication with the residents regarding the evolving plans for relocation. Notwithstanding this best practice, certain relocation advisory services, described below, are required by the URA.

The URA regulations require the PHA or Project Owner to carry out a relocation assistance advisory program that includes specific services determined to be appropriate to residential or nonresidential displacements. The specific advisory services to be provided, as determined to be appropriate, are outlined at 49 C.F.R. § 24.205(c). For residential displacement under the URA, a personal interview is required for each displaced resident household to determine the relocation needs and preferences of each resident to be displaced. The resident household shall be provided an explanation of the relocation payments and other assistance for which the resident may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. Advisory counseling must also inform residents of their fair housing rights and be carried out in

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<sup>88</sup> If the resident declines to return to the Covered Project upon completion of the period of temporary relocation, the resident shall be considered to have voluntarily moved out of the property, without the benefit of further relocation assistance. For example, a PHA or Project Owner may have rented a market-rate apartment as a temporary relocation resource for a six-month period. In such a situation, the resident may decline to return to the Covered Project and choose to remain in the market-rate apartment at the expiration of the six-month period, but shall not be eligible for any further relocation assistance and payments (including rent differential payments) under this Notice, the URA or Section 104(d), if applicable, in connection with the resident's decision to remain in the temporary housing and not return to the Covered Project.

a manner that satisfies the requirements of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063 (49 C.F.R. § 24.205(c)(1)).<sup>89</sup> Such advisory services under the URA may include counseling to ensure that residents affected by the project understand their rights and responsibilities and the assistance available to them (49 C.F.R. § 24.205(c)). In addition, the PHA or Project Owner should inform residents that if they believe they have experienced unlawful discrimination, they may contact HUD at 1-800-669-9777 (Voice) or 1-800-927-9275 (TDD) or at <http://www.hud.gov>.

## **6.8. Initiation of Relocation**

PHAs and Project Owners **may not initiate any involuntary physical relocation until both the RCC is in effect and the applicable RAD Notice of Relocation period has expired** (i.e., after either 30 or 90 days' notice as applicable depending on nature of the relocation, as described above). This prohibition applies to all types of RAD transactions, regardless of whether the RAD Notice of Relocation is provided after issuance of a NOIA (for conversions involving acquisition) or following the effective date of the RCC (for all other conversions). PHAs are advised to account for the required 30-day or 90-day written notice periods in their planning process, to ensure that notices which satisfy all applicable requirements are issued prior to taking any action to initiate relocation.

**Neither involuntary nor voluntary relocation for the project shall take place prior to the effective date of the RCC**, unless moves are authorized under Section 7, below ("Applicability of HCV and Public Housing Requirements") or unless HUD provides explicit approval which will only be provided in extraordinary circumstances. The PHA must wait until the RAD Notice of Relocation period has expired before it may initiate any involuntary relocation. However, a resident may request to move voluntarily, and the PHA may honor a resident's request to move, before the applicable 30-day or 90-day period has elapsed, provided that the PHA may not take any action to encourage or coerce a resident to make such a request. If a resident has elected an alternative housing option, PHAs are advised to ensure that any consent to voluntary permanent relocation does not expire prior to the date of the relocation, as described in Section 6.10.

HUD may use administrative data to identify and investigate projects where relocation may be occurring prior to RCC.

## **6.9. Records and Documentation; Resident Log**

HUD may request from the PHA or Project Owner written records and documentation in order to evidence the PHA's and/or Project Owner's compliance, as applicable, with this Notice and the URA.<sup>90</sup> HUD may request to review some or all of such records in the event of compliance

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<sup>89</sup> For example, under fair housing and civil rights laws, the PHA and Project Owner may be required to inform residents about and provide reasonable accommodations for individuals with disabilities, such as search assistance; take appropriate steps to ensure effective communication with individuals with disabilities, such as through the provision of auxiliary aids and services, such as interpreters and alternate format documents; provide advisory counseling services in accessible locations and in an accessible manner for individuals with disabilities; and take reasonable steps to ensure meaningful access for LEP persons. See Section 4 of this Notice for more information on these requirements.

<sup>90</sup> Chapter 6 of HUD Handbook 1378 includes guidance on URA recordkeeping requirements.

concerns, in the event a project is identified for additional review based on administrative data, in the event of audits for purposes of monitoring the RAD program as a whole, upon selection of a random sample of projects and/or at other times at HUD's sole discretion. The records shall include resident files for all households relocated in connection with RAD and a resident log as described in this Section.

As part of such written record, the PHA or Project Owner must maintain data sufficient to deliver to HUD a resident log of every household that resides at the Converting Project at the time of the first required resident meeting on the proposed conversion pursuant to Section 1.8 of the RAD Notice (the "First Resident Meeting") and of every household that moves into the Converting Project after the First Resident Meeting and before the conversion of assistance under RAD. If any relocation is required, the log shall track resident status through completion of rehabilitation and construction, including re-occupancy after relocation. The resident log must include, but need not be limited to, the following information:

- Name of head of household
- PHA's resident identification number and/or the last four digits of the head-of-household's Social Security Number
- The head of household's race and ethnicity as reported on the HUD Form 50058 or the HUD Form 50058 MTW (the "Form 50058"). For purposes of the resident log, all references to the Form 50058 shall be to the form most recently prepared at the time of the First Resident Meeting or, for residents who moved in after the First Resident Meeting, the form most prepared at the time of the resident's initial occupancy.
- A Yes/No indication if there is any household member reported as having a disability on the Form 50058.
- A Yes/No indication if there is any household member reported as under the age of 18 on the effective date of action of the Form 50058;
- The household's relevant unit address, unit size and household size at the following times:
  - The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
  - The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
  - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
  - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
  - Date of the RAD Information Notice

- Date of the GIN
- Date of the CHAP
- Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- Date of most recent consent to voluntary permanent relocation<sup>91</sup>
- Date of relocation away from the Converting Project or Covered Project
- Dates of any intermediate relocation moves
- Date of return to the Covered Project or to the household's post-closing permanent address.<sup>92</sup>
- The following information for each resident household, as applicable:
  - The type of move (e.g., the types identified in Section 6.4, above)
  - The form of any temporary relocation housing (e.g., hotel, assisted housing, market-rate housing)
  - The address and unit size of any temporary relocation housing
  - Whether alternative housing options were offered consistent with Section 6.10, below
  - Any material terms of any selected alternative housing options
  - The type and amount of any payments for
    - Moving expenses to residents and to third parties
    - Residents' out-of-pocket expenses
    - Rent differential payments or other payments for temporary or permanent rental assistance, together with the rent and utilities (if applicable) that were the basis for the calculations
    - Any other relocation-related compensation or assistance

## **6.10. Alternative Housing Options**

Under the RAD Notice, “involuntary permanent relocation” is prohibited and each resident must be able to exercise his or her right of return to the Covered Project. A PHA or Project Owner is permitted to offer a resident alternative housing options when a resident is considering his or her future housing plans, provided that at all times prior to the resident's decision, the PHA and Project Owner preserve the resident's ability to exercise his or her right of return to the Covered Project.

### *A) Requirements for Any Offer of Alternative Housing Options*

All residents who are similarly situated must be given the same offer of alternative housing options. If the PHA or Project Owner seeks to limit the number of households that accept the

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<sup>91</sup> The most recent consent must be within 180 days of the actual relocation date, as discussed in Section 6.10(D).

<sup>92</sup> In the case of voluntary permanent relocation, the date of “return” may be the same as the date of relocation away from the Converting Project.

offer of alternative housing options, the PHA or Project Owner shall determine a fair and reasonable method for selection among similarly situated residents.<sup>93</sup>

In connection with any offer and acceptance of alternative housing options, the PHA or Project Owner must ensure that the residents' decisions are: 1) fully informed; 2) voluntary; and 3) carefully documented. Any alternative housing option must include, at a minimum, all relocation assistance and payments required under this Notice, the URA and Section 104(d), as applicable, and may include other elements. Funds administered by HUD may not be used to pay any monetary elements not required under this Notice, the URA or Section 104(d).

Acceptance of an alternative housing option is considered voluntary permanent relocation and the accompanying RAD relocation assistance and payments for which the resident may be eligible must be administered in accordance with all requirements for an eligible displaced person under the URA and its implementing regulations and, where applicable, Section 104(d) and its implementing regulations.

PHAs may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA or Section 104(d). The PHA must provide a written notice of URA or Section 104(d) relocation assistance and payments for which the resident may be eligible so that the resident may make an informed housing choice. The resident must be provided at least thirty (30) days to consider the offer of voluntary permanent relocation and the resident's acceptance of the PHA's offer of voluntary permanent relocation must be in writing signed by the head of the household for that unit.

#### *B) Assisted Housing Options as Alternatives*

Alternative housing option packages may include a variety of housing options and PHAs and Project Owners shall take particular care to ensure program compliance with the regulations applicable to the alternative housing options. Examples of alternative housing options may include:

- Transfers to public housing
- Admission to other affordable housing properties subject to the program rules applicable to such properties
- Housing Choice Vouchers (HCVs) subject to standard HCV program administration requirements. PHAs must operate their HCV programs, including any HCVs offered as an alternative housing option, in accordance with their approved policies as documented in their Section 8 Administrative Plan and HUD regulations at 24 C.F.R. part 982. Any offer of an HCV as an alternative housing option must be made consistent with the

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<sup>93</sup> For example, if the RAD conversion is financed by LIHTC and a few residents would not meet LIHTC program requirements, the PHA and Project Owner may want to offer these household alternative voluntary permanent relocation options. However, they must offer the same alternative housing options to all such households. As a second example, if the PHA and Project Owner seek to create two on-site vacancies of a particular unit size in order to facilitate temporary relocation on-site, the PHA may offer an alternative housing option of a housing choice voucher to all residents of applicably sized units (assuming that to do so is consistent with the PHA's voucher administration policies), and conduct a lottery to select the two households which will receive the vouchers.

PHA's admission preferences and other applicable policies and procedures set forth in the Section 8 Administrative Plan.

- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner

*C) Monetary Elements Associated With Alternative Housing Options*

A PHA or a Project Owner may include a monetary element in an alternative housing option package, provided that:

- Any monetary element associated with the alternative housing option shall be completely distinct from and in addition to any required RAD, URA or Section 104(d) relocation payments and benefits for which the resident is eligible ("Required Relocation Payments").
- No funds administered by HUD may be used to pay for any monetary element associated with the alternative housing option other than Required Relocation Payments.
- Any monetary element associated with the alternative housing option other than Required Relocation Payments must be the same amount offered to all similarly situated households.<sup>94</sup>
- Any alternative housing option package must comply fully with the disclosure and agreement provisions of this Notice.

*D) Disclosure and Agreement to Alternative Housing Options*

In providing an offer of alternative housing options to a resident, the PHA or Project Owner must inform the resident in writing of: a) his or her right to return;<sup>95</sup> b) his or her right to comment on and/or object to plans which would preclude the resident from returning to the Covered Project; c) the requirement that if the resident objects to such plans, the PHA or Project Owner must alter the project plans to accommodate the resident in the Covered Project; and d) a description of both the housing option(s) and benefits associated with the right of return and the alternative housing options and benefits being offered. In the description of the available housing options and benefits, the PHA or Project Owner shall include a description of any temporary housing options associated exercising the right of return and a description of any permanent alternative housing options as well as a reasonable estimate of the financial implications of all temporary and permanent options on the resident long-term.

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<sup>94</sup> Monetary payments other than Required Relocation Payments are considered "temporary, nonrecurring or sporadic income" pursuant to 24 C.F.R. § 5.609(c)(9) and consequently are excluded from income for purposes of eligibility and assistance calculations under certain HUD programs. Residents should be reminded that monetary payments other than URA relocation payments may be taxable under the Internal Revenue Code, that monetary payments, including required relocation payments, may affect residents' eligibility for other assistance programs and that the resident should seek knowledgeable guidance on these matters, including guidance on the taxation of monetary payments under state law.

<sup>95</sup> In the case of a transfer of assistance to a new site a significant distance from the Converting Project as described in Section 6.4(E), the resident shall be informed of the resident's right to return to the Covered Project at the new site and of the resident's right to an assisted unit within a reasonable distance of the site of the Converting Project, as described in Section 6.4(E).



The written notification may request written consent from the resident to exercise the alternative housing option and receive permanent relocation assistance and payments pursuant to RAD, the URA and/or Section 104(d), as applicable, in addition to any benefits associated with the alternative housing option. As part of any voluntary consent, the resident head of household must acknowledge in writing that acceptance of such assistance terminates the resident's right to return to the Covered Project. In order to ensure that the resident has sufficient time to seek advice and consider the alternative housing options, any consent to an alternative housing option executed within 30 days of the written presentation of the options shall be invalid.

Any offer of alternative housing options must be made in writing and the acceptance of the alternative must be voluntary and in writing. The offer of an alternative housing option must contain the following elements:

- The resident is informed of his or her right to return to the Covered Project and that neither the PHA nor the Project Owner can compel the resident to relinquish his or her right to return. The offer of alternative housing options must clearly state that acceptance of any alternative would relinquish the resident's right to return to the Covered Project.
- The offer of an alternative housing option must be accompanied by identification of comparable housing units which the resident may use to understand the nature of housing options available to them and the rent and estimated utility costs associated with such housing options. This information must also be accompanied by a reasonable estimate of any replacement housing payment or "gap payment" for which the resident may be eligible.
- The offer of an alternative housing option must be accompanied by information regarding moving payments and assistance that would be available if the resident exercises the right of return and if the resident accepts the alternative housing option.
- Residents must be offered advisory assistance to consider their options.
- To be fully informed, the offer must outline the implications and benefits of each alternative housing option being made available (i.e., of accepting each alternative housing option as compared to exercising his or her right to return) as well as a reasonable estimate of when the resident's relocation might occur. Implications and benefits include payment amounts, differences in rent calculations, differences in program rules, housing location, and potential long-term implications such as household housing expenses multiple years in the future.
- To be fully voluntary, the resident must have at least thirty (30) days following delivery of the written offer to consider their options. LEP persons must be provided a written translation of the offer and oral interpretation of any meetings or counseling in the appropriate language. In addition, PHAs must comply with their obligation to ensure effective communication with persons with disabilities.
- The resident cannot be asked to make a decision which will be implemented at a distant future time. Consequently, the resident may not provide written consent to an alternative housing option (and consequently, consent to voluntary permanent relocation) until after

the earlier of issuance of the NOIA or the effective date of the RCC.<sup>96</sup> If a resident signs a written consent to accept an alternative housing option, that written consent is valid for 180 days. If relocation (after the applicable notice periods) has not occurred within this 180 day period, then the PHA or Project Owner must secure a new consent to accept an alternative housing option. New relocation notices are generally not required.

- The acceptance must be in writing signed by the resident head of household, including a certification of facts to document that the household is relinquishing its right to return and that the decision and the acceptance of the alternative housing option was fully informed and voluntary.
- Residents accepting alternative housing options to relinquish their right to return will be considered to have voluntarily and permanently relocated. Such residents are to be provided applicable RAD, URA and/or Section 104(d) relocation assistance and payments.

The information included with the offer of alternative housing options is to aid the resident in making decisions regarding the desirability of the alternative housing options and neither satisfies nor replaces the relocation notices and information required to be provided to residents pursuant to this Notice, the URA or Section 104(d).

While HUD does not require PHAs to submit documentation of alternative housing options offered to residents or the residents' elections, PHAs must keep auditable written records of such consultation and decisions. HUD may request this documentation at any time, including as part of a review of the Checklist or if relocation concerns arise.

### **6.11. Lump Sum Payments**

PHAs and Project Owners should note that certain relocation payments to displaced residential tenants may be subject to 42 USC § 3537c ("Prohibition of Lump-Sum Payments") and must be disbursed in installments. The PHA or Project Owner may determine the frequency of the disbursements which must be made in installments. Handbook 1378, Chapter 3-7(D) provides guidance on the manner and frequency of disbursing payments subject to this requirement.

Any monetary element beyond Required Relocation Payments which may be associated with an alternative housing option described in Section 6.10, above, is not relocation assistance and is therefore not subject to the requirements regarding lump sum payments.

## **SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS**

### **7.1. HCV Waiting List Administration Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may place themselves on the PHA's waiting list for HCVs independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs should continue to

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<sup>96</sup> The PHA and Project Owner should note that securing resident consent to an alternative housing option may delay the issuance of the RAD Notice of Relocation. The RAD Notice of Relocation must be specific to whether the resident will be temporarily or permanently relocated.

administer their HCV waiting list in accordance with their Section 8 Administrative Plans. Residents who rise to the top of the HCV waiting list independent of any preference for relocating RAD residents or other RAD provisions and accept an HCV are not considered to be relocated as a result of the RAD conversion. Standard administration of the PHA's HCV waiting list is not considered relocation.

## **7.2. HCV Waiting List Administration Related to the RAD Transaction**

From time to time, a PHA may wish to use HCV resources as a relocation option in connection with a RAD transaction. In order to do so, a PHA must modify its Section 8 Administrative Plan to provide a preference for relocating RAD residents and the PHA is subject to Section 6.8 of this Notice relating to initiation of relocation. Further, if a PHA provides a preference for relocating RAD residents, the PHA must be explicit regarding the nature of the HCV as a relocation resource. If the PHA anticipates using the HCV as a temporary relocation resource, the PHA must recognize that it cannot rescind an HCV once issued to the resident (i.e., the family would have to voluntarily relinquish their voucher and may choose to remain in the HCV program indefinitely). The PHA must also provide a preference for admission to the Covered Project in order to satisfy the right to return. Alternatively, if the PHA anticipates using the HCV as a voluntary permanent relocation resources, the PHA must comply with the alternative housing options provisions of Section 6.10.<sup>97</sup>

## **7.3. Public Housing Transfers Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may request a transfer to another public housing property independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs must continue to administer their admissions and occupancy procedures as adopted. Any prohibitions in this Notice on implementing relocation do not apply to residents requesting public housing transfers, moves pursuant to the Violence Against Women Act (VAWA)<sup>98</sup> or reasonable accommodation moves. Standard administration of the PHA's admissions and occupancy policy is not considered relocation.<sup>99</sup> Transfers not undertaken for the RAD project are not subject to URA. However, it is recommended that the PHA document the transfer carefully, including an acknowledgement by the resident that the transfer is not undertaken for the RAD project, is not

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<sup>97</sup> PHAs and Project Owners should note that while in most cases, there is no rent differential between the tenant paid rent in a public housing unit and in an HCV, there are some situations (such as flat rent households) where a difference does exist. Rental assistance payments under the URA are required if there is a difference between these two amounts.

<sup>98</sup> Title IV, section 40001-40703.

<sup>99</sup> Standard administration of the PHA's admissions and occupancy policy is permitted. However, HUD is sensitive to concerns that discussion of the planned RAD conversion and construction activities may cause residents to perceive a pressure to transfer without the counseling and moving assistance which would be available were the household to wait until relocation. If relocation at the Converting Project is planned, PHAs are strongly advised to document any such transfers carefully and to provide any households moving under standard admissions and occupancy policies with additional notices referencing the assistance and payments which would be available if the household were to remain in place until the relocation plan is implemented.

subject to URA requirements and that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA.

#### **7.4. Resident Initiated Public Housing Transfers Related to the RAD Transaction**

Pursuant to Section 1.8 of the RAD Notice, households in the Converting Project who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA. Such move shall be implemented as a transfer and shall be prioritized equivalent to a “demolition, disposition, revitalization or rehabilitation transfer” as described in Section 11.2 of the applicable Public Housing Occupancy Guidebook. Transfers for this purpose do not require any modification to the PHA’s admissions and occupancy policy and may occur at any time pursuant to the PHA’s admissions and occupancy policy. Transfers for this purpose, while initiated by the resident, are the result of the PHA-initiated RAD transaction and the PHA must bear the reasonable costs of transfer. The reasonable cost of the transfer includes not just the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid services such as telephone and cable television. The PHA must also document that the resident’s transfer request is fully informed and fully voluntary, which documentation must include an acknowledgement by the resident that the transfer is not undertaken at the request of the PHA or under pressure from the PHA, that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA and that the resident is withdrawing from participation in the RAD program and consequently losing rights, including the right to return, which accrue to residents participating in the RAD program. A public housing resident who voluntarily seeks a public housing transfer is generally not considered to be displaced under the URA or Section 104(d), where applicable.

#### **7.5. Public Housing as a Temporary Relocation Resource**

PHAs and Project Owners may wish to mitigate the relocation budget associated with the RAD conversion by using units within the PHA’s portfolio as relocation resources. In light of its mission to serve as many low-income households as possible, including its need to accommodate emergency transfers (such as moves pursuant to VAWA), the PHA should minimize the use of the public housing units not converting under RAD for temporary relocation of RAD impacted residents. HUD has a strong preference that the PHA use the units within the PHA’s Converting Projects as a temporary relocation resource prior to using units in the remainder of the PHA’s public housing portfolio. PHAs may elect not to lease units within the Converting Projects or, if necessary, the remainder of its portfolio, for this purpose only to the extent reasonably necessary to facilitate construction or rehabilitation.

Upon the effective date of the HAP contract (usually also the effective date of the RAD conversion), each resident of a Covered Project becomes a participant in the Section 8 program and is no longer part of the public housing program. A PHA may use public housing as a temporary relocation resource if approved by HUD, which approval shall depend on the proposed structure. PHAs wishing to use public housing units as a temporary relocation resource must consult with HUD’s Office of Public and Indian Housing (PIH) prior to the formal request for HUD approval. It is unlikely that HUD would approve a request to use public housing units

as a relocation resource for a period exceeding one year after the effective date of the HAP contract.

If HUD grants approval, HUD shall provide alternative requirements regarding PIH Information Center (PIC) documentation of the occupancy of these temporary relocation resources. PHAs must follow any guidance or instructions regarding treatment of the public housing units in HUD's data systems as may be provided from time to time.

PHAs and Project Owners should note that, absent written approval, if a resident seeks to occupy a public housing unit after the effective date of the HAP contract, the resident would need to be readmitted to public housing in a manner consistent with the waitlist and admissions policies and must exit the Section 8 program.

#### **7.6. Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction**

Public housing program requirements related to continued occupancy and termination, including rules on grievances and related hearings, remain in effect until the effective date of a new PBV or PBRA HAP contract. If a resident is evicted in accordance with applicable state and local law and the eviction is not undertaken for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA (49 C.F.R. § 24.206). If a resident voluntarily ends his or her participation in the public housing program, in the absence of evidence that the end of participation was induced by the PHA for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA.

#### **7.7. Right-Sizing**

Public housing, PBV and PBRA requirements mandate that, upon the availability of a unit which is appropriate for the household size, the PHA or Project Owner must transfer a household that is under- or over-housed into the unit appropriate to the household's size. However, accommodating all residents pursuant to the right of return has primacy over right-sizing requirements and may, in some cases, require temporarily over-housing households. In such circumstances, the PHA or Project Owner shall subsequently transfer the household to an appropriate size unit when available, as is required by the applicable program regulation. Such actions shall be governed by the applicable program regulation and shall not be considered relocation under this Notice.

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Lourdes Castro-Ramirez  
Principal Deputy Assistant Secretary for  
Public and Indian Housing

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Edward L. Golding  
Principal Deputy Assistant Secretary for  
Housing

**APPENDIX I: Applicable Legal Authorities**

**APPENDIX II: Recommended Relocation Plan Contents**

## **APPENDIX I: Applicable Legal Authorities**

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### **Part 1**

This Appendix to the Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. This Appendix is not exhaustive of applicable legal authorities, which authorities may also include other Federal statutes, regulations and Executive Orders, and civil rights provisions related to other programs (including funding programs) associated with the RAD transaction.

#### **Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended)**

The Fair Housing Act, 42 U.S.C. § 3601 et seq., and its implementing regulations, 24 C.F.R. part 100, prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, or familial status. The Fair Housing Act applies to for-sale and rental housing, whether the housing is privately or publicly funded, including housing supported by tax credits. Single family homes, condominiums, apartment buildings, time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and other types of housing are all covered by the Fair Housing Act.

Among its substantive provisions, the Fair Housing Act requires “covered multifamily dwellings,” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas are subject to the Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to the Act’s design and construction requirements.<sup>100</sup> In addition, the Fair Housing Act requires that housing providers make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas, and that housing providers permit reasonable modifications of existing premises for persons with disabilities.

The Fair Housing Act also requires HUD to administer HUD programs and activities in a manner that affirmatively furthers fair housing (42 U.S.C. § 3608(e)(5)). HUD’s affirmatively furthering fair housing (“AFFH”) rule in 24 C.F.R. §§ 5.150-5.180 will apply to PHAs (except for qualified PHAs) for the PHA’s fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5. The affirmatively furthering fair housing regulations will apply to qualified PHAs, for the PHA’s fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5.<sup>101</sup>

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<sup>100</sup> See 42 U.S.C. § 3604(f)(3)(c) and 24 C.F.R. § 100.205.

<sup>101</sup> For purposes of the AFFH rule, “[a]ffirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing under the AFFH rule means taking meaningful actions that, taken together, address

Additional detail and discussion of the interplay between the Fair Housing Act, Section 504, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

#### United States Housing Act of 1937 (1937 Act)

The United States Housing Act of 1937 (1937 Act) (42 U.S.C. § 1437c-1(d)(15)) requires PHAs to submit a 5-year plan and an Annual Plan. Pursuant to HUD regulations, the Annual Plan includes a certification by the PHA that the PHA will affirmatively further fair housing.

#### Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and HUD's implementing regulation (24 C.F.R. part 1) prohibit recipients of Federal financial assistance from discriminating, excluding from participation, or denying benefits to, any person on the basis of race, color, or national origin. In addition, Title VI regulations prohibit HUD recipients of Federal financial assistance from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin (24 C.F.R. § 1.4(b)(2)(i)). When determining the site or location of housing, recipients may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, or national origin (24 C.F.R. § 1.4(b)(3)). An applicant or recipient of HUD financial assistance also has an obligation to take reasonable action to remove or overcome the consequences of prior discriminatory practices regardless of whether the recipient engaged in discriminatory conduct (24 C.F.R. § 1.4(b)(6)).

Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English – i.e., individuals who have limited English proficiency (LEP). This includes oral and written communications during relocation and throughout a RAD transaction. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings. Otherwise, LEP persons may be denied participation in, and the benefit of, the recipients' program or activity. On January 22, 2007, HUD issued "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (LEP Guidance), available at: [http://www.lep.gov/guidance/HUD\\_guidance\\_Jan07.pdf](http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf).<sup>102</sup>

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significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws." 24 C.F.R. § 5.150. Meaningful actions means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity. See 24 C.F.R. § 5.152.

<sup>102</sup> See also Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, which requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to



## Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides: “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance.”<sup>103</sup>

Among other things, HUD’s regulations implementing Section 504 (in 24 C.F.R. part 8) prohibit recipients of Federal financial assistance, in determining the site or location of a facility receiving such assistance, from making site selections the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefits of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>104</sup> These prohibitions apply to both determining the site of permanent facilities and a site for relocation of residents.

Furthermore, HUD’s implementing regulations prohibit discrimination, the denial of benefits, or the exclusion of participation of individuals with disabilities from the programs or activities of recipients of federal financial assistance because a recipient’s facilities are inaccessible. Such recipients must provide qualified individuals with disabilities with program access, which may require modification of architectural features of facilities in RAD transactions for individuals with disabilities to have access to the program. Certain architectural specifications apply to facilities that are altered or newly constructed with HUD financial assistance, such as facilities where assistance is transferred and facilities used as temporary or permanent relocation sites for residents of a project undergoing a RAD conversion. If alterations are made to a housing facility, the alterations to dwelling units in the facility are required, to the maximum extent feasible (i.e., if doing so would not impose undue financial and administrative burdens on the operation of the project), to be made readily accessible to and usable by individuals with disabilities. If alterations taken to a development that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility (except when it requires removal of structural load-bearing members), or if the facility is newly constructed, then a minimum of 5% of the total dwelling units, or at least one unit in a development, whichever is greater, must be made accessible for persons with mobility impairments. An additional 2% of the units, but not less than one unit, in a development must be accessible for persons with hearing and vision impairments.

In addition, regulations implementing Section 504 require recipients to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Section 504 also includes effective communication requirements, such as

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their programs and activities for LEP persons. E.O. 13166 directs all Federal agencies, including HUD, to issue guidance to help recipients of Federal financial assistance in providing such meaningful access to their programs.

<sup>103</sup> 29 U.S.C. § 794. HUD’s Section 504 regulation that applies to recipients of Federal financial assistance, including PHAs and Project Owners, is located at 24 C.F.R. part 8.

<sup>104</sup> 24 C.F.R. § 8.4(b)(5).

providing interpreters and alternate format documents (e.g., Braille, large print, accessible electronic communications) for persons with disabilities.

Additional detail and discussion of the interplay between Section 504, the Fair Housing Act, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Titles II and III of the Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing developed or operated by state and local governments, which includes a PHA. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. For example, Title III applies to rental offices, sales offices, homeless shelters, hotels and motels, and commercial spaces associated with housing, such as daycare centers, social service offices, and sales and retail establishments. Titles II or III also will generally apply to community spaces and facilities, such as neighborhood networks, to computer centers (including the computers in the centers), and to transportation services and conveyances provided by PHAs and Project Owners.

Additional detail and discussion of the interplay between Titles II and III of the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Section 109

Section 109 of the Housing and Community Development Act of 1974 (HCDA of 1974), Title I, prohibits discrimination on the basis of race, color, national origin, disability, age, religion, and sex in Community Development Block Grant (CDBG) programs and activities. Section 109 applies to RAD projects that receive CDBG or other assistance under Title I of the HCDA of 1974.

In addition to its responsibility for enforcing other Federal statutes prohibiting discrimination in housing, HUD has a statutory obligation under Section 109 to ensure that individuals are not subjected to discrimination on the basis of race, color, national origin, disability, age, religion, or sex by recipients of CDBG funds. Section 109 charges HUD with enforcing the right of individuals to live in CDBG-funded housing and participate covered programs and activities free from such discrimination. However, this additional statutory authority only applies to programs authorized under Title I of the HCDA of 1974, such as CDBG and programs, such as Section 108 loan guarantees and the Historically Black Colleges and Universities program.

### Equal Access to HUD-assisted or HUD-insured Housing

HUD requires its housing programs to be open to all eligible individuals and families regardless of sexual orientation, gender identity or marital status. HUD recipients and subrecipients must comply with 24 C.F.R. § 5.105(a)(2) when determining eligibility for housing assisted with HUD

funds or subject to an FHA-insured mortgage, and when making such housing available. This includes making eligibility determinations and making housing available regardless of actual or perceived sexual orientation, gender identity, or marital status, and prohibiting inquiries about sexual orientation or gender identity for the purpose of making eligibility determinations or making housing available. Applicants are encouraged to become familiar with these requirements, HUD's definitions of sexual orientation and gender identity at 24 C.F.R. § 5.100, clarifications to HUD's definition of family at 24 C.F.R. § 5.403, and other regulatory changes made through HUD's Equal Access Rule, published in the Federal Register at 77 FR 5662 (Feb. 3, 2012).

### Section 3: Economic Opportunities for Low- and Very Low-income Persons.

Certain HUD programs require recipients of assistance to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. § 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 C.F.R. part 135. The regulations at 24 C.F.R. part 135 implementing Section 3 ensure, to the greatest extent feasible, that training, employment, contracting and other economic opportunities be directed to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons where proposed project is located. Recipients of funds covered by Section 3 must comply with 24 C.F.R. part 135, particularly subpart B-Economic Opportunities for Section 3 residents and Section 3 Business Concerns, and Subpart E-Reporting and Recordkeeping. HUD encourages recipients to search the national Section 3 Business Registry to find local businesses that prioritize hiring Section 3 residents.

### Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition.<sup>105</sup> The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

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<sup>105</sup> For additional guidance, see HUD Handbook 1378 Tenant Assistance, Relocation, and Real Property Acquisition), available at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation/policyandguidance/handbook1378](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378).

## Section 104(d) of the Housing and Community Development Act of 1974

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 USC § 5304(d), (Section 104(d)), is a Federal law that applies when a lower-income dwelling is demolished or converted (as conversion is defined in accordance with 24 C.F.R. § 42.305) to a use other than lower-income housing in connection with a Community Development Block Grant Program (CDBG) or HOME Investment Partnerships Program (HOME) funded activity. Under Section 104(d), a lower-income person is considered displaced and, therefore eligible for Section 104(d) relocation assistance if the person permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with a CDBG or HOME funded activity. The Section 104(d) one-for-one replacement housing requirements may apply with respect to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income dwelling units in connection with CDBG or HOME funded activity. Section 104(d) implementing regulations can be found at 24 C.F.R. part 42, Subpart C. Additional HUD policy and guidance for Section 104(d) is available in HUD Handbook 1378, Chapter 7.

## **Part 2 – Accessibility Requirements**

Federal accessibility requirements apply to all RAD projects – whether they include new construction, alterations, or existing facilities. Applicable laws include, but are not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, and Titles II or III of the Americans with Disabilities Act (ADA). A PHA or Project Owner must comply with each law that applies to its project and with the requirement that provides the most accessibility when two or more laws apply. All three laws include new construction requirements. Substantial alterations, additions, rehabilitation and existing facilities must be in compliance with applicable requirements of Section 504 and the ADA.<sup>106</sup> All three laws may also require reasonable accommodations or modifications.

### Accessibility Requirements for New Construction

The Fair Housing Act requires all “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas must meet the Fair Housing Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas must meet the Fair Housing Act’s design and construction requirements. The Fair Housing Act requires that all covered multifamily dwellings be designed and constructed so that public and common use areas are readily accessible to and usable by persons with disabilities; all doors are sufficiently wide to allow passage by persons using wheelchairs; all units contain accessible routes into and through the dwelling unit; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements are installed in bathroom walls to allow later installation

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<sup>106</sup>See 24 C.F.R. § 100.205 (Fair Housing Act) and 24 C.F.R. §§ 8.22 and 8.23 (Section 504). See also 28 C.F.R. § 35.151(b) and 28 C.F.R. part 36 (ADA Titles II and III regulations, respectively).

of grab bars; and kitchens and bathrooms are usable such that a person in a wheelchair can maneuver about the space.<sup>107</sup> These design and construction requirements apply whether the housing is privately or publicly funded, including housing supported by tax credits.<sup>108</sup>

New construction of a multifamily housing project containing five or more dwelling units is also subject to physical accessibility requirements under Section 504. Under Section 504, a “project” includes all residential and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application for Federal financial assistance, or are treated as a whole for processing purposes, whether or not they are located on a single site.<sup>109</sup> The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS).<sup>110</sup> HUD recipients may also use the 2010 ADA Standards for Accessible Design under title II of the ADA, except for certain specific identified provisions, as detailed in HUD’s Notice on “Instructions for use of alternative accessibility standard,” published in the Federal Register on May 23, 2014 (“Deeming Notice”). This option exists until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard. Refer to HUD’s Deeming Notice for more information.

Section 504 also requires that a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with mobility impairments. An additional 2% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with vision and hearing impairments.<sup>111</sup> HUD may prescribe a higher percentage or number of units upon request by any affected recipient or by any State or local government or agency based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data, or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without disabilities.<sup>112</sup>

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing programs, including housing developed or operated by state and local governments, which includes PHAs. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations, including rental offices, and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. All newly constructed or altered facilities, including facilities altered to

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<sup>107</sup> See 24 C.F.R. § 100.205.

<sup>108</sup> For more information about the design and construction provisions of the Fair Housing Act, see [www.fairhousingfirst.org](http://www.fairhousingfirst.org). See also the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013), available at: [www.hud.gov/offices/fheo/library/hudjointstatement.pdf](http://www.hud.gov/offices/fheo/library/hudjointstatement.pdf).

<sup>109</sup> See 24 C.F.R. § 8.3.

<sup>110</sup> The UFAS are available at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>). See also 24 C.F.R. § 8.32.

<sup>111</sup> See 24 C.F.R. § 8.22.

<sup>112</sup> See HUD regulation at 24 C.F.R. § 8.22(c).

comply with program access and readily achievable barrier removal obligations that exist under Titles II or III of the ADA, must comply with the U.S. Department of Justice's ADA architectural accessibility standards as described in the following U.S. Department of Justice Technical Assistance document ADA Requirements, Effective Date/Compliance Date (Feb. 2011), [http://www.ada.gov/revised\\_effective\\_dates-2010.htm](http://www.ada.gov/revised_effective_dates-2010.htm).

### Accessibility Requirements for Alterations

If a building was constructed for first occupancy after March 13, 1991, the building must be in compliance with, and all alterations must maintain the building's accessible features so that the building continues to meet, the Fair Housing Act's accessibility requirements. In addition, without regard to the date of construction for first occupancy, certain alterations may be required under the Fair Housing Act if requested by a resident as a reasonable accommodation or modification or otherwise required to remediate accessibility deficiencies in the design and construction of the building.

Under HUD's Section 504 regulation, alterations include any structural change in a facility or a change to its permanent fixtures or equipment. If alterations are undertaken to a project that has fifteen or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, this qualifies as "substantial alterations," in which the new construction provisions of 24 C.F.R. § 8.22 apply.<sup>113</sup>

When alterations are made that do not qualify as substantial alterations, alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities.<sup>114</sup> If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5% of the dwelling units in a housing project are readily accessible to and usable by individuals with mobility impairments, no additional elements of dwelling units or entire dwelling units are required to be accessible under this provision. However, alterations to meet ongoing accessibility needs are always required, for example, in response to a reasonable accommodation request. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.<sup>115</sup>

All altered facilities covered by Titles II or III of the ADA must be altered in accordance with the U.S. Department of Justice's 2010 ADA Standards for Accessible Design and applicable ADA

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<sup>113</sup> See 24 C.F.R. § 8.23(a). The sole exception is that load bearing structural members are not required to be removed or altered.

<sup>114</sup> HUD may require a higher number or percentage of accessible units pursuant to 24 C.F.R. § 8.22(c) and 24 C.F.R. § 8.23(b)(2).

<sup>115</sup> 24 C.F.R. § 8.23(b).

regulations, unless subject to certain safe harbors identified in the 2010 ADA revised regulations for Titles II and III, as applicable.<sup>116</sup>

HUD will consider on a case-by-case basis a PHA's request to undertake limited new construction on the site of a Covered Project undergoing rehabilitation to comply with accessibility requirements on the site.

#### Additional Accessibility Requirements for Both New Construction and Alterations

Accessible units must be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible under the same program.<sup>117</sup> This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

PHAs are encouraged to use universal design principles, visitability principles and active design guidelines in planning new construction or retrofit work, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA and the Fair Housing Act.

#### Program Accessibility Requirements

Under Section 504, recipients must operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Title II of the ADA also includes a program access requirement, while Title III of the ADA requires readily achievable barrier removal.<sup>118</sup> Further, Section 504, the Fair Housing Act, and the ADA require that reasonable accommodations/modifications be granted to address disability-related needs of individuals with disabilities.<sup>119</sup>

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<sup>116</sup> See <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>.

<sup>117</sup> See 24 C.F.R. §§ 8.26 and 8.27.

<sup>118</sup> See 28 C.F.R. § 35.150; 28 C.F.R. § 36.304.

<sup>119</sup> For more information on reasonable accommodations, see the HUD/DOJ Joint Statement on Reasonable Accommodations Under the Fair Housing Act at <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>. While this joint statement focuses on the Fair Housing Act, the principles discussed in the statement generally apply to requests for reasonable accommodation under Section 504, except, for purposes of Section 504, HUD recipients are required to provide and pay for structural modifications as a reasonable accommodation.

## **APPENDIX II: Recommended Relocation Plan Contents**

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While RAD mandates written relocation plans only for projects which involve permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year, HUD strongly encourages PHAs to document their relocation planning process and procedures in a written relocation plan. The following provides suggested content for required and recommended relocation plans. In the case of any discrepancy between this description of the recommended relocation plan contents and the provisions of the Notice to which this Appendix is attached or any applicable laws or regulations with respect to the URA or Section 104(d), the provisions of the Notice or applicable laws and regulations shall govern.

The basic elements of the relocation plan include:

- A general description of the project and project elements that may create relocation needs;
- Information on residents of the project and eligibility for relocation assistance and payments;
- Information regarding how the project will address the RAD right to return requirements and the project's re-occupancy policies;
- A detailed discussion of plans for temporary relocation assistance;
- A detailed discussion of any transfer of assistance;
- A detailed discussion of any offers of alternative housing options and plans for voluntary permanent relocation assistance;
- A detailed discussion of compliance with fair housing and civil rights requirements, including accessibility requirements;
- The relocation budget; and
- The appeals process.

The plan as a whole should discuss the specific steps to be taken to minimize the adverse impacts of relocation on the residents.

### **I. Project Summary**

The Relocation Plan should provide a general description of the property (e.g., year built, location, number of units, configuration, resident population served). The project summary should also identify the nature of the activities to be undertaken, including acquisition, demolition, rehabilitation, and construction activities and additional detail regarding the project scope (e.g., gut rehab, systems replacement, modest in-unit renovations, transfer of assistance). The project summary should also discuss how any construction activities are to be implemented (i.e., vacate the property entirely, vacate specific floors or buildings, rehabilitation with residents in place). The summary should also discuss the overall theory of relocation, for example, whether a few households will be relocated off-site and the vacant units will be used as temporary housing before other households move back to their original units (a "hoteling" approach), or whether the vacant units will be permanently occupied, with the residents vacating other units to be renovated (a "domino" approach).



The relocation plan should also identify the funding sources which may trigger relocation requirements, with particular attention to the potential presence of HOME or CDBG funds which may trigger Section 104(d) requirements.

## **II. Project Occupancy**

The Relocation Plan should provide information on occupancy of the property including the number of residents, their household type (family, elderly), any non-residential (commercial) occupants, and should identify how any routine needs (such as continuation of utilities such as telephone service) and civil rights compliance issues (for example, limited English proficiency, disabilities, reasonable accommodations and unit modifications that have been or may be necessary) shall be identified and addressed. The Relocation Plan may specify the community meetings, interviews and/or other processes that will be undertaken to assess the residents' needs.

The Relocation Plan should also address eligibility for relocation assistance and payments, applying the rules of the Notice to the particularities of the project.

## **III. Resident Return and Re-occupancy Policies**

The Plan should address how the project will honor the RAD right to return requirements and the “no re-screening upon conversion” policy. With respect to residents who will be temporarily relocated, the Plan should include the methodology that will be used to determine the sequence in which residents will re-occupy units at the project after rehabilitation, demolition, and/or construction is completed, and to determine how residents are matched with units if the residents are not able to return to their original unit. For example, if units will come online in stages, the plan should outline how the PHA or Project Owner will determine when each resident will return to the property.

## **IV. Temporary Relocation Assistance**

The plan should detail the temporary housing resources to be used, the anticipated duration of temporary relocations, notices to be provided and the temporary relocation assistance the PHA or Project Owner will provide for residents (Paragraph 2-7 of HUD Handbook 1378). Topics to be addressed in the Plan include:

- Temporary Housing Resources. The Plan should identify the nature and availability of the temporary housing resources the PHA or Project Owner anticipates using. On-site resources are generally preferred. However, in some cases, PHAs or Project Owners may need to use hotel rooms for short-term relocations, or market-rate apartments. If the PHA or Project Owner anticipates using other assisted housing resources (such as HCVs, public housing or other properties with regulatory restrictions), the PHA or Project Owner should take particular care to address regulatory issues.
- Allocation of Temporary Relocation Resources. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- Duration of Temporary Relocation. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those

residents (such as the issuance of a *Notice of Relocation* to the resident covering eligibility for URA relocation assistance, the offer of permanent relocation assistance and payments at URA levels and, if conditions warrant, the subsequent issuance of a *Notice of Eligibility*) as distinct from requirements that apply to residents who are not relocated for more than one year.

- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses. The PHA or Project Owner can choose to do one or more of the following:
    - Undertake the moves itself, using employees of the PHA or Project Owner or “force account labor”<sup>120</sup>
    - Use a contractor or moving company
    - Reimburse residents for all actual, reasonable and necessary moving expenses.
- Storage. The Plan should address whether storage of the resident’s personal property is necessary and the arrangements for such storage.
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Out-of-Pocket Expenses. The nature of out of pocket expenses vary based on the nature of the temporary relocation moves. For example, hotel stays or in-place renovation may trigger the need for reimbursement of meals while a kitchen is unavailable. The Plan should outline the anticipated out-of-pocket expenses and the PHA’s or Project Owner’s plans and budget with respect to these expenses.
- Leasing Arrangements. The Plan should address whether the resident will have a direct lease or other contractual relationship with the owner of the temporary relocation resource or whether the PHA or Project Owner will hold the lease and the resident will maintain a contractual relationship with the PHA or Project Owner.
- Utility Costs. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

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<sup>120</sup> Defined at 24 C.F.R. 905.108.

- Reasonable Accommodations. The plan should address whether residents with disabilities will require reasonable accommodations during temporary relocation and, if so, how the PHA or Project Owner anticipates ensuring the provision of reasonable accommodations and any associated expenses. Reasonable accommodations may include, among other items, the provision of transportation assistance, relocation to locations which are physically accessible and located near public transportation, and modifications to policies to allow individuals with disabilities to reside with a live-in aide.

## **V. Transfer of Assistance**

Relocation planning in the context of transfer of assistance is particularly complex. The PHA should address how RAD, URA and Section 104(d) requirements each apply, as the same activity may be treated differently under each regulatory framework. The Plan should specifically outline the PHA's procedures to ensure that the applicable requirements are applied to each situation appropriately. The Plan should also address whether relocation is required for any businesses or residents at the destination site. Finally, the Plan should address whether two moves – from the public housing site to an intermediate site and then to the transfer of assistance site – are necessary while the Covered Project is being constructed or rehabilitated.

## **VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance**

If the PHA or Project Owner seeks to offer alternative housing options, the Plan should identify those options and the manner in which they are presented to residents for decision. The plan should also outline the counseling the PHA or Project Owner will provide to assist the residents in determining what options may be available and the financial implications of those options, for example,

1. Discussion of whether units available in the market (either in the affordable market or the unrestricted market) will meet the financial and dwelling requirements of relocated residents;
2. The general area or location of unit(s);
3. Where applicable, the accessibility of such units for individuals with disabilities;
4. Criteria for receiving relocation assistance; and
5. Any other information that might benefit residents in their consideration of housing choices.

The Plan should identify how the PHA or Project Owner will work with any residents who have elected voluntary permanent relocation. The Plan should further include a description of the permanent relocation assistance the PHA or Project Owner will provide to such residents. Topics to be addressed in the Plan include:

- Replacement Housing. The Plan should address the availability of comparable replacement housing, the notices to be provided and the provisions to ensure that appropriate accessibility features are available in compliance with applicable laws and regulations.

- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses consistent with 49 C.F.R. § 24.301 or, at the resident's option, 49 C.F.R. § 24.302.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage. See 49 C.F.R. § 24.301(g)(4).
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Dislocation Allowance. The Plan should address when the resident is entitled to a dislocation allowance and the amount of such dislocation allowance, consistent with the URA Fixed Residential Moving Cost Schedule available at: [www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm).
- Appliances. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Security Deposits and Utility Costs. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d).<sup>121</sup>

## **VII. Relocation Budget**

Based on the results of the planning process, the PHA or Project Owner should create a relocation budget that includes the following six components:

- 1) The cost of administering the plan and providing assistance and counseling.
- 2) Reasonable moving expenses for a person with disabilities, which may include the cost of moving assistive equipment that is the personal property of the residents, the furnishings and personal belonging of a live-in aide, and/or other reasonable accommodations (HUD Handbook 1378, Paragraph 3-2).
- 3) The cost of the physical move of the residents' belongings. (It is suggested that the move costs be broken down by average cost per move type multiplied by the number of moves.) This physical move cost total should be based on the move scenarios anticipated or projected by the resident survey. The move costs should consider:

For temporary relocation moves:

- Number and cost of two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
- Number and cost of two-way moves to a unit not in the same building/complex

For permanent moves:

- Number and cost of one-time moves into another unit in the same building/complex.
  - Number and cost of one permanent move to a unit not within the same building/complex
  - Any required dislocation allowance
- 4) The estimated cost of projected increases in monthly housing costs and other expenses for temporary relocation (if applicable).
  - 5) The estimated cost of projected replacement housing payments (RHP) (42-month period for URA or 60-month period if Section 104(d) applies).
  - 6) Contingency costs estimated for carrying out the relocation process necessary to complete the proposed project.

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<sup>121</sup> See also, CPD Notice 2014-09 "Effective Date of Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) Changes to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) Payment Limits and Replacement Housing Payment Eligibility Criteria."

### **VIII. Written and Oral Communications with Individuals with Disabilities and LEP Persons and Use of Accessible Meeting Locations**

The Plan should identify how the PHA or Project Owner will take appropriate steps to ensure effective communication with residents and other individuals with disabilities involved in the relocation, such as through the provision of sign language and other interpreters and large print, Braille, accessible electronic, and other alternate format written communications. The Plan should identify the measures to be taken to ensure the most integrated meeting settings appropriate to individuals with disabilities. The Plan should identify how the PHA or Project Owner will ensure meaningful access for LEP persons, such as through written materials and oral communications provided in languages other than English.

### **IX. Appeal Process**

The Plan should specify the procedures to be followed if a resident disagrees with the PHA's or Project Owner's decision as to the resident's eligibility to receive relocation assistance, the amount of a relocation payment, or the adequacy of a comparable replacement dwelling offered to a resident. These procedures should include the process for filing a written appeal to the displacing agency and the specific appeal procedures to be followed consistent with 49 C.F.R. 24.10 (and 24 C.F.R. § 42.390 if Section 104(d) is involved).

### **X. Certification**

The Plan should contain a certification of compliance with this Notice (or H 2014-09/PIH 2014-17, if applicable), the URA, fair housing and civil rights requirements and, if applicable, Section 104(d).

### **Technical Assistance**

For detailed technical assistance regarding the contents or provisions of a written relocation plan, the PHA or Project Owner should direct questions to their RAD Transaction Manager or email [rad@hud.gov](mailto:rad@hud.gov).

## **Appendix H: RAD Significant Amendment (April 21, 2021)**

**Philadelphia Housing Authority**  
**Fiscal Year 2021/2022 Moving to Work Annual Plan**  
**Rental Assistance Demonstration Significant Amendment**

The Philadelphia Housing Authority (PHA) is proposing an amendment to its Moving to Work (MTW) Annual Plan as required by the US Department of Housing and Urban Development (HUD) to provide information on PHA's planned activities under the Rental Assistance Demonstration (RAD) program. The amendment will be incorporated in its entirety into PHA's most recent HUD-approved MTW Annual Plan - either the FY 2021 Annual MTW Plan, which has already been approved, or the FY 2022 MTW Annual Plan, which is pending HUD approval as of the date of publication of the public notice of proposed amendment.

Pursuant to this Amendment, PHA will: 1) transfer assistance from 58 vacant, uninhabitable scattered site units to the proposed Sharswood Phase IV-A new construction development to be developed by the Philadelphia Housing Authority as part of the Sharswood/Blumberg Choice Neighborhoods Transformation Plan; and 2) convert 50 units to project-based assistance at the existing Casa Indiana public housing development sponsored by HACE.

### **Background**

Subject to HUD approval, PHA intends to proceed with RAD transfer of assistance at Sharswood Phase IV-A and public housing conversion at Casa Indiana pursuant to the guidelines of PIH Notice 2019-23, Revision 4 dated September 5, 2019 and PIH Notice 2016-17 dated November 10, 2016 ("HUD RAD Notices") and any other successor Notices issued by HUD.

PHA is required to submit a Significant Amendment to the MTW Annual Plan that incorporates required information on PHA's RAD conversion plans. This document provides the required information and serves as PHA's RAD Significant Amendment for the subject units. PHA intends to propose further Significant Amendment(s) for additional HUD-approved RAD conversions, including transfers of assistance, at future dates. PHA will provide a thirty-day public comment period, and conduct a Public Hearing to allow residents and the general public an opportunity to review and comment on the RAD Significant Amendment. The PHA Board of Commissioners will conduct a vote on the RAD Significant Amendment at a future public meeting.

### **RAD Conversion Plan**

This Significant Amendment provides information on PHA's plans to convert public housing units to project-based assistance under RAD at the subject sites, as further described in Attachment 1. Attachment 1 includes the following information:

*Current Units:* Total number of units, bedroom size distribution and unit type.

*Post-Conversion Units:* If applicable, any changes proposed to the current number of units, the bedroom size distribution or the unit type including de minimis reductions.



<i>Transfer of Assistance:</i>	Whether PHA intends to transfer assistance to another development as part of the RAD conversion and, if so, the location, number of units, bedroom size distribution, and unit type where known.
<i>PBV or PBRA:</i>	Whether PHA intends to convert the development to the Project Based Voucher (PBV) program or to the Project Based Rental Assistance (PBRA) program, along with information on resident rights, resident participation, waiting list and grievance procedures applicable to each program. PHA intends to convert assistance to the PBV program.
<i>Capital Fund Impact:</i>	The current amount of Capital Fund dollars received prior to RAD conversion. Developments converted through the RAD program are not eligible for Public Housing Capital Funds after conversion.
<i>Transfer of Waiting List:</i>	How existing waiting lists will be addressed as part of the conversion where applicable.

### **Conversion to Project Based Vouchers or Project Based Rental Assistance**

Public housing developments that are converted to project-based assistance will no longer be subject to HUD rules and regulations pertaining to the public housing program. Upon conversion to RAD, the former public housing units will be subject to the rules and regulations pertaining to either the PBV or PBRA programs, depending on which program option is selected by PHA. HUD has modified the PBV and PBRA program rules and regulations to incorporate additional provisions that apply solely to units converted under RAD. These additional provisions provide important protections to current residents of public housing that are impacted by a RAD conversion.

PHA intends to convert the developments/units listed in Attachment 1 to the PBV program. As part of the conversion initiative, PHA will adopt all required RAD PBV rules except where MTW or other waivers are approved by HUD, and will modify its existing Housing Choice Voucher Program Administrative Plan as needed to incorporate those rules related to resident rights, resident participation, waiting list, lease, waiting list, grievance processes and other areas.

Attachment 2 provides information on the RAD PBV program as required by the HUD RAD Notices related to resident rights and participation, waiting list and grievance procedures.

### **Capital Fund Budget**

Conversion of existing public housing developments under the RAD program will enable PHA to leverage existing funds to secure additional private and other funding. This new funding will be used to undertake long-deferred capital improvements and, in instances where transfer of assistance is involved, to construct or rehabilitate new or existing affordable housing units.

PHA currently receives HUD Capital Funds on an annual basis, subject to Congressional appropriations for the majority of its public housing units. Attachment 1 includes the most recent Capital Fund allocation for each RAD conversion site. Upon conversion to RAD, PHA will no longer receive a Capital Fund allocation for units that have been converted, and the annual Capital Fund grant will be decreased.

The total estimated reduction in PHA Capital Funds on an annual basis for the subject units covered under this Significant Amendment is approximately \$332,404 based on FY2021 funding levels. (HUD has not posted the amount of the FY 2021 Capital Fund award for Casa Indiana; thus, a per unit amount of \$1,150 is estimated.) Over a five-year period, the estimated Capital Fund reduction is approximately \$1,662,020 based on FY2021 funding levels. The actual amount of the reduction may vary depending on Congressional appropriations. As RAD conversions are completed, PHA will modify its existing capital plans to reflect the reduction in funding and change in work scopes.

The RAD conversions will not impact PHA's existing Capital Fund Financing Program (CFFP) obligations. PHA currently projects that it will utilize MTW Block Grant funds for capital improvements and to establish a RAD reserve for the subject developments. Actual amounts will be incorporated into the final financing plan.

### **Site and Neighborhood Standards**

The RAD conversions described herein comply with all applicable site selection and neighborhood review standards. PHA has included individual certifications for each proposed project in Attachment 1. PHA certifies that:

1. The sites are suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed projects, PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

### **Relocation Plan**

Resident relocation will not be required as the scattered sites transfer of assistance units are currently vacant. Where applicable, resident relocation related to RAD conversions will be performed in accordance with the HUD RAD Notices.

### **Compliance**

PHA is not presently subject to a voluntary compliance agreement, consent order, consent decree, final judicial ruling or administrative ruling that has any relation to or impact on the planned RAD conversion.

## **Moving To Work**

PHA may utilize MTW Block Grant fungibility and programmatic flexibility to support the RAD conversion effort subject to any necessary Board and HUD approvals. PHA certifies that regardless of any funding changes that may occur as a result of conversion under RAD, PHA will continue to administer and maintain service levels for its remaining portfolio of public housing units subject to funding availability. PHA will do this by utilizing available funding including Public Housing Operating Fund, Capital Fund, and Tenant Rental Income.

### **Significant Amendment Definition**

As part of the RAD conversion initiative, a Significant Amendment to the MTW Plan will not be required for the following RAD-specific actions:

- Changes to the Capital Fund budget produced as a result of each approved RAD conversion regardless of whether the proposed conversion will include use of additional Capital Funds;
- Decisions to apply MTW funding or programmatic flexibility to post-conversion RAD developments;
- Decisions or changes related to the ownership and/or financing structures for each approved RAD conversion including decisions to allocate PHA financial resources as a source of funds to support the RAD conversion initiatives;
- Changes to the construction and rehabilitation plans and scheduled for each approved RAD conversion;
- Changes to the project names or sponsor entity names;
- Changes in the post-conversion bedroom size distribution and/or the number of de minimis unit reductions up to the 5% permitted under RAD program rules;
- Changes to the pre-conversion bedroom size distribution and/or the project or AMP from which transfer of assistance units will be converted; and,
- Decisions to convert to either Project Based Vouchers or Project Based Rental Assistance.

**Philadelphia Housing Authority**  
**Moving to Work Annual Plan Amendment**  
**Rental Assistance Demonstration Significant Amendment**  
**Attachment 1 – Information on Public Housing Developments to be Converted**

The following pages provide required information on each development and/or Asset Management Project (AMP) to be converted from public housing assistance to Project Based Voucher (PBV) assistance under the Rental Assistance Demonstration (RAD) program.

## RAD Significant Amendment Attachment 1

**Development Name** Scattered Sites  
**PIC Development ID #** PA002000908, PA002000909, PA002000910  
**Conversion Type (PBV or PBRA)** PBV  
**Capital Fund Grant (FFY21)** \$ 274,904

**Pre-Conversion Total Units** 58  
**Pre-Conversion Unit Type** Scattered Sites

	PA002000908	PA002000909	PA002000910
	# of Units	# of Units	# of Units
0 BR	0	0	0
1 BR	0	0	0
2 BR	3	2	1
3 BR	28	12	1
4 BR	3	0	0
5 BR	4	1	0
6 BR	1	2	0

**Post-Conversion Total Units** 58  
**Post-Conversion RAD Units** 58  
**Post-Conversion Unit Type** Family  
**Post- Conversion Development Name and Address** Sharswood Phase IV-A  
 1412-1422 N 25th Street; 2401-2415 Ingersoll Street; 2421-2443 Ingersoll Street; 2453-2457 Ingersoll Street; 2450-2456 Ingersoll Street; 2400-2434 Ingersoll Street; 2504 Master Street; 2411 Master Street; 2415 Master Street; 2448 Master Street; 2418-2444 Master Street; 2301-2343 Master Street

**Post - Conversion Sponsor** Philadelphia Housing Authority  
**Project Description** Sharswood Phase IV-A is the fourth phase of PHA's Blumberg/Sharswood Choice Neighborhood Transformation Plan. It consists of fifty-eight (58), scattered site, new construction units located on the 2300 and 2400 blocks of Harlan, Master and Ingersoll Streets. The development will include a stand alone community center, with a kitchenette and outdoor space, as well as a property management office and dedicated office space for a social service coordinator. All 58 units will be leased to families earning 60% of the area median income (AMI) or less and 10% of the units will be reserved for families earning 20% AMI or less.

	Post-Conversion Bedroom Size	
	Total # of Units	# of RAD Units
0 BR	0	0
1 BR	16	16
2 BR	10	10
3 BR	24	24
4 BR	7	7
5 BR	1	1
6 BR	0	0

**Transfer of Assistance** Yes  
**De Minimis Reduction** N/A  
**Transfer of Waiting List** This is a new construction, transfer of assistance project. A new site-based waiting list will be established for the development prior to the initial lease up. The owner will manage and maintain the site-based waiting list, including any PHA-approved selection preferences, in accordance with PHA's Housing Choice Voucher Program Administrative Plan. PHA will post information on how to apply for the PBV site-based waiting list on the PHA website.

### Certification

For the Sharswood Phase IV-A Rental Assistance Demonstration (RAD) project located in Philadelphia, the Philadelphia Housing Authority certifies that site complies with all site selection requirements applicable to Project Based Voucher (PBV) RAD projects, including:

1. The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

## RAD Significant Amendment Attachment 1

**Development Name** Casa Indiana  
**PIC Development ID #** PA002000185  
**Conversion Type (PBV or PBRA)** PBV  
**Capital Fund Grant (FFY21)** \$57,500

**Pre-Conversion Total Units** 50  
**Pre-Conversion Unit Type** Senior Preference

Pre-Conversion Bedroom Size	
PA002000185	
# of Units	
0 BR	0
1 BR	50
2 BR	0
3 BR	0
4 BR	0
5 BR	0
6 BR	0

**Post-Conversion Total Units** 50  
**Post-Conversion RAD Units** 50  
**Post-Conversion Unit Type** Senior Preference  
**Post- Conversion Development Name and Address** Casa Indiana  
 2935-65 N. 2nd Street, Philadelphia, PA 19133  
**Post - Conversion Sponsor** HACE  
**Project Description** Casa Indiana is an existing public housing development for seniors age 62+ that includes Low-Income Housing Tax Credit funding. Completed in 2020, the development is four-story midrise building with fifty (50) one bedroom apartments. The development includes a community room with a kitchenette, computer library, outdoor space for gardening and recreation, as well as a property management office and dedicated office space for a social service coordinator. All 50 units are leased to families earning 50% of the area median income (AMI) or less and 10% of the units are reserved families earning 20% AMI or less.

**Post-Conversion Bedroom Size** 50 one-bedroom units

	Total # of Units	# of RAD Units
0 BR	0	0
1 BR	50	50
2 BR	0	0
3 BR	0	0
4 BR	0	0
5 BR	0	0
6 BR	0	0

**Transfer of Assistance** N/A  
**De Minimis Reduction** N/A  
**Transfer of Waiting List**

Following conversion to PBV under RAD, eligible senior applicants on the existing Public housing project based waiting list, will be transferred to a PBV site-based waiting list. No changes are planned to waiting list preferences, and applicants will maintain their original date and time of application. The owner will maintain the site-based waiting list in accordance with PHA's Housing Choice Voucher Program Administrative Plan. The owner has closed the waiting list and will post information on how to apply for the PVB project based site waiting list on HACE's website, [www.hacecdc.org](http://www.hacecdc.org), when the waiting list re-opens.

### Certification

For the Casa Indiana Rental Assistance Demonstration (RAD) project located in Philadelphia, the Philadelphia Housing Authority certifies that site complies with all site selection requirements applicable to Project Based Voucher (PBV) RAD projects, including:

1. The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.



**Moving to Work Annual Plan Amendment**  
**Rental Assistance Demonstration Significant Amendment**  
**Attachment 2 – Project Based Voucher Program (PBV)**

Information on resident rights and participation, waiting list and grievance procedures for Rental Assistance Demonstration (RAD) program conversions to the Project Based Voucher (PBV) program are included in this attachment:

HUD PIH Notice 2019-23, Revision 4 dated September 5, 2019, Sections 1.6.C and 1.6.D and Table 1B.

HUD Joint Housing Notice H-2016-17, PIH-2016-17 dated November 10, 2016 in its entirety.

Excerpts from HUD PIH Notice 2019-23, Revision 4 dated September 5, 2019

**C. PBV Resident Rights and Participation.**

- 1. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.<sup>36</sup> Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the 1937 Act and 24 CFR § 982.201, concerning eligibility and targeting of

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<sup>36</sup> 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.

tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement. Further, so as to facilitate the right to return to the assisted property, HUD waives Section 8(o)(4) and 24 CFR § 982.201 to the extent necessary for this provision to apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR Part 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.

2. **Right to Return.** See Section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
3. **Phase-in of Tenant Rent Increases.** If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBV program (the tenant's TTP) would increase the tenant's TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

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

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full Calculated PBV TTP<sup>37</sup>

Five Year Phase in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 5 AR and all subsequent recertifications – Full Calculated PBV TTP

*Please Note:* In either the three year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. MTW agencies must also implement a three or five-year phase-in for impacted residents, but may alter the terms above as long as it establishes a written policy setting forth the alternative terms. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

**4. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are currently FSS participants will continue to participate in the PHA's FSS program.

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<sup>37</sup> For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TTP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, PHAs should note that until provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act are implemented, there are certain FSS requirements (e.g., escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and PHAs must follow such requirements accordingly. All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR part 984 (current, or as amended), the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.<sup>38</sup> Further, upon conversion to PBV, if the PHA no longer has a public housing program, funds already escrowed for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.<sup>39</sup>

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

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

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<sup>38</sup> The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

<sup>39</sup> Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.

which, by statute, can only serve public housing residents. At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local Resident Association and this consequence of a RAD conversion may impact those entities. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

5. **Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
6. **Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum (HUD Form 52530-c), as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.
  - a. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD and to non-RAD PBV units located at the Covered Project. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be :
    - i. A reasonable period of time, but not to exceed 30 days:
      1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
      2. In the event of any drug-related or violent criminal activity or any felony conviction;
    - ii. Not less than 14 days in the case of nonpayment of rent; and
    - iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

- b. **Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),<sup>40</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
  2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
- iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- iv. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

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<sup>40</sup> § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

7. **Earned Income Disregard (EID).** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in 24 CFR § 5.617(b) limiting EID to disabled persons is waived. The waiver, and resulting alternative requirement, apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants that move into the property following conversion or tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

8. **Jobs Plus.** Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project. If the program is continued, the Project Owner must agree to continue to implement the program according to HUD's program requirements. Jobs Plus target public housing projects must enroll public housing residents into the Jobs Plus rent incentive, JPEID, prior to conversion. Any resident of the Covered Project that had not enrolled prior to conversion is not eligible to enroll in JPEID but may utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the Covered Project may voluntarily utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion.



- 9. When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.<sup>41</sup> In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

Unless a waiver is requested and approved as described below, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an

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<sup>41</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

alternative requirement that the PHA must reinstate the unit after the family has left the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where “floating units have been permitted, Section 1.6.B.10 of the Notice.

A PHA may request a waiver from HUD for the Covered Project in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not made a housing assistance payment for a family in 180 days.

For a Covered Project that consists of 100 percent RAD PBV units, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty at the Covered Project. A PHA may evidence this by providing data showing, for example:

- how eligible income-certified applicants on the waiting list must be passed over because their incomes result in zero HAP at admission causing a higher concentration of poverty at the covered project; or
- how the income of newly admitted families is causing a markedly higher concentration of poverty than the PHA’s non-RAD PBV projects.

The resulting impact on the property must be compared with the concentration of poverty at non-RAD PBV projects in the PHA’s jurisdiction. If there are no non-RAD PBV projects in the PHA’s jurisdiction, the PHA may alternatively demonstrate that the median income of families that could be admitted to the Covered Project is significantly lower than the median income of new admissions from the waiting list to the PHA’s HCV program since the time of the RAD conversion.

For any other Covered Project, the PHA must demonstrate that the property contains specific units (e.g., units suitable for large families or accessible units) for which there are insufficient alternative housing opportunities.

If the waiver is approved, the new admission[s] families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family, and the unit is subject to all program requirements. Such waiver requests should be submitted to the PIH Field Office in accordance with Notice PIH 2018-16.

**10. Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate

sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived for current residents remaining or returning to the Covered Project. MTW agencies may not modify this requirement. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

#### **D. PBV: Other Miscellaneous Provisions**

- 1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.
- 2. Ongoing PHA Board Review of Operating Budget.** The Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. The PHA's Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.<sup>42</sup>
- 3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to [1.4.A.13 and 1.4.A.14](#).
- 4. Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:
  - a. Transferring an existing site-based waiting list to a new site-based waiting list.

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<sup>42</sup> For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

- b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other

outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).<sup>43</sup>

When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c). To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

5. **Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.
6. **Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC but HUD review of liens must be performed prior to execution.
7. **Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the "year of conversion"), RAD PBV projects will be funded

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<sup>43</sup> For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

with public housing funds. For example, if the project's assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to "section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998" and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

- 8. Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA's HCV program becomes PBV assistance, it is possible for most or all of a PHA's turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory

turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

- 9. Reserve for Replacement.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

- 10. Initial Certifications and Tenant Rent Calculations.** The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV site-specific utility allowance, if applicable) to determine the PBV HAP and tenant rent. This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility allowance.) To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project shall be subject to the terms of this provision. To effectuate this provision, HUD is waiving 24 CFR 5.601 and 983.3(c)(6)(iii).

**Attachment 1B – Resident Provisions in Conversions of Assistance  
from Public Housing to PBRA and PBV**

This Attachment contains two sections, describing:

- 1B.1 Summary of Resident Provisions
  - 1B.2 Resident Participation and Funding
- 

**1B.1 Summary of Resident Provisions**

The following is a summary of special provisions and alternative requirements related to tenants of public housing projects converting under RAD (including for those that will reside in non-RAD PBV units in the Covered project):

- Conversion will be considered a significant action requiring discussion in the PHA's Five-Year Plan, Annual Plan or MTW Plan or requiring a significant amendment to a PHA Plan (see [Section 1.5.E](#) of this Notice);
- Notification of proposed conversion, meetings during the conversion process, written response to residents comments on conversion, and notification of conversion approval and impact (see [Section 1.8](#) of this Notice);
- No rescreening at conversion (see [Section 1.6.C.1](#) of this Notice for conversions to PBV and [Section 1.7.B.1](#) for conversions to PBRA);
- A right to return, which covers the right to return to the rent-assisted property after temporary relocation (when temporary relocation is necessary to facilitate rehabilitation or construction), or the right to occupancy of the new unit if the rental assistance is transferred to a new unit. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Phase-in of tenant rent increases (see [Section 1.6.C.3](#) of this Notice for conversions to PBV and [Section 1.7.B.3](#) for conversions to PBRA);
- Relocation protections, including procedural rights, assistance with moving, and applicable relocation payments. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Continued participation in the ROSS-SC FSS and JobsPlus programs (see [Sections 1.6.C.5 and 1.6.C.9](#) of this Notice, for conversions to PBV and [Section 1.7.B.4](#) for conversions to PBRA);
- Continued Earned Income Disregard (see [Section 1.6.C.8](#) of this Notice, for conversions to PBV and [Section 1.7.B.7](#) for conversions to PBRA);



## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

- Continued recognition of and funding for legitimate residents organizations (see [Section 1.6.C.6](#) of this Notice for conversions to PBV, [Section 1.7.B.5](#) of this Notice for conversions to PBRA, and below in Attachment 1B.2 for additional requirements for both programs);
- Procedural rights consistent with section 6 of the Act (see [Section 1.6.C.7](#) of this Notice for conversions to PBV and [Section 1.7.B.6](#) of this Notice for conversions to PBRA); and
- Choice-mobility option allowing a resident to move with a tenant-based voucher after tenancy in the Covered Project (see 24 CFR § 983.260 for conversions to PBV and Section 1.7.C.5 of this Notice for conversions to PBRA).

The foregoing is a summary of special provisions and alternative requirements relating to residents of public housing projects converting to RAD and does not attempt to capture all program requirements and details. For additional information, refer to the full text of this Notice and to the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17; PIH 2016-17).

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

### **1B.2 Resident Participation and Funding<sup>98</sup>**

The following provisions contain the resident participation and funding requirements for public housing conversions to PBRA and PBV, respectively.

#### **A. PBRA: Resident Participation and Funding**

Residents of Covered Projects converting assistance to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR Part 245 (Tenant Participation in Multifamily Housing Projects). In addition, a Project Owner must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate tenant organization at the covered property. Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation. These funds must be used for resident education, organizing around tenancy issues, and training activities.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible uses of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the HUD Field Office for intervention only after documented efforts to at direct resolution have proven unsuccessful.

#### **B. PBV: Resident Participation and Funding**

To support resident participation following conversion of assistance, residents of Covered Projects converting assistance to the PBV program will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living

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<sup>98</sup> For the purposes of this Attachment, HUD uses the term “Project Owner” to refer to the owner of a Converting Project or Covered Project, as applicable to the context.

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

- 1. Legitimate Resident Organization.** A Project Owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate if it has been established by the residents of a Covered Project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

- 2. Protected Activities.** Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:
  - a. Distributing leaflets in lobby areas;
  - b. Placing leaflets at or under residents' doors;
  - c. Distributing leaflets in common areas;
  - d. Initiating contact with residents;
  - e. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
  - f. Posting information on bulletin boards;
  - g. Assisting resident to participate in resident organization activities;
  - h. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
  - i. Formulating responses to Project Owner's requests for:
    - i. Rent increases;
    - ii. Partial payment of claims;
    - iii. The conversion from project-based paid utilities to resident-paid utilities;
    - iv. A reduction in resident utility allowances;
    - v. Major capital additions; and

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

### **vi. Prepayment of loans.**

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

- 3. Meeting Space.** Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
- a.** Residents or a resident organization and used for activities related to the operation of the resident organization; or
  - b.** Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. A PHA may waive this fee.

- 4. Resident Organizers.** A resident organizer is a resident or non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

Project Owners must allow resident organizers to assist residents in establishing and operating resident organizations.

- 5. Canvassing.** If a Covered Project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the project.

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

A resident has the right not to be re-canvassed against his or her wishes regarding participation in a resident organization.

- 6. Funding.** Project Owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization at the covered property.<sup>99</sup> These funds must be used for resident education, organizing around tenancy issues, and training activities. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible use of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the Contract Administrator for intervention only after documented efforts to at direct resolution have proven unsuccessful.

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<sup>99</sup> Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation.



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**Office of Public and Indian Housing**  
**Office of Housing**

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<b>Special Attention of:</b>	<b>Notice</b>	H 2016-17 PIH 2016-17 (HA)
Public Housing Agencies		
Public Housing Hub Office Directors		
Public Housing Program Center Directors	Issued:	November 10, 2016
Multifamily HUB Directors		
Multifamily Program Center Directors	Effective:	November 10, 2016
Regional and Field Office Directors		
Regional Administrators	Expires:	This Notice remains in effect until amended, superseded, or rescinded
Performance Based Contract Administrators		
RAD Transaction Managers		
Regional Relocation Specialists	Supplements:	PIH Notice 2012-32 (HA) REV-2
	Supersedes:	H 2014-09/PIH 2014-17

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**SUBJECT:** Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.<sup>1</sup>

**SECTION 1. Purpose, Applicability and Major Provisions of this Notice**

**1.1. Purpose**

This notice (Notice) provides PHAs,<sup>2</sup> Project Owners, and their RAD development partners with guidance regarding key fair housing and civil rights statutory and regulatory requirements, explains the situations in which HUD is requiring front-end fair housing and civil rights reviews, and provides information regarding the types of information that must be submitted to facilitate HUD’s review of certain fair housing and civil rights requirements in connection with public housing conversions under the First Component of RAD. This Notice also includes guidance

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<sup>1</sup> While this Notice addresses fair housing and civil rights requirements and relocation requirements, the fair housing and civil rights requirements are not limited to relocation issues.

<sup>2</sup> Consistent with PIH Notice 2012-32 (HA) REV-2 (PIH 2012-32 (HA) REV-2) (the “RAD Notice”), this Notice uses the term “PHA” to refer to the owner of the project prior to the RAD conversion and “Project Owner” to refer to the owner of the project after the RAD conversion.

regarding key relocation statutory and regulatory requirements, and details relocation requirements under RAD. This Notice only applies to projects converting under the First Component of RAD; it does not apply to the Second Component of RAD.<sup>3</sup>

The RAD program was established as a tool for preserving and improving low-income housing stock. RAD is intended to facilitate reinvestment in or redevelopment of the long-term-affordable stock of HUD-assisted housing properties. RAD also provides mobility benefits for assisted residents of converted properties through the choice mobility option, allowing these households to access tenant-based Housing Choice Vouchers. In some cases, RAD can be a tool for transfer of rental assistance from distressed or poorly selected sites to new sites in high opportunity areas. In all cases, the objective is to better serve low-income residents and the broader community in complying with fair housing, other civil rights, and relocation laws.

This Notice provides PHAs and Project Owners with guidance relating to planning and implementing public housing (First Component) RAD conversions in a manner consistent with existing fair housing and other civil rights requirements, including, but not limited to, those associated with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, the Architectural Barriers Act of 1968, and their implementing regulations. Section 4 of this Notice summarizes key provisions of existing law applicable to RAD transactions.

To further compliance with these existing requirements, PIH 2012-32 (HA) REV-2, issued June 15, 2015 (the “RAD Notice”) established that specific PHA decisions and activities planned to be part of a First Component RAD conversion must be reviewed by HUD prior to implementation (the “front-end” fair housing and civil rights reviews). Through a front-end review of the enumerated PHA decisions, HUD seeks to assist PHAs and Project Owners in meeting their fair housing, other civil rights, and relocation obligations. Section 5 of this Notice explains the situations in which HUD is requiring front-end fair housing, other civil rights, and relocation reviews, details the procedures for HUD’s front-end review and the type of information that must be submitted for these reviews, and the timeframes for these reviews.

Finally, in Sections 6 and 7 this Notice provides PHAs and Project Owners with guidance regarding RAD program and other statutory and regulatory relocation assistance requirements when planning for or implementing resident moves as a result of a conversion of a public housing project under RAD. This guidance includes reiterated and new requirements, the corresponding required reviews, and explanation of the interaction between RAD relocation procedures and certain existing public housing requirements. PHAs and Project Owners implementing RAD transactions may be subject to (a) the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA),

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<sup>3</sup> Important fair housing, other civil rights, and relocation considerations apply also to the Second Component of RAD as provided in the RAD Notice. Participants in the Second Component of RAD must continue to comply with applicable fair housing, civil rights, and relocation statutes and regulations, and HUD may, at any time, initiate compliance or enforcement actions in connection with such requirements. The RAD Notice will continue as the primary source of information on fair housing and other civil rights requirements covering the Second Component of RAD without any change until further notice.

(b) the requirements of Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)) if CDBG or HOME funds are included as part of the project, (c) fair housing and other civil rights considerations implicated by relocation activities, and (d) requirements for relocating residents under the RAD Notice.

## **1.2. PHA and Project Owner Responsibilities**

This Notice explains RAD's front-end fair housing and other civil rights review requirements in greater detail than was provided in the RAD Notice and this Notice restates and revises RAD's relocation requirements. However, the fair housing, other civil rights, and relocation requirements that apply to RAD conversions are neither limited to those discussed in this Notice, nor to those specifically reviewed by HUD in the front-end review.

### **MEETING HUD'S PROCESS AND REVIEW REQUIREMENTS NEVER CONSTITUTES COMPLIANCE WITH SUCH LAWS. THE OBLIGATION TO COMPLY WITH APPLICABLE FAIR HOUSING, OTHER CIVIL RIGHTS, AND RELOCATION LAWS REMAINS WITH THE PHA AND PROJECT OWNER.**

The fair housing and civil rights requirements that apply to RAD conversions are not limited to those discussed in this Notice. PHAs and Project Owners are responsible at all times for ensuring that their RAD activities (including those activities implemented by their agents, consultants, contractors, or other RAD team members) comply with all applicable fair housing and civil rights requirements. PHAs and Project Owners shall be accountable for all fair housing and civil rights compliance issues with respect to their RAD activities, whether those activities are undertaken directly or through agents, consultants, contractors, or other RAD team members. While HUD provides this non-exhaustive guidance to assist PHAs and Project Owners during transactions, complying with the requirements set forth in this Notice does not necessarily mean that they, or their agents or consultants, are in compliance with fair housing and civil rights requirements.<sup>4</sup>

This Notice is not intended to, and shall not be construed to, reduce or in any way limit the application of fair housing, other civil rights, and relocation laws and regulations to RAD transactions. For example, HUD's reliance on a PHA's certification that a site meets the site and neighborhood standards required by the RAD Notice is not a determination of compliance with the duty to affirmatively further fair housing or other fair housing and civil rights requirements. As another example, HUD's approval of a site for new construction does not, by itself, constitute a determination of the PHA's compliance with all provisions of Title VI and its duty to affirmatively further fair housing found in the Fair Housing Act and other fair housing and civil rights requirements, nor indicate HUD's approval of the PHA's or locality's overall housing strategy. HUD's approval of a RAD conversion after front-end review reflects only that the project may proceed through the RAD conversion process; it does not constitute a determination

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<sup>4</sup> The PHA's or Project Owner's agents, consultants, contractors, and other RAD team members may also have fair housing and other civil rights obligations (whether under this Notice or otherwise) and the forgoing does not, in any way, limit the independent obligation of any such parties to ensure their own compliance with applicable fair housing and other civil rights laws.



that the project is in compliance with applicable fair housing, civil rights, and relocation requirements.

HUD's approval of a front-end review submission is based on limited information and is intended to assist the PHA or Project Owner in meeting their fair housing, civil rights, and relocation obligations.<sup>5</sup> The PHA is responsible for ensuring that its RAD conversion is consistent with its certification to affirmatively further fair housing and complies with applicable civil rights laws.<sup>6</sup> The front-end reviews described in this Notice shall not be construed to limit other fair housing and civil rights investigations that HUD may conduct. HUD retains all compliance and enforcement authority.

HUD's determination that the PHA or Project Owner has failed to meet submission, certification, or approval requirements with respect to fair housing, other civil rights, or relocation requirements is grounds for terminating a Commitment to enter into a Housing Assistance Payments Contract (CHAP), denying the issuance of a RAD Conversion Commitment (RCC), or denying authority to convert under RAD.

### **1.3. Applicability**

The content of this Notice should not be relied upon in carrying out any other activities funded under any other HUD program, except where specifically directed by HUD.

This Notice supplements the RAD Notice with respect to fair housing and civil rights requirements applicable to public housing properties converting under RAD and with respect to all matters related to the relocation of residents as a result of RAD public housing conversions. To the extent that there is a conflict between this Notice and the RAD Notice, this Notice shall govern. This Notice replaces and supersedes Notice H 2014-09/PIH 2014-17 (issued July 14, 2014).

Upon issuance, the terms of this Notice will apply to all projects that have applied for conversion of assistance under the First Component of RAD but have not yet converted. As this Notice provides guidance, clarification, and explanation regarding fair housing and civil rights requirements that are already applicable to RAD conversions, this Notice shall not affect any front-end civil rights approvals provided by HUD prior to the effective date of this Notice and otherwise shall be effective with respect to front-end civil rights approvals without exception. However, with respect to relocation activities for Converting Projects under the First Component where a PHA has already submitted a Financing Plan pursuant to the RAD Notice at the time of issuance of this Notice, and provided that the Financing Plan has been accepted for full review after initial screening for completeness, the PHA may, within sixty (60) days after issuance of this Notice, request (in writing uploaded to the RAD Resource Desk) to be governed by H 2014-

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<sup>5</sup> For example, the front-end review is specific to an individual site. A PHA that does not promote fair housing choice outside areas of minority concentration and continues to site affordable housing in minority concentrated areas may be in noncompliance with the duty to affirmatively further fair housing and other fair housing and civil rights obligations, even if the specific site is approved based on the information provided and pursuant to the front-end review of the PHA's site and neighborhood standards submission.

<sup>6</sup> See 24 C.F.R. § 5.105 and, as applicable, 24 C.F.R. § 983.57(b)(2) or Appendix III of the RAD Notice.

09/PIH 2014-17. For such projects and where otherwise appropriate in cases of hardship as determined by HUD, HUD may apply the terms of H 2014-09/PIH 2014-17 with respect to relocation activities, but not with respect to fair housing and civil rights requirements.

RAD projects which have been awarded Choice Neighborhoods Implementation (CNI) grants are subject to the provisions of the applicable Choice Neighborhoods Notice of Funding Availability (NOFA) and grant agreement regarding site and neighborhood standards and are not subject to the RAD front-end civil rights transaction reviews described in this Notice. For properties being redeveloped with funding under a CNI grant, the relocation requirements set forth in this Notice are superseded by guidance regarding relocation included in the CNI NOFA. Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a Choice Neighborhood project's conversion of assistance.

#### **1.4. Explanation of Major Provisions**

This Notice adds to and revises pre-existing guidance related to fair housing, civil rights, and relocation (as contained in the RAD Notice and H 2014-09/PIH 2014-17) with respect to RAD transactions. Among the key provisions and changes are the following:

##### Fair Housing & Civil Rights

- Reaffirms the applicability of fair housing and civil rights requirements to all RAD-related activities (see, e.g., Section 3.3 and Section 4);
- Reiterates when HUD front-end civil rights review (originally outlined in the RAD Notice) is required in addition to the PHA's analysis and certification of compliance, to assist the PHA and Project Owner to comply with fair housing and civil rights requirements (see Section 5.3);
- Outlines certain conditions under which HUD will conduct a front-end review to determine whether the site is in an area of minority concentration relative to the site's housing market area (see Section 5.4(A));
- Provides guidance, for purposes of the RAD front-end civil rights review, on the concepts of "area of minority concentration" and "housing market area" that are reviewed when determining whether a site is in an area of minority concentration (see Section 5.4(B));
- Elaborates on specific information that HUD will consider, and that PHAs should provide evidence of, in order for a proposed site to meet the existing exceptions to permit new construction in an area of minority concentration, identifies presumptions for meeting the sufficient comparable opportunities exception and describes factors that HUD may consider in evaluating the overriding housing needs exception (see Section 5.4(C) and Section 5.4(D));
- Articulates issues that HUD will consider in completing the front-end civil rights review for transfers of assistance, including, for example, accessibility and minority concentration (see Section 5.5);
- Outlines the information to be submitted for HUD's front-end civil rights review of transactions where unit reductions, unit reconfigurations, or changes in occupancy are proposed (see Section 5.6);
- Identifies the situations where front-end civil rights reviews are required when changes in the accessibility features of a site are made (see Section 5.7(B)); and

- Prohibits the Project Owner of a Converted Project with a PBRA HAP contract from initiating any new leasing or marketing activities (other than leasing and outreach to households holding a right to return to the Covered Project), including the solicitation, distribution or acceptance of applications or development of a waiting list, until HUD has approved the Affirmative Fair Housing Marketing Plan (“AFHMP”) (see Section 5.8).

### Relocation

- Requires PHAs or Project Owners to prepare a written relocation plan for all transactions that involve permanent relocation or temporary relocation anticipated to exceed 12 months (see Section 6.1);
- Requires PHAs to provide residents with a RAD Information Notice (RIN) in order to ensure that residents are informed of potential project plans and of their rights in connection with RAD prior to submission of the RAD application (see Section 6.6(A));
- Clarifies that the General Information Notice (GIN), when applicable, should be provided as soon as feasible and no later than 30 days following the issuance of the CHAP (see Section 6.6(B));
- Requires Project Owners to provide a notification of Return to the Covered Project, when applicable (see Section 6.6(F));
- Moves the date before which PHAs are prohibited from beginning any physical relocation earlier in the conversion process (specifically, from the date of Closing to the later of the effective date of the RCC and the expiration of the 30- or 90-day RAD Notice of Relocation period, as applicable) (see Section 6.8);
- Clarifies the specific requirements applicable to different types of relocation (e.g., moves within a property, temporary relocation of less than 12 months, etc.) (see, e.g., Section 6.4);
- Provides enhanced guidance on the right to return requirements, any offers of alternative housing options and the documentation that must be retained when tenants choose an alternative housing option and decline their right to return (see, e.g., Section 6.2 and Section 6.10);
- Describes how HUD has administratively implemented URA requirements and URA relocation assistance and payments for displaced persons, when applicable, to residents who choose to decline the right of return and, instead, choose voluntary permanent relocation (see, e.g., Section 6.4(C) through (F) and Section 6.10);
- Requires PHAs to maintain detailed data regarding each household that will be relocated, with key dates of notices and moves (see Section 6.9); and
- Identifies key fair housing and civil rights requirements applicable during relocation (see, e.g., Section 4).

## **1.5. Request for Public Comment**

HUD acknowledges the complexity of the issues addressed in this Notice. This Notice is effective immediately upon issuance, but HUD also seeks comment from the public regarding the clarity and organization of the Notice and regarding areas where the policies and procedures described are unclear or ambiguous. HUD will consider whether changes in response to comments are justified and will implement any appropriate changes in a revision of this Notice. Please submit all comments to [RAD@hud.gov](mailto:RAD@hud.gov) within 30 days of the issuance of this Notice.

## **1.6. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act (PRA), HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. OMB approved information collection forms will be posted on the RAD website and the Federal Register.

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## **SECTION 3. Background**

### **3.1. RAD Authority**

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, enacted November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, enacted January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, enacted December 6, 2014), and the Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2016), collectively and as it may be further amended from time to time, the “RAD Statute.” RAD allows certain eligible properties to convert assistance to long-term project-based Section 8 contracts and has two separate components. The First Component allows projects funded under the public housing program to convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, public housing agencies (PHAs) may choose between two different Section 8 housing assistance programs: project based vouchers (PBVs) or project-based rental assistance (PBRA). The “Second Component” of RAD allows owners of projects funded under the Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Moderate Rehabilitation programs to convert certain units to PBV or PBRA Section 8 units following certain contract expirations or terminations. The RAD Statute is implemented by the RAD Notice.

### **3.2. Definitions**

All capitalized terms defined in the RAD Notice, as amended, shall have the definitions ascribed to them therein unless otherwise specifically noted in this Notice.<sup>7</sup> Pre-conversion projects whose assistance is converting from public housing to Section 8 under RAD are referred to in the RAD Notice and in this Notice as “Converting Projects.” Post-conversion projects are referred to in the RAD Notice and this Notice as “Covered Projects.”

### **3.3. Applicable Legal Authorities**

Appendix I to this Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. Part 2 of Appendix I provides greater detail regarding federal accessibility requirements set forth in three of the legal authorities described in Appendix I,

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<sup>7</sup> Many of the fair housing and civil rights concepts used throughout this Notice are terms of art that are defined in applicable statutes and regulations identified in Appendix I of this Notice, while others have been developed through judicial interpretation. PHAs and Project Owners should familiarize themselves with these terms of art and should consult 42 U.S.C. § 3602 (Fair Housing Act); 24 C.F.R. §§ 5.152-100.20 (Fair Housing Act); 42 U.S.C. §§ 2000d-2000d-4a (Title VI of the Civil Rights Act of 1964); 24 C.F.R. § 1.2 (Title VI); 29 U.S.C. § 705 (Rehabilitation Act); 24 C.F.R. § 8.3 (Section 504); 42 U.S.C. §§ 12102, 12132, 12181 (Americans with Disabilities Act (ADA)); 28 C.F.R. § 35.104 (Title II of the ADA); and 28 C.F.R. § 36.104 (Title III of the ADA). In addition, many of the relocation concepts are terms of art that are defined in 42 U.S.C. § 4601 *et seq.* (Uniform Relocation Act (URA)), Section 104(d) of the Housing and Community Development Act of 1974 codified at 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

Part 1. PHAs and Project Owners must be familiar with these legal authorities and must evaluate, based on the facts of their situation, which legal authorities are applicable in which situations. **Failure to comply with any legal authority as applicable to the PHA's or Project Owner's actions or inactions may result in liability under such authority.** Appendix I does not attempt to provide a complete and exhaustive explanation of the legal authorities, nor to fully inventory the situations in which each legal authority is applicable. Instead, Appendix I is an overview intended to serve as a general introduction or reminder for PHAs and Project Owners of these fair housing, other civil rights, and relocation authorities and to facilitate their identification of appropriate topics for further research or expert counsel. The recitation of these legal authorities neither expands nor diminishes their applicability to the PHA's and Project Owner's activities in connection with their RAD conversion.

The RAD Statute authorizes the Secretary of HUD to waive or specify alternative requirements for certain provisions of law, except for requirements related to, among others, fair housing and nondiscrimination.<sup>8</sup> In addition to the general application of various federal statutes and their implementing regulations as discussed in Appendix I, below, HUD regulations at 24 C.F.R. § 5.105 apply such authorities to all HUD programs, including RAD.

### **3.4. Further Information**

Because each RAD proposal varies in its scope, this Notice may not address each PHA's or Project Owner's specific circumstances. PHAs and Project Owners should carefully review the laws, regulations, notices, and guidance material referenced in this Notice. Any questions related to the administration of the RAD program should be referred to the appropriate RAD Transaction Manager (TM) or may be emailed to [rad@hud.gov](mailto:rad@hud.gov).

## **SECTION 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant Throughout the RAD Conversion Process**

This Section provides a summary overview of key principles regarding program implementation and an overview of generally applicable fair housing and civil rights requirements. Appendix I identifies the key legal authorities from which these principles are derived. These key principals, together and with the legal authorities identified in Appendix I, frame the PHA's efforts to implement a RAD conversion. In some cases, these requirements are particularly relevant to the process of planning the RAD conversion, while in others they have particular relevance for the structure of the RAD transaction itself, and in yet other cases, both. Elements of RAD transactions that have civil rights implications include, but are not limited to, transfers of assistance, temporary and permanent relocation, demolition, site selection, new construction, occupancy policies, changes in unit configuration, increases or reductions in units, waiting list administration policies, policies regarding return of temporarily relocated tenants, substantial rehabilitation or alteration, program accessibility, tenant selection policies and priority transfers, providing information to and communicating with persons with Limited English Proficiency (LEP) and persons with disabilities, reasonable accommodation policies, and Affirmative Fair

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<sup>8</sup> See Pub. L. No. 112-55, as amended.



Housing Marketing Plans (AFHMPs). All PHAs must consider civil rights when structuring these and other elements of their RAD transaction.

RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally.<sup>9</sup> Converting Projects are subject to civil rights and equal opportunity requirements under the public housing regulations, and Covered Projects are subject to civil rights and equal opportunity requirements under the PBV regulations or the PBRA regulations, as applicable.<sup>10</sup> As described further below, the Fair Housing Act prohibits discrimination in housing<sup>11</sup> and requires all federal executive departments and agencies to “administer their programs and activities relating to housing and urban development ... in a manner affirmatively to further” fair housing.<sup>12</sup> In addition, all programs or activities receiving Federal financial assistance are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color, and national origin<sup>13</sup> and Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that programs or activities receiving Federal financial assistance make such programs or activities “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities.<sup>14</sup> RAD transactions are also subject, as applicable, to the requirements of Titles II and III of the Americans with Disabilities Act, Executive Order 11063, and HUD regulations at 24 C.F.R. part 107. Thus, as with the administration of all HUD programs and all HUD-assisted activities, fair housing and civil rights issues must be considered in the administration of the RAD program. PHAs must not implement actions and policies that may have a discriminatory effect on the basis of race, color, sex, national origin, religion, disability, or familial status or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing.<sup>15</sup> Note, in particular, the following requirements:

- **Affirmatively Furthering Fair Housing (AFFH):** The Fair Housing Act requires that HUD administer its programs and activities in a manner that affirmatively furthers the purposes of the Fair Housing Act. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD’s recipients, including PHAs, to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination. Through various statutes, regulations, and executive orders, PHAs must take various actions in accordance and in conjunction with their Fair Housing Act obligation to affirmatively further fair housing. For example, under regulations implementing the United States Housing Act of 1937 (the Act), HUD recipients must, among other requirements, certify that they will affirmatively further fair housing. In addition, under HUD’s Affirmatively Furthering Fair Housing (AFFH) rule promulgated July 16, 2015, PHAs must periodically conduct an Assessment

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<sup>9</sup> See 24 C.F.R. § 5.105.

<sup>10</sup> See, e.g., 24 C.F.R. §§ 880.601, 881.601 and 983.8 for civil rights related regulations applicable to PBV and PBRA transactions.

<sup>11</sup> See 42 U.S.C. §§ 3601 *et seq.*, and HUD regulations in 24 C.F.R. part 100

<sup>12</sup> 42 U.S.C. § 3608(d) and (e).

<sup>13</sup> See 42 U.S.C. §§ 2000d *et seq.*, and HUD regulations in 24 C.F.R. part 1.

<sup>14</sup> See 29 U.S.C. §§ 701 *et seq.*, and HUD regulations in 24 C.F.R. part 8.

<sup>15</sup> See 24 C.F.R. part 1 and part 100 subpart G.

of Fair Housing (AFH) as set out by the rule, either individually or in collaboration with other program participants.<sup>16</sup> Under the AFFH rule, in order to develop a successful affirmatively furthering fair housing strategy, the PHA must assess the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. PHAs must ensure that their activities in connection with a RAD conversion are consistent with their AFH, including any applicable joint or regional AFH in which they are a joint participant, and with any applicable Analysis of Impediments to Fair Housing Choice (AI), Fair Housing Equity Assessment, PHA 5-Year Plan, PHA Annual Plan, Moving to Work (MTW) Plan, or related planning documents and other regulatory and programmatic requirements implementing the obligation to affirmatively further fair housing to which they are a party.<sup>17</sup>

- Nondiscriminatory Site Selection:** HUD’s site and neighborhood standards require that the proposed site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provision of Title VI of the Civil Rights Act, the Fair Housing Act, Executive Order 11063, and Department regulations implementing these authorities. The site must meet the Section 504 site selection requirements in 24 C.F.R. § 8.4(b)(5). Additional provisions appear in 24 C.F.R. § 983.57(b) of the PBV rules and, for PBRA, in Appendix III of the RAD Notice. HUD’s Title VI regulation specifically prohibits site selection that has the “purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination” on the basis of race, color, or national origin.<sup>18</sup> The Title VI regulations also impose an obligation on the part of an applicant or recipient of HUD financial assistance to take actions to overcome the effect of prior discrimination or conditions that limit participation by persons of a particular race, color, or national origin.<sup>19</sup> In addition, HUD’s Section 504 regulation prohibits recipients from selecting sites the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefit of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>20</sup> ADA regulations likewise prohibit site selections that have the purpose or effect of excluding individuals with disabilities (including members of the public with disabilities), denying them benefits, or subjecting them to discrimination.<sup>21</sup> Finally, the Fair Housing Act prohibits discriminatory site selection, including perpetuation of segregation in transfers of assistance and new construction.
- Meaningful Access for Persons with Limited English Proficiency (LEP):** The PHA or Project Owner is required to take reasonable steps to ensure (a) they provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English; (b) any person with LEP who will be temporarily relocated or

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<sup>16</sup> 24 C.F.R. § 5.150 *et seq.*

<sup>17</sup> See 24 C.F.R. § 5.150 *et seq.* and 24 C.F.R. §§ 91.225, 91.325, or 91.425.

<sup>18</sup> See 24 C.F.R. § 1.4(b)(3).

<sup>19</sup> See 24 C.F.R. § 1.4(b)(6).

<sup>20</sup> See 24 C.F.R. § 8.4(b)(5).

<sup>21</sup> See 28 C.F.R. § 35.130(b)(4); 28 C.F.R. § 36.301.

permanently displaced has meaningful access to any public meetings regarding the project; and (c) they provide meaningful access to LEP persons to any information provided to residents including, but not limited to, any relocation notices. Generally, the PHA or Project Owner will be responsible for providing oral interpreters at meetings, including ensuring their competence, and covering any associated translation and interpretation costs.<sup>22</sup>

- **Effective Communication for Persons with Disabilities:** Communications and materials must be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (24 C.F.R. § 8.6) and with 49 C.F.R. § 24.5, and as applicable, the Americans with Disabilities Act. This includes ensuring that, unless such actions would result in undue financial and administrative burdens or fundamental alterations, notices and resident meetings are provided in appropriate alternative formats as needed, e.g., Braille, audio, large type, accessible electronic communications, assistive listening devices, and sign language interpreters. Even in cases where the proposed actions may result in undue financial and administrative burdens or fundamental alterations, certain actions must still be taken. Specifically, appropriate auxiliary aids and services that would not result in such undue burdens or fundamental alterations must still be provided to ensure effective communication.
- **Accessible Meeting Facilities for Persons with Disabilities:** Pursuant to regulations implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as applicable, all programs and activities must be held in accessible locations unless doing so would result in an undue financial and administrative burden on the PHA and/or Project Owner, in which case the PHA or Project Owner must take any action that would not result in such undue burden but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity, e.g., briefings at an alternate accessible site or in-home briefing.<sup>23</sup> Individuals with disabilities must receive services in the most integrated setting appropriate to their needs. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible.<sup>24</sup>

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<sup>22</sup> For more information about LEP obligations, see HUD's Limited English Proficiency (LEP) Frequently Asked Questions guidance at

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq#q26](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q26).

<sup>23</sup> In selecting locations for consultation with residents, the PHA and/or Project Owner shall be guided by the goal of maximizing participation in an integrated setting so that residents with disabilities and residents without disabilities may hear and consider each other's views. Priority shall be given to using on-site accessible locations (including, e.g., TV rooms or informal gathering places), even if doing so may require multiple sessions with smaller groups of residents. In addition, Title III of the Americans with Disabilities Act requires private entities that operate places of public accommodation, including social service establishments, leasing offices of private housing developments, and certain private housing providers, to comply with certain physical accessibility requirements which are similar to the requirements under Section 504 and Title II.

<sup>24</sup> See 28 C.F.R. part 35, Appendix B.

- **Accessibility for Persons with Disabilities Throughout the Planning and Implementation Process:** A number of accessibility requirements, including but not limited to site selection, apply to all RAD conversions, as they do to the PHA's activities regardless of the PHA's participation in RAD.<sup>25</sup> PHAs and Project Owners should also be aware that state or local laws, regulations, and codes may contain greater accessibility requirements. This Notice provides, in Appendix I, Part 2, an overview of accessibility requirements under existing law. The information in Appendix I, Part 2 is intended to assist with the PHA's or Project Owner's compliance with accessibility requirements. PHAs and Project Owners must review Appendix I, Part 2 early-on in planning for the RAD transaction. PHAs and Project Owners may determine that it is most efficient to address accessibility matters early in the project planning. In addition, PHAs and Project Owners must evaluate, throughout the transaction and based on the facts of their situation, which requirements are applicable in which situations to ensure they appropriately address accessibility requirements. PHAs and Project Owners are responsible for ensuring that the architectural drawings and construction comply with the PHA's and Project Owner's obligations and all Federal civil rights requirements, including accessibility requirements under the Fair Housing Act, Section 504, and the ADA.

Accessibility requirements also apply during all stages of a RAD transaction, including during relocation. Existing information (e.g., resident characteristics forms, including identification of the need for accessible unit features; records of approved reasonable accommodations; and records of the presence of accessible unit features) and the residents themselves should be consulted throughout the process of developing and implementing a RAD conversion. Related activities include, but are not limited to:

- Identifying and maintaining existing and pending reasonable accommodations, including the need for larger units to accommodate live-in aides or special equipment;
- Determining what direct services may be needed as a reasonable accommodation (e.g., packing, moving, identification of temporary housing);
- Identifying accessible unit features and assuring that temporary or permanent replacement housing contains comparable features;
- Budgeting appropriately to ensure that reasonable accommodations are addressed.

For more information about compliance with accessibility requirements, the PHA or Project Owner should refer to appropriate notices concerning civil rights requirements and may contact HUD's Office of Fair Housing and Equal Opportunity in either the Washington, D.C. or applicable field offices for more specific guidance. For additional, non-exhaustive guidance on providing relocation assistance to persons with disabilities, see Exhibit 3-1 in HUD Handbook 1378.

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<sup>25</sup> For more detailed information on these laws and their requirements, see PIH Notice 2010-26, issued July 26, 2010 (available at <http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>). While this notice has an expiration date in 2011, because the notice summarizes and discusses regulatory requirements, the information in the notice provides helpful guidance.

- Reasonable Accommodations in Rules, Policies, Practices and Services:** Under the Fair Housing Act, the PHA or Project Owner must make reasonable accommodations in rules, policies, practices, and services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.<sup>26</sup> Under Section 504, the PHA or Project Owner must also make reasonable accommodations to residents with disabilities, which may include providing and paying for structural modifications to dwelling units and public or common use areas. Titles II and III of the ADA provide similar requirements. Common examples of reasonable accommodations that may occur during relocation are permitting an individual with a disability to relocate near public transportation, providing a unit larger than otherwise permitted for a live-in aide, and making exceptions to no-animal rules for assistance and service animals. Accommodations generally need not be made where providing such an accommodation would be an undue financial and administrative burden or a fundamental alteration of the nature of the service. However, reasonable accommodations must be made to the extent the accommodation does not impose an undue financial and administrative burden or a fundamental alteration of the nature of the service. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. Furthermore, PHAs and Project Owners may be required to provide particular reasonable accommodations during relocation, such as assistance moving household items.<sup>27</sup>
- Physical Changes to Dwelling Units, Public and Common Use Areas and Other Facilities for Accessibility:** Under the Fair Housing Act, the PHA or Project Owner may be required to permit reasonable modifications. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. When relocating an individual with a disability who has such modifications in their dwelling unit or public and common use areas because of the individual's disability, regardless of who made them, the PHA or Project Owner has an obligation to provide and pay for such modification in the new dwelling. When considering requests by individuals with disabilities for structural changes to units or public and common use areas, PHAs and Project Owners should take particular note that they may be required to make and pay for such structural modifications as reasonable

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<sup>26</sup> For additional information regarding reasonable accommodations under the Fair Housing Act, *see* the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004), at <http://www.hud.gov/offices/fheo/library/hud DOJstatement.pdf>.

<sup>27</sup> *See* 49 C.F.R. part 24, Appendix A, § 24.2(a)(8)(vii), which states that under the URA, "Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs."

accommodations under Section 504 and because of similar requirements under the ADA even though the Fair Housing Act may only require the owner to allow such changes to be made and paid for by the individual with a disability. Before determining that they are not required to make or pay for structural changes, PHAs and Project Owners are encouraged to consider carefully their obligations under each applicable statute.

## **SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions**

The generally applicable fair housing and other civil rights requirements described above, and in Appendix I, apply throughout the planning and implementation of a RAD transaction and the PHA is responsible for ensuring compliance with these requirements. As key requirements may be misunderstood, the RAD program has established specific additional procedures to assist RAD participants to ensure they comply with the applicable requirements. Specifically, the RAD Notice established a civil rights eligibility review and criteria for front-end civil rights reviews.

This Section elaborates on these requirements from the RAD Notice. The front-end review procedures described below establish procedures and criteria for the supplemental front-end review and technical assistance, criteria which are specific to the RAD program. Criteria for this supplemental front-end review are informed by, but not the same as, fair housing or civil rights rules and policies generally.

This Section is organized to loosely follow the stages of a RAD conversion transaction, beginning with RAD eligibility and continuing through site selection, transfer of assistance, unit design requirements and marketing. In addition, this Section describes the timing and procedures for submitting data and documents to HUD so that HUD may complete its front-end review. The submission procedures are also designed to serve as a tool for PHAs to identify issues of potential concern at appropriate stages of the RAD conversion and as a tool for HUD to identify potential needs for technical assistance.

### **5.1. RAD Eligibility Review**

To be eligible for RAD, the PHA must meet all eligibility requirements set forth in Section 1.3 of the RAD Notice, including the civil rights threshold requirements found at Section 1.3.G of the RAD Notice. A PHA must not have a charge, cause determination, lawsuit, or letter of findings, referenced in Section 1.3.G of the RAD Notice, against the PHA itself, its transferees, proposed development partners, or sub-recipients that has not been resolved, or is not in the process of being resolved, to HUD's satisfaction. This determination shall be made prior to issuance of the CHAP.

The CHAP may be revoked by HUD if HUD determines that the terms of the conversion would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement. HUD may terminate a CHAP or RCC if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or is inconsistent with, would hinder, or would delay satisfaction of a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

HUD may terminate an approval to proceed with a RAD conversion if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

## **5.2. PHA's Proposed Site Selection and Certification**

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2).<sup>28</sup> Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.<sup>29</sup> PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

It is the PHA's responsibility to ensure that the site selection complies with all applicable site selection requirements, including the requirements of this Notice and the RAD Notice. Pursuant to the RAD Notice, the PHA must certify with the submission of its Annual Plan, Significant Amendment to its Annual Plan, or MTW Plan that it complies with the applicable site selection requirements and must maintain records of its analysis and the data relied upon in making its determination of compliance. The PHA must also determine and subsequently state in the certification that the site is "suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto."<sup>30</sup> Although this Notice provides detail regarding certain civil rights-related site and neighborhood standards, PHAs must certify compliance with all applicable site and neighborhood standards.<sup>31</sup>

The PHA must also certify that, in conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA. The site and neighborhood standards for PBV and PBRA require the site to be "suitable from the standpoint of facilitating and furthering full compliance with" the Fair Housing Act and require the site to meet the Section 504 site selection

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<sup>28</sup> See the provisions of Section 1.6.A.4 of the RAD Notice.

<sup>29</sup> 42 U.S.C. § 1437f(bb).

<sup>30</sup> For RAD conversions to PBRA, the RAD Notice uses the term "the site and neighborhood is suitable," rather than "the site is suitable." See Appendix III of the RAD Notice, paragraph (a).

<sup>31</sup> See 24 C.F.R. § 983.57 and the RAD Notice at Section 1.4(A)(7)

requirements described in 24 C.F.R. § 8.4(b)(5).<sup>32</sup> The Fair Housing Act, as implemented at 24 C.F.R. § 100.205, requires “covered multifamily dwellings” built for first occupancy after March 13, 1991, to contain accessible design features. HUD’s Section 504 regulations at 24 C.F.R. § 8.4(b)(5) require that, in determining the site or location of a federally assisted facility, an applicant for assistance or recipient may not make selections the purpose or effect of which would: (i) exclude qualified individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from HUD, or (ii) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities. Title II of the ADA contains a similar requirement that a public entity, such as the PHA, may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.<sup>33</sup> Factors relevant to a site review under these standards may include, among others:

- Site features, such as inaccessible slopes in routes, lack of accessible sidewalks, curb ramps, accessible parking spaces, and placement of dumpsters or other physical features that would impede access to and movement within the site;
- Building features, such as inaccessible building entrances, other methods of ingress and egress, public and common use areas (e.g., the rental office, parking areas, mail areas, trash areas, community rooms, shared use toilet rooms, laundry facilities and walkways inside and outside that connect these public and common use areas to units), and barriers to access by members of the public; and
- Lack of accessible transit or para-transit and accessible public sidewalks and accessible transportation stops.

When such conditions are present at the site and would exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination, or would defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to individuals with disabilities, the site must not be selected unless the proposal includes remediation of the barriers to achieve compliance with accessibility requirements (including identification and remediation of any nonconforming design and construction conditions in “covered multifamily dwellings” under the Fair Housing Act). Remediation of the barriers may include, for example, physical accessibility improvements to the site, arrangements for access to accessible supportive services, or reasonable accommodations for current or prospective residents with disabilities, including members of the public. The Financing Plan submitted to HUD must describe and document resources sufficient to pay for the remediation of accessibility barriers.<sup>34</sup>

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<sup>32</sup> See 24 C.F.R. § 983.57(b)(2) (PBV conversions); *see also*, Appendix III (a) of the RAD Notice (PBRA conversions).

<sup>33</sup> See 28 C.F.R. § 35.130(b)(4).

<sup>34</sup> In conducting its review prior to certification, and in preparing for the certification, PHAs and Project Owners may find it useful to consult with their local or regional FHEO office, the United States Access Board, local or state



While all PHAs must certify their compliance with applicable site selection requirements as described in this Section, some RAD transactions will also be subject to a front-end review of the site selection. For transactions involving activities that present site selection issues of greater complexity, as described in Sections 5.3 through 5.5 below, front-end review will allow HUD's Office of Fair Housing and Equal Opportunity (FHEO) to assist the PHA to consider relevant laws and regulations while completing its site selection review and certification.

### **5.3. RAD Front-End Civil Rights Transaction Review**

Fair Housing Act and other civil rights issues may arise throughout a RAD transaction. Under the Fair Housing Act, an assessment of site suitability includes an analysis of the impact that the siting of the project would have on patterns of segregation for protected classes. The Fair Housing Act is of particular importance when a RAD proposal concerns site selection for new construction or reconfiguration of housing on the original public housing site – for example, the unit size distribution (e.g., conversion of larger bedroom size units to one-bedroom units, which may have an adverse impact on housing opportunities for families with children) or a reduction in the number or distribution of accessible units (which may have an adverse impact on housing opportunities for persons with disabilities). RAD conversions involving new construction must also comply with the Fair Housing Act's accessibility requirements.

Compliance with all applicable fair housing and civil rights requirements is the responsibility of both the PHA and the Project Owner. However, to assist with compliance, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will conduct a front-end civil rights review of project proposals containing activities identified as particularly at risk of violating applicable fair housing and civil rights laws. The activities that must be submitted for front-end civil rights review are listed in Section 5.3(A), below.

#### *A) Activities Subject to Front-End Civil Rights Review*

All RAD conversions that include one or more of the activities listed below (Sections 5.3(A)(1) through 5.3(A)(9)) are subject to a front-end review for compliance with certain civil rights and fair housing requirements. The specific items that HUD will review in the front-end review will depend on which activities are involved in the specific transaction. A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion:

- (1) Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration. Front-end review of this activity shall be pursuant to Section 5.4(B), below and, in addition, the PHA shall

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architectural access board or other accessibility authority for information on accessibility standards. Other sources of information on accessibility requirements may include protection and advocacy organizations or independent living centers. In addition, the non-HUD resources may provide advice on how to assess accessibility needs and formulate physical accessibility strategies.

certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.

- (2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.
- (3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.
- (4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.
- (5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.
- (6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).
- (7) Conversions of assistance involving new construction or substantial alteration,<sup>35</sup> as those terms are defined in Section 504 of the Rehabilitation Act of 1973. Front-end review of this activity shall be pursuant to Section 5.7(B).
- (8) Conversions of assistance involving a Converting Project subject to a Voluntary Compliance Agreement or Conciliation Agreement with HUD or a Consent Decree or Settlement Agreement with the U.S. Department of Justice or HUD, or where the PHA is subject to such an agreement affecting its entire housing portfolio or otherwise related to the Converting Project. Front-end review of this activity shall be pursuant to Section 5.7(C).

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<sup>35</sup> Section 504 defines substantial alteration of a housing project as alterations where a housing project has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility. *See* 24 C.F.R. § 8.23 (a).

- (9) Conversions of assistance where HUD has identified potential fair housing and civil rights concerns or a history of such concerns. Front-end review of this activity shall be pursuant to Section 5.7(C).

PHAs should note that a proposed RAD conversion may trigger front-end review regarding more than one of the activities listed in subsections (1) through (9) of this Section. For example, depending on the details of the proposal, a new construction on-site project could require review under subsections (1), (3), (4), (5), (6), and (7), or could require review under only subsections (1) and (7).

As part of HUD's review of these elements of the RAD conversion plans, HUD may require that PHAs that are carrying out portfolio or multi-phased conversions provide information on their conversion plans for other projects or subsequent phases to ensure that the overall plans for RAD conversion are consistent with civil rights and fair housing.

*B) Fair Housing, Civil Rights, and Relocation Checklist*

In connection with HUD's front-end fair housing and civil rights and relocation reviews described in this Section 5 and in Section 6, HUD is requiring submission of a Fair Housing, Civil Rights, and Relocation Checklist (the "Checklist"). The Checklist will facilitate the PHAs' and Project Owners' submission of necessary information to complete these reviews.<sup>36</sup> HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

The Checklist will outline the minimum information or documentation which HUD will need in order to review each part of the Checklist. After HUD's initial review of any portion of the Checklist, HUD may determine that the data provided in the Checklist is insufficient for HUD to complete its review, in which case HUD may require the PHA or Project Owner to provide supplemental information. The PHA should submit each part as early as possible once the information covered in the applicable part is known. All information specified in the applicable

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<sup>36</sup> The Checklist is available at [www.hud.gov/rad](http://www.hud.gov/rad). As of the publication of this Notice, references to the Checklist refer to the existing FHEO Accessibility and Relocation Plan Checklist under OMB Approval 2577-0276. The PHA shall use the existing Checklist to provide information related to demonstrating compliance with fair housing, other civil rights, and relocation requirements (including accessibility requirements) and, as necessary, may require additional materials for HUD to complete its review, which the PHA may provide in such form as the PHA determines appropriate. Also at [www.hud.gov/rad](http://www.hud.gov/rad), HUD has provided a listing of information that, depending on the circumstances, HUD may require to complete different components of its front-end review. The Checklist is being revised to fully capture the submission requirements described in this Notice. The revised Checklist will be subject to Paperwork Reduction Act approval and will be posted at the website listed above when available for use.

part of the Checklist must be submitted to HUD for HUD to begin its civil rights review – partial submissions of any applicable part of the Checklist will not be accepted.<sup>37</sup>

*C) Timing of Front-End Review Submissions*

PHAs and Project Owners are encouraged to submit applicable portions of the Checklist and information associated with a particular activity subject to front-end review as early as possible in the development of their plans. The PHA must ensure that HUD has approved all applicable parts of the Checklist prior to submission of the Financing Plan. Upon request from the PHA, HUD may, at HUD's sole discretion, permit submission of the Financing Plan prior to receipt of approval of the applicable parts of the Checklist and conditioned upon subsequent receipt of such approvals, in which event the PHA and Project Owner may proceed at their own risk.

Early approval of the site of the Covered Project is critical for RAD transaction proposals subject to front-end civil rights review involving site selection standards, specifically new construction in areas of minority concentration (see Section 5.3(A)(1)) and transfers of assistance (see Section 5.3(A)(2)). The PHA must conduct its own assessment of the site during the early stages of planning its RAD transaction. The guidance in this Notice and the Checklist are tools intended to assist the PHA in conducting its own assessment of the site.

The PHA must provide HUD with the Checklist and backup information sufficient for HUD to review the site with respect to the applicable standards. The site selection information should be provided to HUD no later than ninety (90) days following the issuance of the CHAP or, if the CHAP has already been issued as of the publication of this Notice, within ninety (90) days following publication of this Notice. In the event of a change in plans for the Converting Project that would require a front-end review of the site selection standards, the PHA must provide the Checklist and backup documentation within sixty (60) days of the change in plans. PHAs are strongly encouraged to provide front-end review submissions and secure HUD approval prior to applying for LIHTCs or taking action the reversal of which (in the event of non-approval of the site) would be detrimental to the PHA or the Project Owner. PHAs are also encouraged to contact FHEO for technical assistance prior to submission of these materials.

All PHAs shall submit a certification consistent with the requirements of Section 5.2, above. This certification may be prepared specifically in connection with the Checklist or as part of the PHA Annual Plan or Significant Amendment. However, HUD will not consider a submission complete for front-end civil rights review without this certification. All RAD conversions must submit the PHA certification described in Section 5.2 no later than at the time of submission of the Financing Plan.

*D) Completion of HUD's Front-End Review*

HUD will not approve a RAD conversion if HUD determines that the conversion would operate to discriminate in violation of applicable fair housing and civil rights laws. HUD will not approve proposals that have the purpose, intent, or effect of discriminating on the basis of

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<sup>37</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

protected class (*i.e.*, race, color, national origin, religion, sex, disability, and familial status). If HUD does not approve a proposed activity based on a front-end review, then it will provide a written description of concerns or deficiencies. The PHA may resubmit the front-end review materials with a changed proposal and/or with additional information addressing HUD's concerns and any deficiencies in the proposal or the submission.

In some circumstances, a special condition to the transaction's RCC will be necessary to ensure that a RAD transaction conforms to fair housing and civil rights requirements. Special conditions to the RCC reflect the conditions necessary in order to complete the RAD conversion. For example, if there is an outstanding remedial agreement or order requiring particular development activities or operating policies to correct a violation of a fair housing or other civil rights requirement, the RCC generally will condition participation in RAD upon agreement by the PHA or the Project Owner, as applicable, to comply with the provisions of such agreements or orders after conversion.

#### **5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction**

##### *A) Conditions Triggering Review*

If the proposed project is located in an area of minority concentration, the new site may be approved only if it falls under a permitted exception and meets the other site selection requirements described in Section 5.2. Under the PBV and PBRA site and neighborhood standards, HUD may approve new construction in an area of minority concentration, consistent with the regulatory requirements cited above, only if:

- a. Sufficient, comparable housing opportunities for minority families in the income range to be served by the proposed project exist outside areas of minority concentration; or
- b. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.<sup>38</sup>

As described in the RAD Notice and in Section 5.3(A) of this Notice, above, HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. This Notice specifies that for conversions of assistance involving new construction where there are indications that the site may be located in an area of minority concentration per the criteria in subsections (i), (ii), or (iii), below (whether the construction is located on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether the site is in an area of minority concentration and, if so, whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA shall submit for HUD front-end review the PHA's findings, together with backup documentation, regarding site selection when the site meets any of the following criteria:

- i. The PHA self-identifies the area of the site as an area of minority concentration,

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<sup>38</sup> 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

- ii. The census tract of the site meets the extent of minority concentration described in Section 5.4(B)(1), below, or
- iii. An area comprised of the census tract of the site together with all adjacent census tracts, analyzed as a whole, meets the extent of minority concentration described in Section 5.4(B)(1), below.

If any of these three criteria is applicable, HUD will conduct a review to determine whether the site is in an area of minority concentration and, if applicable, whether the proposed site fits one of the exceptions permitting new construction in an area of minority concentration described in this Section 5.4. A proposed RAD transaction which does not meet one of these triggers must still be evaluated by the PHA and the PHA must certify compliance with the site selection requirements as described in Section 5.2, above.

A PHA seeking to undertake new construction must receive written approval from HUD of any site selection subject to front-end review prior to entering into any construction contract for that new construction.

#### *B) Analysis of Areas of Minority Concentration*

This Section sets forth the methodology that HUD will use in the analysis of the extent of minority concentration, the area of the site, and the housing market area for purposes of the RAD front-end civil rights review. As noted below, this analysis is fact specific and PHAs may submit documentation to inform HUD's analysis in cases where there is strong evidence that an alternative methodology would be more appropriate.

- (1) For purposes of RAD, a site is considered to be in an area of minority concentration when either (i) the percentage of persons of a particular racial or ethnic minority within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market area as a whole or (ii) the total percentage of minority persons within the area of the site is at least 20 points higher than the total percentage of minorities in the housing market area as a whole.<sup>39</sup>
- (2) For purposes of RAD, the analysis of an area of minority concentration will use census tracts to approximate the "area" of the site but the analysis may consider alternate proposed geographies instead of the census tract in instances where there is strong evidence that such geography is more appropriate. Strong evidence that an alternative geography is more appropriate includes: (i) that the site is close to the edge of the census tract, (ii) that the population of the census tract is heavily influenced by the size of the Converting Project, or (iii) that the local community

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<sup>39</sup> The percentage of minorities shall be calculated by subtracting the percentage of White Non-Hispanic persons in the relevant area from 100%. The analysis shall be based on the most recently available decennial census data found at [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1&src=pt](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&src=pt). However, if such data is more than five years old, and if either the PHA or HUD requests the use of more recent data based on such party's awareness of significant and material shifts in the demographics of the relevant area in the intervening years, the analysis shall be based on the most recent American Communities Survey data.

understanding of the immediate neighborhood dictates a different boundary. Local community understanding of the immediate neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways), among other factors.<sup>40</sup> HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

- (3) For purposes of the RAD analysis under this Section 5.4, a "housing market area" is the geographic region from which it is likely that residents of housing at the proposed site would be drawn for a given multifamily housing project. A housing market area generally corresponds to, as applicable: (i) the Metropolitan Statistical Area (MetroSA); (ii) the Micropolitan Statistical Area (MicroSA); or (iii) if the site is in neither a MetroSA nor a MicroSA, either (x) the county or statistically equivalent area, or (y) the PHA's service area, whichever is larger.<sup>41</sup> The analysis may consider a larger or smaller housing market area in instances where there is strong evidence that such housing market area is more appropriate. Strong evidence that an alternative housing market area is more appropriate may include factors such as regional employment centers and commuting patterns serving such employment centers. A PHA seeking to use an alternative housing market area must consult with HUD and establish to HUD's satisfaction that the methodology for identifying and documenting the alternative housing market area is warranted and sound.

### *C) The Sufficient Comparable Opportunities Exception*

As required by the RAD Notice and noted in Section 5.4(A), one of the exceptions under which the site and neighborhood standards permit new construction in areas of minority concentration is if sufficient, comparable housing opportunities for low-income minority families exist outside areas of minority concentration. This section clarifies HUD's procedures for assessing comparable housing opportunities and evaluating how the proposed new construction will impact the balance of housing choices within and outside areas of minority concentration. It also includes a list of the information PHAs should submit to inform HUD's assessment of relevant factors, and key considerations guiding HUD's analysis of each factor.

Under the governing PBV and PBRA requirements, units are considered comparable opportunities if they are the same household type (e.g., elderly, disabled, family, large family), tenure type (owner, renter), require approximately the same total tenant payment toward rent,

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<sup>40</sup> For further explanation, see, e.g., *King v. Harris*, 464 F.Supp.827, 839-41 (E.D.N.Y. 1979).

<sup>41</sup> Items (i) and (ii) are consistent with a Core Based Statistical Area as defined by the Office of Management and Budget. For reference, a Core Based Statistical Area consists of the county or counties or equivalent entities associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties associated with the core.

serve the same income group, are located in the same housing market area, and are in standard condition.<sup>42</sup>

It is important to note that the sufficient comparable housing opportunities exception “does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality’s population.”<sup>43</sup>

HUD will assess “the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice.”<sup>44</sup> Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

- “A significant number of assisted housing units are available outside areas of minority concentration.”<sup>45</sup> While HUD must consider all factors relevant to housing choice, 30% or more of deeply subsidized housing units for very low-income persons would be a significant number. To facilitate HUD’s consideration of this factor, a PHA should provide the number, occupancy type, and location of all comparable assisted units.<sup>46</sup>
- “There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.”<sup>47</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and location of assisted housing projects constructed or rehabilitated in the PHA’s jurisdiction in the past 10 years and the demographic characteristics of the residents of each of these projects;
- “There are racially integrated neighborhoods in the locality.”<sup>48</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and census tracts where these racially integrated neighborhoods are located. In general, HUD will consider a neighborhood racially integrated if the neighborhood does not have a high concentration of persons of a particular race or ethnicity when compared to the housing market area in which the neighborhood is located.

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<sup>42</sup> See 24 C.F.R. § 983.57(e)(3)(iv) and Appendix III of the RAD Notice, paragraph (e)(1)(A).

<sup>43</sup> 24 C.F.R. § 983.57(e)(3)(iii); see also Appendix III of the RAD Notice, paragraph (e)(1).

<sup>44</sup> 24 C.F.R. § 983.57(e)(3)(v); see also Appendix III of the RAD Notice, paragraph (e)(1)(B).

<sup>45</sup> 24 C.F.R. § 983.57(e)(3)(v)(A) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(i).

<sup>46</sup> Note that this factor is in reference to comparable assisted units that may or may not be in the PHA’s portfolio. The presumption stated at the end of this Section (i.e., that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA’s portfolio, including PBV developments using the PHA’s subsidy, are outside areas of minority concentration) is focused on units within the PHA’s portfolio.

<sup>47</sup> 24 C.F.R. § 983.57(e)(3)(v)(B) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(ii).

<sup>48</sup> 24 C.F.R. § 983.57(e)(3)(v)(C) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(iii).



- “Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.”<sup>49</sup> Such programs may include measures such as increasing payment standards in excess of 110% of FMR or the use of Small Area FMRs, including in setting exception rents, or reservation of a percentage of HCVs dedicated to support choice mobility selections or implementation of proven mobility counseling and supports for residents, provided the PHA provides sufficient evidence that it will continue such measures. To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable program(s); the entity responsible for implementing the program(s) (e.g., city, county, state government); and any information demonstrating that the program(s) has been successful or predictably will achieve success in assisting persons who wish to move to non-concentrated areas.
- “Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.”<sup>50</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable activity(s); the entity responsible for implementing the activity(s) (e.g., city, county, state government); and any information demonstrating that the activity(s) has been successful in expanding choice for minority families outside of areas of minority concentration;
- “A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs” (e.g., the Housing Choice Voucher programs).<sup>51</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the number of minority households receiving Housing Choice Vouchers; the number of minority households using HCVs in non-minority areas; and the non-minority census tracts where the HCVs are being used. While each local situation is distinct and HUD must consider all factors relevant to housing choice, 30% or more of new leases signed by minority heads of household using HCVs located in non-minority areas over a period greater than three years prior to the date of HUD’s analysis would be a significant proportion.
- “Comparable housing opportunities have been made available outside areas of minority concentration through other programs.”<sup>52</sup> To facilitate HUD’s consideration of this factor, a PHA should describe the opportunities that have been made available, the location of those opportunities, and the number of minority families that have benefitted from the program in recent years. Such programs could include choice mobility strategies, acquisition strategies to acquire and add to the PHA’s portfolio existing apartments in high opportunity areas and transfers of assistance to high opportunity areas.

HUD may consider evidence based on a reliable housing market analysis in evaluating the foregoing factors, along with other factors relevant to housing choice. In the event HUD

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<sup>49</sup> 24 C.F.R. § 983.57(e)(3)(v)(D); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(iv).

<sup>50</sup> 24 C.F.R. § 983.57(e)(3)(v)(E); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(v).

<sup>51</sup> 24 C.F.R. § 983.57(e)(3)(v)(F); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(vi).

<sup>52</sup> 24 C.F.R. § 983.57(e)(3)(v)(G) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(vii).

determines such an analysis would assist in this evaluation, HUD will consult with appropriate parties to establish or accept an appropriate methodology for such an analysis to address HUD's civil rights concerns and to ensure appropriate independence between the analyst and the PHA or Project Owner commissioning and paying for the study.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration.<sup>53</sup> The PHA's portfolio includes all public housing, PBV and PBRA hard units (including those developed under HOPE VI or Choice Neighborhoods) controlled by the PHA and its instrumentalities or funded using PHA-controlled subsidy. Upon adequate documentation of this presumption, the PHA need not provide additional documentation for HUD's front-end review of the sufficient comparable opportunities exception. This presumption may be rebutted by information to the contrary, including information regarding the preceding factors. In assessing whether sufficient comparable opportunities exist when the presumption does not apply, HUD will consider the factors listed above.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if a set of RAD conversions from a single public housing property, individually or in a combination of transactions, will result in the creation of as many similarly-affordable housing units outside areas of minority concentration as are constructed on the original public housing site. To evaluate the creation of similarly-affordable units, HUD will compare (i) the number of affordable units that will be redeveloped on site, to (ii) the number of similarly-affordable housing units that will be created through new construction, imposition of new long-term affordability restrictions or transfer of RAD assistance to one or more sites outside areas of minority concentration.<sup>54</sup> Similarly-affordable shall mean RAD units compared to RAD units and LIHTC/non-RAD units compared to LIHTC/non-RAD units. The newly created similarly-affordable units must be owned, controlled, sponsored, under common ownership, control or sponsorship, or financially supported by the PHA or by an entity with a managing ownership interest in the Project Owner. When a PHA seeks to claim this exception, HUD prefers that the transaction creating the similarly-affordable units on the site outside areas of minority concentration close (with an immediate or delayed HAP effective date, if applicable) prior to the closing of the RAD conversion in the area of minority concentration. However, if the PHA determines that such a sequence is not reasonably possible, unless otherwise approved by HUD the PHA must provide evidence to HUD that the transfer of assistance to a site outside areas of

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<sup>53</sup> When determining the percentage of units outside of areas of minority concentration, the PHA must include the number of units planned at the proposed site in its calculations. While not required, PHAs or Project Owners may assist HUD in consideration of this presumption by submitting to HUD a map produced by the Affirmatively Furthering Fair Housing Data and Mapping Tool ("AFFH-T"), as may be available on the HUD website from time to time, showing the location of publicly assisted housing.

<sup>54</sup> For example, if the PHA proposes to build 25 RAD units, 20 non-RAD LIHTC units and 15 unrestricted units on-site, such a plan could be acceptable if paired with creation of 15 RAD units at one site and 10 RAD units plus 20 non-RAD LIHTC units at a second site. The 15 unrestricted units in the minority concentrated area are not part of the analysis as they are not affordable units.

minority concentration is highly likely to occur and the PHA must contractually agree with HUD to create such units. Evidence that the transfer is highly likely to occur must include:

- The project name and property address of the site of the similarly-affordable units to be created,
- The census tract and data to confirm that it is not in an area of minority concentration,
- Evidence of site control,
- Evidence of zoning to permit construction of the similarly-affordable units if the affordable units are to be created through new construction,
- A reasonable and feasible sources and uses statement for the transaction, and
- Evidence of financing commitments exceeding 90% of the necessary sources to complete the transaction. Evidence of financing commitments must include an LIHTC allocation if the use of LIHTCs is projected.

*D) The Overriding Housing Needs Exception*

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD<sup>55</sup> outline two examples of circumstances, consistent with fair housing and other civil rights objectives, that would permit the application of the overriding housing needs exception: (1) when the site is “an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood;” or (2) when the site is “located in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”).”<sup>56</sup>

(1) Establishing that a Site is an Integral Part of an Overall Local Strategy for the Preservation or Restoration of the Immediate Neighborhood

To establish that a site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, a PHA must document that the locality has a demonstrated commitment to revitalization that includes or is in addition to the RAD conversion, as demonstrated by the following:

- i. The site is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
- ii. The Covered Project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

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<sup>55</sup> See 24 C.F.R. § 983.57(e)(2) for PBV transactions and paragraph (e) of Appendix III of the RAD Notice for PBRA transactions.

<sup>56</sup> 24 C.F.R. § 983.57(e)(3)(vi); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(viii)(2). In demonstrating an overriding housing need, the “neighborhood” is determined in each situation based on the overall facts and circumstances and cannot be mechanically determined. The “immediate neighborhood” is generally a smaller geographic area than the “neighborhood.”

In determining whether such an official, currently operational and realistically achievable plan for the improvement or revitalization of the area exists, HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been enacted, adopted, or ratified by a municipal, county, or state legislative body;
- There has been progress to implement the plan, or the strategy as a whole.<sup>57</sup>
- The plan or strategy as a whole, or the elements applicable to the Covered Project, are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are incorporated in current public, quasi-public agency or major institutional work plans;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the preservation or restoration of a geography larger than the Converting Project and any associated public housing site;
- A jurisdiction has published solicitations or incentives for development projects in the improvement or revitalization area;
- The plan is incorporated in the applicable jurisdiction's Consolidated Plan or other comprehensive community development plan;
- A jurisdiction has explicitly designated the geographic area for improvement or revitalization (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has retained a construction firm to break ground on the improvement or revitalization; and/or
- An implementing agency has secured financing, such as the issuance of bonds or final approval for tax increment financing.

(2) Establishing that the Site is Located in a “Revitalizing Area”

Evidence that the site is located in a revitalizing area experiencing significant private investment that is demonstrably improving the economic character of the area is also an example of a site which meets an overriding housing need. HUD will consider all relevant factors in making a determination that the site is located in a “revitalizing area” but in particular will consider whether:

- i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining census tract poverty rates, low or declining violent crime rates or evidence of high or increased educational opportunity, high or increasing median

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<sup>57</sup> Indicators of progress should be appropriate to the amount of time since the plan or strategy was developed and there must be a reasonable, supportable expectation that the plan will continue to be implemented. For example, if a plan was launched 3-4 years prior and the initial steps of the plan required implementation of an initiative (such as real estate development) which has a long pre-development planning period, HUD may consider whether there has been activity to seek land development approvals or to develop construction drawings or to secure funding commitments or other activities providing evidence that one or more material elements of the plan or strategy are actually being implemented.

- household income, high or increasing homeownership rates and/or high or increased employment; and
- ii. There is high private and public investment in retail, commercial, or housing development that has occurred or will imminently occur in the area which may include, among other considerations:
- Evidence of new or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood;
  - Evidence of private and public investment or housing development that has occurred or will imminently occur in the area;
  - Evidence of economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising more sharply in the neighborhood than in the jurisdiction overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children.

(3) Circumstances in Which an Overriding Housing Needs Exception Does Not Apply

A PHA cannot establish that a site meets the overriding housing needs exception if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.<sup>58</sup> For example, the overriding housing needs exception may not be applied if the reason that the project cannot be sited outside of an area of minority concentration is due to community opposition to the project based on the actual or perceived protected characteristics of the residents or prospective residents of the project. In addition, a recipient may not exclusively rely on this exception as a means of siting projects without creating housing opportunities outside of areas of minority concentration or without preserving existing housing outside of areas of minority concentration.

**5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance**

*A) Applicable Standards*

Transfers of assistance are subject to the site selection standards for existing or rehabilitated housing set forth in 24 C.F.R. § 983.57(a)-(d), with the exception of 24 C.F.R. § 983.57(b)(1) and (c)(2), for PBV conversions and Appendix III of the RAD Notice for PBRA conversions. All transfers of assistance to a new site(s) are subject to front-end review by HUD, as required by the RAD Notice and noted in Section 5.3(A)(2) of this Notice. Conversions involving a transfer of assistance may also involve one or more of the other activities which trigger front-end review as described in Section 5.3(A). In transfers of assistance involving any of these activities, HUD

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<sup>58</sup> 24 C.F.R. § 983.57(e)(3)(vi) and Appendix III of the RAD Notice, paragraph (e)(2). The PBRA site and neighborhood standards use the phrase “on the basis of race, color, creed, sex or national origin.” See Appendix III of the RAD Notice.

will conduct a front-end review based on the requirements applicable to each activity. A PHA must submit documentation for the front-end civil rights review of each specific activity as required by the relevant sections of this Notice.

*B) Analysis of Transfers of Assistance*

Through the front-end review of transfers of assistance by FHEO, HUD seeks to assist the PHA in avoiding discrimination on the basis of race, color, national origin, religion, sex, disability or familial status. The front-end review of transfers of assistance will apply the site selection standards for existing/rehabilitated housing.<sup>59</sup> This review shall consider:

- (1) The accessibility of the proposed site for persons with disabilities;
- (2) The ability of the RAD conversion to remediate accessibility concerns;
- (3) Whether the transfer of assistance would result in assisted units being located in an area where the total percentage of minority persons is significantly higher than the total percentage of minority persons in the area of the original public housing site or in an area where the percentage of persons of a particular racial or ethnic minority is significantly higher than the percentage of that minority group in the area of the original public housing site.<sup>60</sup> For purposes of this analysis, HUD will examine the minority concentration of:
  - (a) the census tract of the original public housing site compared to the census tract of the proposed site; and
  - (b) an area comprised of the census tract of the original public housing site together with all adjacent census tracts compared to an area comprised of the census tract of the proposed site together with all adjacent census tracts.
- (4) Whether the site selection has the purpose or effect of:
  - (a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the RAD program or the applicable rental assistance program;
  - (b) Excluding qualified individuals with disabilities from or denying them the benefit of the RAD program or the applicable rental assistance program, or otherwise subjecting them to discrimination;
  - (c) Defeating or substantially impairing the accomplishment of the objectives of the RAD program or the applicable rental assistance program with respect to qualified individuals with disabilities; and

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<sup>59</sup> 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, paragraphs (a) through (d). The site selection standards for existing/rehabilitated housing do not apply the minority concentration test used for new construction found at 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

<sup>60</sup> While this review is not explicitly called out in 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, it is derived from HUD's and the PHA's obligations to comply with civil rights laws and regulations, including those referenced in 24 C.F.R. § 983.57(b)(2) and Appendix III of the RAD Notice.

- (d) Excluding individuals with disabilities (including members of the public with disabilities), denying them benefits or subjecting them to discrimination.

Under the RAD Notice, there are other standards for review of a transfer of assistance which are not examined as part of the front-end civil rights review but are examined as part of the RAD Financing Plan review (e.g., criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937 regarding neighborhoods with highly concentrated poverty). Identification of considerations for the front-end review do not preclude review by HUD of all standards referenced in the RAD Notice.

## **5.6. Front-End Civil Rights Review for RAD Transactions Involving Reduction in Number of Units, Changes in Bedroom Distribution of Units and Changes in Occupancy Requirements**

The RAD Notice allows PHAs to reduce the number of units, change the bedroom distribution of units, or change the occupancy of projects as part of their RAD conversion.<sup>61</sup> However, the RAD Notice also provides that such changes (including de minimis changes) must undergo a front-end civil rights review and receive approval from HUD prior to submission of the Financing Plan. The Checklist will require data for review along with an explanation, backed by sufficient evidence, of how the PHA determined that the proposed change will not result in discrimination on the basis of race, color, national origin, religion, sex, disability, familial status, actual or perceived sexual orientation, gender identity or marital status.<sup>62</sup>

### *A) Review of Reductions in the Number of Units, Reductions or Increases in the Number of UFAS Accessible Units or Changes in Bedroom Distribution*

This Section describes the considerations relevant to a front-end review of reductions in units, changes in the number of UFAS accessible units or changes in bedroom distribution. Such changes must not be the result of an intentional effort to discriminate against members of a protected class. For example, reductions or changes, including reductions in UFAS accessible units or which would impede residents with disabilities from having live-in aides, that intended to exclude persons with disabilities would be unlawful discrimination because of a disability.

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<sup>61</sup> See Sections 1.4.A.4 and 1.4.A.10 of the RAD Notice.

<sup>62</sup> Reductions in the number of units, changes in the bedroom distribution of units, or changes in occupancy violate the Fair Housing Act (the Act) if they have a discriminatory effect on the basis of race, color, national origin, religion, sex, disability, or familial status. Unlawful housing discrimination may be established by a policy's or practice's discriminatory intent or by its discriminatory effect, even if not motivated by discriminatory intent, consistent with the standards outlined in 24 C.F.R. § 100.500. A policy or practice can have an unjustified discriminatory effect, even when the provider had no intent to discriminate. Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. In addition, the policy or practice violates the Act if the housing developer or provider intentionally discriminates, including for example, by reducing the number of bedrooms with the intent of limiting families with children. Furthermore, the policy or practice may also violate the Act where it creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. In addition, any changes must conform with the Equal Access rule requirement that determinations of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the FHA shall be made in accordance with program eligibility requirements, and the housing must be made available, without regard to actual or perceived sexual orientation, gender identity or marital status. 24 C.F.R. § 5.105(a)(2).

Similarly, replacing larger units with smaller units so as to exclude families with children would be unlawful discrimination because of familial status.

Additionally, reductions in units or changes in bedroom distribution must not have an unjustified discriminatory effect on members of a protected class. For example, a reduction in units could have a discriminatory impact if it excludes members of a particular race or religion. Reductions or changes that have a disparate impact on a protected class are unlawful under the Fair Housing Act if they are not necessary to achieve a substantial, legitimate, nondiscriminatory interest of the developer or housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

The RAD Notice allows for a de minimis reduction in units at Converting Projects, which includes both a small number of units as well as the reduction of certain units that have been vacant for 24 months prior to application, that are being or will be used for social service delivery, or efficiencies that will be reconfigured to one-bedroom units.<sup>63</sup> In addition, a PHA converting multiple properties can consolidate the de minimis reductions derived from multiple properties at a small number of sites. The RAD Notice also allows for changes in bedroom distribution. Such de minimis reductions are still subject to front end civil rights review and applicable fair housing and civil rights laws.

HUD shall conduct a front-end civil rights review if the plan for a Converting Project results in:

- A reduction in the number of dwelling units in any of the following categories: (i) units with two bedrooms, (ii) units with three bedrooms or (iii) units with four or more bedrooms.
- A reduction in the number of UFAS accessible units;
- An increase in the number of UFAS accessible units for persons with mobility impairments beyond 10% of the units in the Covered Project or 1 unit, whichever is greater.
- An increase in the number of UFAS accessible units for persons with vision and hearing impairments beyond 4% of the units in the Covered Project or 1 unit, whichever is greater.

When a Converting Project is subject to a front-end civil rights review under this subsection, the PHA shall submit to HUD the relevant part of the Checklist together with a justification which must demonstrate that the changes are not the result of discriminatory intent and will not have a discriminatory effect on members of protected classes, particularly families with children and individuals with disabilities. Relevant data for this analysis of the proposed change at the project may include the PHA's overall affordable housing stock, the demand for affordable housing in the market as evidenced by information such as the overall jurisdiction and regional demographic data available from the AFFH Data and Mapping Tool (e.g., both basic demographic and disproportionate housing needs data), the PHA's waiting list or a reliable market study of households seeking assisted housing, compared to the relative proportions of

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<sup>63</sup> See Section 1.4.A.4 of the RAD Notice.



units serving any particular household type in the proposed project, the PHA's total housing stock or all assisted housing in the area.

For any increase in UFAS units subject to front-end review, HUD will assess indicators of local need (see Section 5.7(B), below) and whether the change would operate to concentrate individuals with disabilities in a particular property or to exclude individuals with certain types of disabilities from a particular property.

*B) Review of Changes in Occupancy Type*

RAD conversions that result in the implementation of an admissions preference (e.g., residency preferences or restrictions) at the Covered Project that would alter the occupancy of the property (e.g., family units converting to elderly units, elderly/disabled units converting to elderly only units) are subject to a front-end civil rights review by HUD pursuant to the RAD Notice and Section 5.3(A). A PHA must demonstrate that the proposed change in occupancy type is consistent with the demand for affordable housing in its jurisdiction as demonstrated by factors such as the demographics of its current occupancy, the demographics of its waiting list or a market study. Such preferences, restrictions, or geographic residency preferences must be reflected in a PBRA project's Affirmative Fair Housing Marketing Plan (AFHMP) or, for a PBV project, the PHA's Administrative Plan.

**5.7. Other Front-End Civil Rights Review for RAD Transactions**

*A) Conversions of Assistance in Which the Construction Schedule Indicates that Relocation is Likely to Exceed 12 Months.*

The front end civil rights review shall focus on whether the relocation will result in discrimination on the basis of race, color, national origin, religion, sex, disability, and familial status, based primarily, but not exclusively, on the data required in the Checklist.

*B) Conversions of Assistance Involving New Construction or Substantial Alteration, as those terms are defined by Section 504.*

While the PHA is responsible for compliance with all requirements described in Section 4, above and in this subsection, the front-end review will be conducted based on a review of the Checklist and shall include confirming the provision of any required accessible units and confirming the PHA is applying the appropriate accessibility standards. HUD will require the PHA to provide information regarding the provision of at least the minimum number of units accessible for persons with mobility impairments and units accessible for persons with hearing and vision impairments as required by applicable law (generally 5% of units accessible for persons with mobility impairments and an additional 2% of units accessible for persons with hearing and vision impairments). For purposes of establishing an upper threshold of accessible units below which RAD front-end review will not be required, HUD will accept that up to 10% of units accessible for persons with mobility impairments and up to 4% of units accessible for persons with hearing and vision impairments is consistent with local need, without further review, absent information to the contrary. HUD will consider a PHA's request for higher percentages based, to HUD's satisfaction, on reliable indicators of local need, such as census data or other available current data. HUD is available to assist PHAs in determining appropriate indicators of local

need for units with accessible features. The RAD conversion scope of work submitted with the Financing Plan must reflect the construction or retrofitting of residential units and public and common use areas to comply with all applicable accessibility requirements.

*C) Remedial Agreements and Orders.*

Front-end review in situations where the Converting Project or PHA is subject to enforcement actions or binding voluntary compliance agreements, settlement agreements, conciliation agreements, or consent decrees or orders of the nature described in Sections 5.3(A)(8) and 5.3(A)(9) shall be conducted on a case-by-case basis as appropriate to the specific situation.

**5.8. Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance**

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.<sup>64</sup> Affirmative Fair Housing Marketing requirements are designed to achieve a condition in which individuals of similar income levels in the same housing market area have similar housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.<sup>65</sup> They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act that HUD administer its programs and activities in a manner to affirmatively further fair housing. These requirements mandate that PHAs or Project Owners identify groups that are least likely to apply for upcoming housing opportunities and to implement special marketing and outreach activities to ensure that these groups are aware of these opportunities.

The AFHMP must be submitted to HUD with the Financing Plan. A separate AFHMP is required for each distinct PBRA HAP contract. The PHA must submit an AFHMP even if the project has an existing waiting list and is not accepting new applicants. The PHA or Project Owner should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

When submitting an AFHMP for HUD approval, the PHA or Project Owner must ensure that the occupancy designation and any residency preferences are consistent with the PHA Plan or Significant Amendment to the PHA Plan, that such designation and preferences are consistent with the Checklist submitted to HUD and that the AFHMP includes affirmative marketing

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<sup>64</sup> The most recent version of the AFHMP is HUD Form 935.2A, OMB Approval Number 2529-0013. *See* 24 C.F.R. § 880.601(a)(2) and 24 C.F.R. § 200.615; *see also* Section 10.8 of the Multifamily Accelerated Processing (MAP) Guide. The PHA or its management agent should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

<sup>65</sup> *See* 24 C.F.R. § 200.610.

activities that are consistent with its occupancy designation and the populations identified as least likely to apply. Any subsequent changes to occupancy designation or residency preferences shall be proposed, submitted and reviewed in accordance with standard PBRA requirements. If a PHA or Project Owner plans to adopt any local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4).

The Multifamily Housing Office of Asset Management and Portfolio Oversight and the Office of Fair Housing and Equal Opportunity (“FHEO”) review the AFHMP. FHEO issues HUD’s official letter of approval or disapproval. Disapproval letters will specify the reason a plan was rejected and the revisions required. The PHA or Project Owner must make the required changes and resubmit a corrected plan to HUD for approval.

The PBRA contract becomes effective on the first day of a month, following closing. Approval of the AFHMP is not a condition to closing of the RAD conversion. When the project is preparing to accept applications, it must follow its approved AFHMP to ensure that groups least likely to apply are aware of the housing opportunities. The Project Owner is responsible for ensuring that the AFHMP is in place throughout the life of any FHA mortgage or PBRA contract. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Marketing or leasing includes the solicitation, distribution or acceptance of applications or development of a waiting list.

## **SECTION 6. RELOCATION REQUIREMENTS**

In some cases, as explained in this Section, the activities associated with the RAD transaction may require the relocation of residents. In the event of acquisition, demolition, construction or rehabilitation activities performed in connection with a RAD conversion, the PHA and/or Project Owner<sup>66</sup> should plan such activities to reasonably minimize any disruption to residents’ lives, to ensure that residents are not exposed to unsafe living conditions and to comply with applicable relocation, fair housing and civil rights requirements. As discussed in Section 6.1, below, a written relocation plan is required in some circumstances and strongly encouraged for any conversion resulting in resident moves or relocation. Further, the obligations due to relocating residents under RAD are broader than URA relocation assistance and payments and RAD specifies requirements which are more protective of residents than standard URA requirements, including additional notices (see Section 6.6) and a right to return (see Section 6.2). This Notice requires that certain information be provided to all households, beginning prior to submission of the RAD application.

Any resident who moves as a direct result of acquisition, rehabilitation or demolition for an activity or series of activities associated with a RAD conversion may, depending on the circumstances and length of time of the relocation, be eligible for relocation assistance and payments under the URA. Additionally, Section 104(d) relocation and one-for-one replacement

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<sup>66</sup> Under the URA, the term “displacing agency” refers to the agency or person that carries out a program or project which will cause a resident to become a displaced person. Projects vary and, for any specific task described in this Notice, the displacing agency may be either the PHA or the Project Owner, as determined by the allocation of roles and responsibilities between the PHA and Project Owner.

housing requirements may also apply when CDBG- or HOME-funds are used in connection with a RAD conversion. The applicability of the URA or Section 104(d) to RAD conversions is fact-specific, which must be determined in accordance with the applicable URA and Section 104(d) regulations.<sup>67</sup>

Eligibility for specific protections under this Notice applies to any person residing in a Converting Project who is legally on the public housing lease, has submitted an application to be added to an existing lease, or is otherwise in lawful occupancy at the time of the issuance of the CHAP and at any time thereafter until conversion of assistance under RAD. All such residents of a Converting Project have a right to return and are eligible for relocation protections and assistance as provided by this Notice. The eligibility criteria set forth in this paragraph apply to the protections under this Notice regardless of whether residents or household members meet the statutory and regulatory requirements for eligibility under URA.<sup>68</sup>

## **6.1. Planning**

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a Converting Project, PHAs must undertake a planning process in conformance with the URA statutory and regulatory requirements in order to minimize the adverse impact of relocation (*see* 49 § C.F.R. 24.205). PHAs must also ensure that their relocation planning is conducted in compliance with applicable fair housing and civil rights requirements.

The PHA shall prepare a written relocation plan if the RAD conversion involves permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year. While a written relocation plan is not required for temporary relocation lasting one year or less, HUD strongly encourages PHAs, in consultation with any applicable Project Owners, to prepare a written relocation plan for all RAD conversions to establish their relocation process clearly and in sufficient detail to permit consistent implementation of the relocation process and accurate communication to the residents. Appendix II contains recommended elements of a relocation plan.

During the planning stages of a RAD transaction and based on the results of this planning process, a PHA must submit applicable portions of the Checklist described in Section 5.3(B) to HUD, together with any required backup documentation, as early as possible once the information covered in the applicable part is known.<sup>69</sup> All parts of the Checklist must be submitted to HUD prior to submission of the Financing Plan. The Checklist will allow HUD to assist the PHA to comply, and to evaluate the PHA's compliance, with relocation requirements, including civil rights requirements related to relocation.

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<sup>67</sup> 42 U.S.C. § 4601 *et seq.*, 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

<sup>68</sup> A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 C.F.R. 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378. See Section 6.5 of this Notice for discussion of the date of "initiation of negotiations."

<sup>69</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

The following presents a general sequencing of relocation planning activities within the RAD conversion process for informational and planning purposes only. Specific requirements are set forth in the provisions of this Notice.

Stage	Activities
1. Prior to submission of RAD application	<ul style="list-style-type: none"> <li>• Determine potential need for relocation in connection with proposed conversion plans.</li> <li>• Meet with residents to discuss proposed conversion plans, communicate right to return, and solicit feedback.</li> <li>• Provide the <i>RAD Information Notice</i> (RIN) to residents as described in Section 6.6(A) of this Notice.</li> </ul>
2. After submission of RAD application	<ul style="list-style-type: none"> <li>• Assess the need for relocation planning in connection with proposed conversion plans. Determine if technical assistance would be beneficial to ensuring compliance with relocation requirements.</li> <li>• Survey residents to inform relocation planning and relocation process.</li> <li>• Develop a relocation plan (see Appendix II for recommended content).</li> <li>• Prepare Significant Amendment to PHA Plan and engage with the Resident Advisory Board, residents and the public regarding Plan amendment.<sup>70</sup></li> </ul>
3. Following issuance of the CHAP, or earlier if warranted	<ul style="list-style-type: none"> <li>• Provide the <i>General Information Notice</i> (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.</li> </ul>
4. While preparing Financing Plan	<ul style="list-style-type: none"> <li>• Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager.</li> <li>• Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities.</li> <li>• Identify relocation housing options .</li> <li>• Budget for relocation expenses and for compliance with accessibility requirements.</li> <li>• Submit the Checklist and, where applicable, the relocation plan.</li> <li>• If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA).</li> <li>• If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as</li> </ul>

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<sup>70</sup> Alternatively, the PHA may submit a new PHA Five-Year or Annual Plan, especially if it is on schedule to do so. Under any scenario, the PHA must consult with the Resident Advisory Board and undertake the community participation process.

Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	<ul style="list-style-type: none"> <li>• Meet with residents to describe approved conversion plans and discuss required relocation.</li> <li>• The effective date of the RCC marks the date of “Initiation of Negotiations” (ION), as defined in the URA (49 § C.F.R. 24.2(a)(15)).</li> <li>• If no NOIA was provided while preparing the Financing Plan, provide residents with appropriate relocation notices as described in Section 6.6(C) through 6.6(E) of this Notice.</li> <li>• Resident relocation may begin following the effective date of the RCC, subject to applicable notice requirements.</li> </ul>
6. Post-Closing	<ul style="list-style-type: none"> <li>• Ongoing implementation of relocation</li> <li>• Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice</li> <li>• Implementation of the residents’ right to return</li> </ul>

## 6.2. Resident Right to Return

Any public housing or Section 8 assisted resident that may need to be relocated temporarily to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is complete.<sup>71</sup> Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a project’s conversion of assistance. The Project Owner satisfies the RAD right to return to a Covered Project if the Project Owner offers the resident household either: a) a unit in the Covered Project in which the household is not under-housed; or b) a unit in the Covered Project which provides the same major features as the resident’s unit in the Converting Project prior to the implementation of the RAD conversion. In the case of a transfer of assistance to a new site, residents of the Converting Project have the right to reside in an assisted unit meeting the requirements set forth in this paragraph at the Covered Project (the new site) once the Covered Project is ready for occupancy in accordance with applicable PBV or PBRA requirements.

If proposed plans for a Converting Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. Examples of project plans that may preclude a resident from returning to the Covered Project include, but are not limited to:

- Changes in bedroom distribution which decrease the size of units such that the resident would be under-housed;<sup>72</sup>

<sup>71</sup> The right to return is not a right to any specific unit in the Covered Project. Tenancies other than public housing or Section 8 assisted residents (such as commercial tenants) do not hold a right to return and are subject to standard relocation requirements applicable to such tenants under the URA.

<sup>72</sup> See the RAD Notice for a description of the procedures that must be undertaken if a resident is over-housed.

- Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible;<sup>73</sup> and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.<sup>74</sup>

If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.

If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the PHA or Project Owner may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the PHA or Project Owner seeks to have the resident exercise the right of return at a future phase, the PHA or Project Owner would need to secure the resident's consent to such plan as an alternative housing option pursuant to Section 6.10, below.

In implementing the right of return, the Project Owner shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act,

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<sup>73</sup> In these cases, a PHA may elect to exclude some units from the applicable financing program, for example, claiming LIHTC for a subset of the units and not claiming tax credits in connection with the units occupied by households over the LIHTC maximum eligibility of 60% of AMI.

<sup>74</sup> Refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act (March 5, 2008), at [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf) for additional detail regarding applicable standards for reasonable accommodations and accessibility features which must be provided. If the resident has paid for installation of accessibility features in the resident's prior unit, the PHA or Project Owner shall pay for the installation of comparable features in the new unit. Violations of law may also result in other sanctions.

Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

### **6.3. Admissions and Continued Occupancy Requirements**

Resident households may not be denied relocation housing or the right to return based on rescreening, income eligibility, or income targeting. PHAs may only offer housing options with screening, income eligibility or income targeting requirements if the impacted residents meet the admission and occupancy policies applicable to such housing. However, whether or not in a temporary relocation situation, the household remains subject to the applicable program policies regarding continued occupancy of an assisted unit by an incumbent resident of the unit.

### **6.4. Types of Moves and Relocation**

Any time project plans require a resident to move from their current unit, the resident is eligible for assistance as described in this Notice. Assistance may vary depending on the options provided to residents, whether the relocation is temporary or permanent and, if applicable, the length of time the resident is in temporary accommodations.<sup>75</sup> In all circumstances, the move or relocation must be in compliance with applicable requirements of this Notice and consistent with applicable fair housing and civil rights requirements. Each type of move is discussed below.

#### *A) Moves within the same building or complex of buildings<sup>76</sup>*

Temporary or permanent moves within the same building or complex of buildings may be appropriate given the extent of work to be completed to permit phasing of rehabilitation or construction. Moves within the same building or complex of buildings are not considered relocation under RAD and a tenant generally does not become displaced under the URA. Whether permanent (i.e., the tenant will move to and remain in an alternative unit) or temporary (i.e., the tenant will move to another unit and return to their original unit), the PHA or Project Owner must reimburse residents for all reasonable out-of-pocket expenses incurred in connection with any move and all other terms and conditions of the move(s) must be reasonable.<sup>77</sup> The final move must be to a unit which satisfies the right to return requirements specified in Section 6.2 of this Notice.

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<sup>75</sup> PHAs should note that the definitions of “permanent” vary between the URA and RAD. For example, “permanent displacement” under the URA includes moves from the original building or complex of buildings lasting more than one year. The RAD Notice, meanwhile, considers “permanent relocation” to be separation from the RAD-assisted unit upon completion of the conversion and any associated rehabilitation and construction. The duration of a temporary move may exceed one year. In the case of a transfer of assistance, it is not permanent relocation under RAD when the resident must move from the original complex of buildings to the destination site in order to retain occupancy of the RAD-assisted unit.

<sup>76</sup> An example of relocation within the same building or complex of buildings would be if one floor of a multi-story building is vacant, and the PHA is moving residents from another floor to the vacant units.

<sup>77</sup> Failure to reimburse residents for moving or other out-of-pocket expenses and any other terms and conditions of the move which may be unreasonable may result in the resident becoming a displaced person under the URA if the resident subsequently moves from the property.



*B) Temporary relocation lasting one year or less*

If a resident is required to relocate temporarily, to a unit not in the same building or complex of buildings, for a period not expected to exceed one year in connection with the RAD conversion, the resident's temporarily occupied housing must be decent, safe, and sanitary and the resident must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses include, but are not limited to, moving expenses, increased housing costs (e.g., rent and utilities), meals if the temporary housing lacks cooking facilities (e.g., during a short hotel stay, whether or not on an emergency basis) and other applicable expenses.<sup>78</sup>

*C) Temporary relocation initially expected to last one year or less, but which extends beyond one year*

In the event that a resident has been temporarily relocated, to a unit not in the same building or complex of buildings, for a period which was anticipated to last one year or less but the temporary relocation in fact exceeds one year, the resident qualifies as a "displaced person" under the URA and as a result immediately becomes eligible for all permanent relocation assistance and payments as a "displaced person" under the URA, including notice pursuant to Section 6.6(E). This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

In such event, the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate with the offered URA assistance or to choose to remain temporarily relocated based on updated information from the PHA or Project Owner about when they can return to the completed RAD unit. The PHA or Project Owner must present this opportunity to the resident when the temporary relocation extends beyond one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration. In presenting such opportunity, the PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*D) Temporary relocation anticipated to last more than one year*

When the PHA anticipates that the temporary relocation, to a unit not in the same building or complex of buildings, will last more than one year, but the resident is retaining the resident's right to return to the Covered Project, the resident is considered temporarily relocated under RAD and is eligible to receive applicable temporary relocation assistance and payments. Under the URA, the resident becomes eligible to receive applicable relocation assistance and payments as a "displaced person" when the temporary relocation period exceeds one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration, at

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<sup>78</sup> HUD Handbook 1378, Chapter 2, Section 2-7 governs activities subject to URA requirements and informs, but is not binding upon, any RAD activities not governed by the URA. PHAs may also refer to HUD Form 40030.

which time the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate or to remain temporarily relocated, as described in Section 6.4(C), above.

In order to allow residents to make the election earlier than required under the URA (thereby avoiding a year in temporary relocation housing prior to electing voluntary permanent relocation), if the PHA or Project Owner anticipates that temporary relocation will last more than one year, the PHA or Project Owner shall provide the resident with an initial option to (a) be temporarily relocated, retain the right to return to the Covered Project when a unit becomes available and receive assistance, including temporary housing and reimbursement for all reasonable out-of-pocket expenses associated with the temporary relocation, or (b) accept RAD voluntary permanent relocation assistance and payments equivalent to what a “displaced person” would receive under the URA. The PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident’s right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*E) Permanent moves in connection with a transfer of assistance*

In cases solely involving a transfer of assistance to a new site, resident relocation from the Converting Project to the Covered Project is not, by itself, generally considered involuntary permanent relocation under RAD. However, the URA and/or Section 104(d) is likely to apply in most cases. In cases of a transfer of assistance to a new site where it has also been determined that the URA and/or Section 104(d) apply to the transfer of assistance, residents may be eligible for all permanent relocation assistance and payments for eligible displaced persons under the URA and/or Section 104(d). If the URA applies to a move of this type, the PHA or Project Owner must make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a). However, provided the transfer of assistance unit meets the URA definition of a comparable replacement dwelling pursuant to 49 C.F.R. § 24.2(a)(6), that unit could in fact represent the most comparable replacement dwelling as determined by the agency for purposes of calculating a replacement housing payment, if any, under 49 C.F.R. § 24.402.

Whether or not the URA and/or Section 104(d) apply, under RAD the residents are entitled to relocation assistance and payments, including counseling in preparation for the relocation, written notices of the relocation (including a 90-day RAD Notice of Relocation), and reimbursement for all reasonable out-of-pocket expenses, including moving expenses, incurred in connection with the move. It should be noted that the RAD relocation assistance and payments provided to transferring residents in this paragraph differ from those required under the URA and/or Section 104(d) as described above. Where both frameworks apply, the residents must receive the more extensive protections offered under either framework.

If HUD determines that the distance from the Converting Project to the site of the Covered Project is significant and the resident could not reasonably be required to move to the new site, then HUD will require the PHA to adjust project plans to accommodate the resident in an assisted unit (e.g., a public housing unit, some other project-based Section 8 unit or a market unit

with a housing choice voucher) within a reasonable distance of the site of the Converting Project. HUD will evaluate whether this requirement applies on a case by case basis, considering whether the distance would impose a significant burden on residents' access to existing employment, transportation options, schooling or other critical services. Accommodating the resident may also be satisfied by the resident's consent to an alternative housing option pursuant to Section 6.10. The requirement set forth in this paragraph is in addition to all protections, including, for example, the offer of comparable replacement dwellings, which are required in all instances where a transfer of assistance is subject to the URA and/or Section 104(d).

*F) Voluntary permanent relocation*

A resident may elect to relinquish their right of return and consent to voluntary permanent relocation pursuant to an alternative housing option offered and accepted according to the procedures described in Section 6.10, which Section specifies protections to ensure the resident's decision is fully informed. By selecting voluntary permanent relocation, the resident is electing to receive RAD permanent relocation assistance and payments which are equivalent to the relocation payments and assistance required to be provided to a "displaced person" pursuant to the regulations implementing the URA.

## **6.5. Initiation of Negotiations (ION) Date**

Eligibility for URA relocation assistance is effective on the date of initiation of negotiations (ION) (49 C.F.R. § 24.2(a)(15)). For Converting Projects, the ION date is the effective date of the RCC. The ION date is also typically the date when PHAs can begin to issue RAD Notices of Relocation (except in the case of acquisitions when the PHA can issue a Notice of Intent to Acquire and RAD Notices of Relocation prior to the ION date). Any person who is in lawful occupancy on the ION date is presumed to be entitled to relocation payments and other assistance.

PHAs and Project Owners should note that prior to the ION date, a resident may be eligible as a displaced person for permanent relocation assistance and payments under the URA if HUD determines, after analyzing the facts, that the resident's move was a direct result of the project. However, resident moves taken contrary to specific instructions from the PHA or Project Owner (for example, contrary to instructions not to move if contained in a General Information Notice) are generally not eligible as a displaced person under the URA.

## **6.6. Resident Relocation Notification (Notices)**

PHAs and Project Owners are encouraged to communicate regularly with the residents regarding project plans and, if applicable, the resulting plans for relocation. When residents may be relocated for any time period (including, without limitation, a move in connection with a transfer of assistance), written notice must be provided to the resident heads of households, including the notices listed below as applicable.<sup>79</sup> PHAs and Project Owners are also encouraged to provide

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<sup>79</sup> The notices required under Sections 6.6(B) through 6.6(E) must be delivered in accordance with URA resident notification requirements, including the requirement that the notice be personally served or delivered by certified or registered first class mail return receipt requested. All notices must be delivered to each household (i.e., posting in

additional relocation notices and updates for the residents' benefit as appropriate for the specific situation.

To ensure that all residents understand their rights and responsibilities and the assistance available to them, consistent with URA requirements at 49 C.F.R. § 24.5 and civil rights requirements, PHAs and Project Owners must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services, such as interpreters and alternative format materials. Similarly, PHAs and Project Owners are required to take reasonable steps to ensure meaningful access for LEP persons in written and oral materials. Each notice shall indicate the name and telephone number of a person to contact with questions or for other needed help and shall include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable, pursuant to 24 C.F.R. §8.6(a)(2).

The purpose of these notifications is to ensure that residents are informed of their potential rights and, if they are to be relocated, of the relocation assistance available to them. Two initial notices launch this effort and provide critical information regarding residents' rights. The first, the RAD Information Notice, is to be provided at the very beginning of the RAD conversion planning process in order to ensure residents understand their rights, to provide basic program information and to facilitate residents' engagement with the PHA regarding project plans. The GIN, meanwhile, provides information specifically related to protections the URA provides to impacted residents. Subsequent notices provide more detailed information regarding relocation activities specific to the household, including tailored information regarding eligibility and timelines for relocation.

PHAs should note that a resident move undertaken as a direct result of the project may be eligible to receive relocation assistance and payments under the URA even though the PHA has not yet issued notices to them. Sample notices which may be used as-is or modified to fit the peculiarities of each situation are provided on the RAD website at [www.hud.gov/rad](http://www.hud.gov/rad).

#### *A) RAD Information Notice*

The RAD Information Notice is to be provided to residents at the very beginning of the RAD conversion planning process in order to convey general written information on potential project plans and residents' basic rights under RAD, and to facilitate residents' engagement with the PHA regarding the proposed RAD conversion. The PHA shall provide a RAD Information Notice to all residents of a Converting Project prior to the first of the two meetings with residents required by the RAD Notice, Section 1.8.2, and before submitting a RAD Application. This RAD Information Notice shall be provided without regard to whether the PHA anticipates any relocation of residents in connection with the RAD conversion. The RAD Information Notice must do the following:

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common areas is insufficient) and methods of delivery (e.g., certified mail, U.S. mail, or hand delivery) must be documented in the PHA's or Project Owner's files.

- Provide a general description of the conversion transaction (e.g., the Converting Project, whether the PHA anticipates any new construction or transfer of assistance, whether the PHA anticipates partnering with a developer or other entity to implement the transaction);
- Inform the resident that the early conceptual plans are likely to change as the PHA gathers more information, including, among other items, resident opinions, analysis of the capital needs of the property and financing options;
- Inform the resident that the household has a right to remain in the unit or, if any relocation is required, a right to return to an assisted unit in the Covered Project (which may be at the new site in the case of a transfer of assistance);
- Inform the resident that they will not be subject to any rescreening as a result of the conversion;
- Inform the resident that the household cannot be required to move permanently without the resident's consent, except in the case of a transfer of assistance when the resident may be required to move a reasonable distance, as determined by HUD, in order to follow the assisted unit;
- Inform the resident that if any relocation is involved in the transaction, the resident is entitled to relocation protections under the requirements of the RAD program and, in some circumstances, the requirements of the URA, which protections may include advance written notice of any move, advisory services, payment(s) and other assistance as applicable to the situation;
- Inform the resident that any resident-initiated move from the Converting Project could put any future relocation payment(s) and assistance at risk and instruct the resident not to move from the Converting Project; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

*B) General Information Notice (49 C.F.R. § 24.203(a))*

The purpose of the General Information Notice (GIN) is to provide information about URA protections to individuals who may be displaced as a result of federally-assisted projects involving acquisition, rehabilitation or demolition. A GIN provides a general description of the project, the activities planned, and the relocation assistance that may become available.

A GIN shall be provided to any person scheduled to be displaced *as soon as feasible* based on the facts of the situation. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, “as soon as feasible” may be simultaneous with issuance of the RAD Information Notice. For any RAD conversion involving acquisition, rehabilitation or demolition, “as soon as feasible” shall be no later than 30 days following the issuance of the CHAP. In instances where acquisition, rehabilitation or demolition is not anticipated at the time of the CHAP but project plans change to include such activities, pursuant to this Notice the PHA shall provide the GIN as soon as feasible following the change in project plans.

For RAD, the GIN must do at least the following:

- Inform the resident that he or she may be displaced for the project and generally describe the relocation payment(s) for which the resident may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced resident successfully relocate;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will not be required to move without 90 days advance written notice;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
- Inform the resident that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see 49 C.F.R. § 24.208(h) for additional information);
- Describe the resident's right to appeal the PHA's determination as to a resident's eligibility for URA assistance; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

Because of the potential confusion caused by evolving policy directions in the RAD program regarding delivery of the GIN, for actions taken prior to the issuance of this Notice, HUD will consider the facts and circumstances of each conversion, with emphasis on the underlying URA requirements, in monitoring and enforcing a PHA's compliance with this requirement.

*C) Notice of Intent to Acquire (49 C.F.R. § 24.203(d))*

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA).<sup>80</sup> The NOIA may be provided no earlier than 90 days prior to the PHA's reasonable estimate of the date of submission of a complete Financing Plan. While eligibility for URA relocation assistance is generally effective on the effective date of the RCC (the ION date), a prior issuance of a NOIA establishes a resident's eligibility for relocation assistance and payments on the date of issuance of the NOIA and prior to the ION date.

*D) RAD Notice of Relocation*

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide written notice of such relocation by means of a RAD Notice of Relocation. The RAD Notice of

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<sup>80</sup> Acquisition includes a new ownership entity's purchase of the Covered Project from the PHA, such as a purchase by a single purpose entity, an affiliate or a low-income housing tax credit ownership entity.

Relocation may not be issued until: 1) the effective date of the RCC (the ION date) if the conversion does not involve acquisition; or 2) the earlier of the issuance of the Notice of Intent to Acquire (see Section 6.6(C)) or the effective date of the RCC (the ION date) if the conversion involves acquisition. Prior to issuance of the RAD Notice of Relocation, PHAs and Project Owners should meet with each resident household to provide preliminary relocation advisory services and to determine their needs and preferences.<sup>81</sup>

A RAD Notice of Relocation is not required for residents who will not be relocated. As a best practice, PHAs or Project Owners should notify residents that they are not being relocated once that determination has been made if they were previously informed by the GIN and/or by other methods that relocation was a possibility.<sup>82</sup>

A RAD Notice of Relocation shall provide either: 1) 30-days' notice to residents who will be relocated for twelve months or less; or 2) 90-days' notice to residents who will be relocated for more than twelve months.<sup>83</sup> The RAD Notice of Relocation must conform to the following requirements:

- (1) The notice must state the anticipated duration of the resident's relocation.
- (2) The notice must specify which entity (the PHA or the Project Owner) is primarily responsible for management of the resident's relocation and for compliance with the relocation obligations during different periods of time (i.e., before vs. after Closing).
- (3) For residents who will be relocated for twelve months or less:
  - The PHA or Project Owner must provide this notice a minimum of 30 days prior to relocation.<sup>84</sup> PHAs or Project Owners may deem it appropriate to provide longer notice periods for persons who will be temporarily relocated

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<sup>81</sup> PHAs and Project Owners should note the URA relocation advisory services requirement for personal interviews. See Section 6.7 of this Notice. In sequencing the RAD Notice of Relocation, PHAs and Project Owners wishing to offer alternative housing options pursuant to Section 6.10 should also note the additional complexity in the timeline of notices. Pursuant to Section 6.10(D), the resident can consent to an alternative housing option only after issuance of the NOIA or the effective date of the RCC and 30 days after presentation of the alternative housing options. In some cases, for example, when the resident would not otherwise be relocated for over twelve months, the RAD Notice of Relocation must include both the information described in Section 6.6(D)(3) and the information in Section 6.6(D)(4). The PHA or Project Owner should consider discussing the alternative housing options prior to issuing the RAD Notice of Relocation so that the RAD Notice of Relocation can be tailored to the resident's situation.

<sup>82</sup> The RAD program does not require a "notice of non-displacement," which HUD relocation policy generally uses for this purpose.

<sup>83</sup> The 90-day notice is required for residents relocated for more than twelve months, whether or not they intend to return to the Covered Project and whether or not they are eligible for assistance and payments as a displaced person under URA. Recipients of the 90-day notice would include those residents who have voluntarily accepted a permanent relocation option as well as those residents who are relocated within the same building or complex of buildings.

<sup>84</sup> Note that residents may elect to move to the relocation housing before the 30 days have elapsed. However, a PHA may not require a resident to move prior to this time.

for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.

- The notice must explain that the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move (including, but not limited to, increased housing costs and moving costs).
- The notice must explain the reasonable terms and conditions under which the resident may exercise the right to return to lease and occupy a unit in the Covered Project.

(4) For residents who will be relocated for more than twelve months, including for residents who may wish to voluntarily accept a permanent relocation option:

- The PHA or Project Owner must provide this notice a minimum of 90 days prior to relocation of residents.<sup>85</sup>
- The notice must offer the choice to be temporarily relocated, thereby preserving the resident's right to return, or the choice to be voluntarily permanently relocated pursuant to the procedures set forth in Section 6.10, together with guidance that the resident has at least thirty (30) days to consider the choice.
- For residents who voluntarily elect to be permanently relocated, the 90-day notice period may only begin once the PHA or Project Owner has made available at least one comparable replacement dwelling consistent with 49 C.F.R. § 24.204(a).<sup>86</sup>
- The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
- The notice must comply with all requirements for a URA Notice of Relocation Eligibility as described in 49 C.F.R. § 24.203(b).

(5) The notice must inform the resident that the relocation will be completed consistent with fair housing and civil rights requirements, and it must provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

For short-term relocations, the RAD Notice of Relocation may also contain the information required in the Notice of Return to the Covered Project (see Section 6.6(F)).

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<sup>85</sup> Note that residents may elect to move to the relocation housing before the 90 days have elapsed. However, a PHA may not compel a resident to move prior to this time.

<sup>86</sup> PHAs should note that URA regulations also require, where possible, that three or more comparable replacement dwellings be made available before a resident is required to move from his or her unit.



*E) URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))*

After a resident has been temporarily relocated for one year, notwithstanding a prior issuance of a RAD Notice of Relocation, the PHA or Project Owner must provide an additional notice: the notice of relocation eligibility in accordance with URA requirements (“URA Notice of Relocation Eligibility”). The URA Notice of Relocation Eligibility is not required if the resident has already accepted permanent relocation assistance.<sup>87</sup>

The URA Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 C.F.R. part 24 and shall:

- Provide current information as to when it is anticipated that the resident will be able to return to the Covered Project.
- Give the resident the choice to remain temporarily relocated based upon the updated information or to accept permanent URA relocation assistance at that time instead of exercising the right to return at a later time.

If the resident chooses to accept permanent URA relocation assistance and this choice requires the resident to move out of their temporary relocation housing, the URA requires that the PHA or Project Owner make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a), which comparability analysis is in reference to the resident’s original unit. The URA further requires that the resident receive 90 days’ advance written notice of the earliest date they will be required to move pursuant to 49 C.F.R. § 24.203(c).

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<sup>87</sup> To illustrate, consider the following examples.

- Example 1: The household is expected to be relocated for 11 months. The resident would receive a RAD Notice of Relocation offering only temporary relocation. Construction delays result in the extension of the relocation such that, in fact, it exceeds 12 months. When the temporary relocation exceeds 12 months, the resident must receive a URA Notice of Relocation Eligibility offering a choice between continuation in temporary relocation status and permanent relocation.
- Example 2: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects temporary relocation, the URA Notice of Relocation Eligibility is required as an additional notice following twelve months in temporary relocation status.
- Example 3: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects permanent relocation, the URA Notice of Relocation Eligibility is not required.
- Example 4: The household can be accommodated with temporary relocation of 3 months, but has been offered and seeks to accept permanent relocation pursuant to an alternative housing option. This resident would receive a RAD Notice of Relocation under Section 6.6(D)(4) offering a choice between temporary relocation status (the default option) and permanent relocation (the alternative housing option), instead of the RAD Notice of Relocation under Section 6.6(D)(3) which would be expected absent a permanent relocation option. The URA Notice of Relocation Eligibility is not required in either case because a temporary relocation exceeding 12 months was never anticipated nor experienced.

#### *F) Notification of Return to the Covered Project*

With respect to all temporary relocations, the PHA or Project Owner must notify the resident in writing reasonably in advance of the resident's expected return to the Covered Project, informing the resident of:

- The entity (the PHA or the Project Owner) with primary responsibility for managing the resident's relocation;
- The address of the resident's assigned unit in the Covered Project and, if different from the resident's original unit, information regarding the size and amenities of the unit;
- The date of the resident's return to the Covered Project or, if the precise date is not available, a reasonable estimate of the date which shall be supplemented with reasonable additional notice providing the precise date;
- That the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the return relocation; and
- The resident's options and the implications of those options if the resident determines that he or she does not want to return to the Covered Project and wants to decline the right of return.<sup>88</sup>

Reasonable advance notice shall be 15% of the duration of the resident's temporary relocation or 90 days, whichever is less. For short-term relocations, the PHA or Project Owner may include this information within the RAD Notice of Relocation.

#### **6.7. Relocation Advisory Services**

Throughout the relocation planning process, the PHA and Project Owner should be in communication with the residents regarding the evolving plans for relocation. Notwithstanding this best practice, certain relocation advisory services, described below, are required by the URA.

The URA regulations require the PHA or Project Owner to carry out a relocation assistance advisory program that includes specific services determined to be appropriate to residential or nonresidential displacements. The specific advisory services to be provided, as determined to be appropriate, are outlined at 49 C.F.R. § 24.205(c). For residential displacement under the URA, a personal interview is required for each displaced resident household to determine the relocation needs and preferences of each resident to be displaced. The resident household shall be provided an explanation of the relocation payments and other assistance for which the resident may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. Advisory counseling must also inform residents of their fair housing rights and be carried out in

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<sup>88</sup> If the resident declines to return to the Covered Project upon completion of the period of temporary relocation, the resident shall be considered to have voluntarily moved out of the property, without the benefit of further relocation assistance. For example, a PHA or Project Owner may have rented a market-rate apartment as a temporary relocation resource for a six-month period. In such a situation, the resident may decline to return to the Covered Project and choose to remain in the market-rate apartment at the expiration of the six-month period, but shall not be eligible for any further relocation assistance and payments (including rent differential payments) under this Notice, the URA or Section 104(d), if applicable, in connection with the resident's decision to remain in the temporary housing and not return to the Covered Project.

a manner that satisfies the requirements of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063 (49 C.F.R. § 24.205(c)(1)).<sup>89</sup> Such advisory services under the URA may include counseling to ensure that residents affected by the project understand their rights and responsibilities and the assistance available to them (49 C.F.R. § 24.205(c)). In addition, the PHA or Project Owner should inform residents that if they believe they have experienced unlawful discrimination, they may contact HUD at 1-800-669-9777 (Voice) or 1-800-927-9275 (TDD) or at <http://www.hud.gov>.

## **6.8. Initiation of Relocation**

PHAs and Project Owners **may not initiate any involuntary physical relocation until both the RCC is in effect and the applicable RAD Notice of Relocation period has expired** (i.e., after either 30 or 90 days' notice as applicable depending on nature of the relocation, as described above). This prohibition applies to all types of RAD transactions, regardless of whether the RAD Notice of Relocation is provided after issuance of a NOIA (for conversions involving acquisition) or following the effective date of the RCC (for all other conversions). PHAs are advised to account for the required 30-day or 90-day written notice periods in their planning process, to ensure that notices which satisfy all applicable requirements are issued prior to taking any action to initiate relocation.

**Neither involuntary nor voluntary relocation for the project shall take place prior to the effective date of the RCC**, unless moves are authorized under Section 7, below ("Applicability of HCV and Public Housing Requirements") or unless HUD provides explicit approval which will only be provided in extraordinary circumstances. The PHA must wait until the RAD Notice of Relocation period has expired before it may initiate any involuntary relocation. However, a resident may request to move voluntarily, and the PHA may honor a resident's request to move, before the applicable 30-day or 90-day period has elapsed, provided that the PHA may not take any action to encourage or coerce a resident to make such a request. If a resident has elected an alternative housing option, PHAs are advised to ensure that any consent to voluntary permanent relocation does not expire prior to the date of the relocation, as described in Section 6.10.

HUD may use administrative data to identify and investigate projects where relocation may be occurring prior to RCC.

## **6.9. Records and Documentation; Resident Log**

HUD may request from the PHA or Project Owner written records and documentation in order to evidence the PHA's and/or Project Owner's compliance, as applicable, with this Notice and the URA.<sup>90</sup> HUD may request to review some or all of such records in the event of compliance

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<sup>89</sup> For example, under fair housing and civil rights laws, the PHA and Project Owner may be required to inform residents about and provide reasonable accommodations for individuals with disabilities, such as search assistance; take appropriate steps to ensure effective communication with individuals with disabilities, such as through the provision of auxiliary aids and services, such as interpreters and alternate format documents; provide advisory counseling services in accessible locations and in an accessible manner for individuals with disabilities; and take reasonable steps to ensure meaningful access for LEP persons. See Section 4 of this Notice for more information on these requirements.

<sup>90</sup> Chapter 6 of HUD Handbook 1378 includes guidance on URA recordkeeping requirements.

concerns, in the event a project is identified for additional review based on administrative data, in the event of audits for purposes of monitoring the RAD program as a whole, upon selection of a random sample of projects and/or at other times at HUD's sole discretion. The records shall include resident files for all households relocated in connection with RAD and a resident log as described in this Section.

As part of such written record, the PHA or Project Owner must maintain data sufficient to deliver to HUD a resident log of every household that resides at the Converting Project at the time of the first required resident meeting on the proposed conversion pursuant to Section 1.8 of the RAD Notice (the "First Resident Meeting") and of every household that moves into the Converting Project after the First Resident Meeting and before the conversion of assistance under RAD. If any relocation is required, the log shall track resident status through completion of rehabilitation and construction, including re-occupancy after relocation. The resident log must include, but need not be limited to, the following information:

- Name of head of household
- PHA's resident identification number and/or the last four digits of the head-of-household's Social Security Number
- The head of household's race and ethnicity as reported on the HUD Form 50058 or the HUD Form 50058 MTW (the "Form 50058"). For purposes of the resident log, all references to the Form 50058 shall be to the form most recently prepared at the time of the First Resident Meeting or, for residents who moved in after the First Resident Meeting, the form most prepared at the time of the resident's initial occupancy.
- A Yes/No indication if there is any household member reported as having a disability on the Form 50058.
- A Yes/No indication if there is any household member reported as under the age of 18 on the effective date of action of the Form 50058;
- The household's relevant unit address, unit size and household size at the following times:
  - The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
  - The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
  - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
  - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
  - Date of the RAD Information Notice

- Date of the GIN
- Date of the CHAP
- Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- Date of most recent consent to voluntary permanent relocation<sup>91</sup>
- Date of relocation away from the Converting Project or Covered Project
- Dates of any intermediate relocation moves
- Date of return to the Covered Project or to the household's post-closing permanent address.<sup>92</sup>
- The following information for each resident household, as applicable:
  - The type of move (e.g., the types identified in Section 6.4, above)
  - The form of any temporary relocation housing (e.g., hotel, assisted housing, market-rate housing)
  - The address and unit size of any temporary relocation housing
  - Whether alternative housing options were offered consistent with Section 6.10, below
  - Any material terms of any selected alternative housing options
  - The type and amount of any payments for
    - Moving expenses to residents and to third parties
    - Residents' out-of-pocket expenses
    - Rent differential payments or other payments for temporary or permanent rental assistance, together with the rent and utilities (if applicable) that were the basis for the calculations
    - Any other relocation-related compensation or assistance

## **6.10. Alternative Housing Options**

Under the RAD Notice, “involuntary permanent relocation” is prohibited and each resident must be able to exercise his or her right of return to the Covered Project. A PHA or Project Owner is permitted to offer a resident alternative housing options when a resident is considering his or her future housing plans, provided that at all times prior to the resident's decision, the PHA and Project Owner preserve the resident's ability to exercise his or her right of return to the Covered Project.

### *A) Requirements for Any Offer of Alternative Housing Options*

All residents who are similarly situated must be given the same offer of alternative housing options. If the PHA or Project Owner seeks to limit the number of households that accept the

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<sup>91</sup> The most recent consent must be within 180 days of the actual relocation date, as discussed in Section 6.10(D).

<sup>92</sup> In the case of voluntary permanent relocation, the date of “return” may be the same as the date of relocation away from the Converting Project.

offer of alternative housing options, the PHA or Project Owner shall determine a fair and reasonable method for selection among similarly situated residents.<sup>93</sup>

In connection with any offer and acceptance of alternative housing options, the PHA or Project Owner must ensure that the residents' decisions are: 1) fully informed; 2) voluntary; and 3) carefully documented. Any alternative housing option must include, at a minimum, all relocation assistance and payments required under this Notice, the URA and Section 104(d), as applicable, and may include other elements. Funds administered by HUD may not be used to pay any monetary elements not required under this Notice, the URA or Section 104(d).

Acceptance of an alternative housing option is considered voluntary permanent relocation and the accompanying RAD relocation assistance and payments for which the resident may be eligible must be administered in accordance with all requirements for an eligible displaced person under the URA and its implementing regulations and, where applicable, Section 104(d) and its implementing regulations.

PHAs may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA or Section 104(d). The PHA must provide a written notice of URA or Section 104(d) relocation assistance and payments for which the resident may be eligible so that the resident may make an informed housing choice. The resident must be provided at least thirty (30) days to consider the offer of voluntary permanent relocation and the resident's acceptance of the PHA's offer of voluntary permanent relocation must be in writing signed by the head of the household for that unit.

#### *B) Assisted Housing Options as Alternatives*

Alternative housing option packages may include a variety of housing options and PHAs and Project Owners shall take particular care to ensure program compliance with the regulations applicable to the alternative housing options. Examples of alternative housing options may include:

- Transfers to public housing
- Admission to other affordable housing properties subject to the program rules applicable to such properties
- Housing Choice Vouchers (HCVs) subject to standard HCV program administration requirements. PHAs must operate their HCV programs, including any HCVs offered as an alternative housing option, in accordance with their approved policies as documented in their Section 8 Administrative Plan and HUD regulations at 24 C.F.R. part 982. Any offer of an HCV as an alternative housing option must be made consistent with the

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<sup>93</sup> For example, if the RAD conversion is financed by LIHTC and a few residents would not meet LIHTC program requirements, the PHA and Project Owner may want to offer these household alternative voluntary permanent relocation options. However, they must offer the same alternative housing options to all such households. As a second example, if the PHA and Project Owner seek to create two on-site vacancies of a particular unit size in order to facilitate temporary relocation on-site, the PHA may offer an alternative housing option of a housing choice voucher to all residents of applicably sized units (assuming that to do so is consistent with the PHA's voucher administration policies), and conduct a lottery to select the two households which will receive the vouchers.

PHA's admission preferences and other applicable policies and procedures set forth in the Section 8 Administrative Plan.

- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner

*C) Monetary Elements Associated With Alternative Housing Options*

A PHA or a Project Owner may include a monetary element in an alternative housing option package, provided that:

- Any monetary element associated with the alternative housing option shall be completely distinct from and in addition to any required RAD, URA or Section 104(d) relocation payments and benefits for which the resident is eligible ("Required Relocation Payments").
- No funds administered by HUD may be used to pay for any monetary element associated with the alternative housing option other than Required Relocation Payments.
- Any monetary element associated with the alternative housing option other than Required Relocation Payments must be the same amount offered to all similarly situated households.<sup>94</sup>
- Any alternative housing option package must comply fully with the disclosure and agreement provisions of this Notice.

*D) Disclosure and Agreement to Alternative Housing Options*

In providing an offer of alternative housing options to a resident, the PHA or Project Owner must inform the resident in writing of: a) his or her right to return;<sup>95</sup> b) his or her right to comment on and/or object to plans which would preclude the resident from returning to the Covered Project; c) the requirement that if the resident objects to such plans, the PHA or Project Owner must alter the project plans to accommodate the resident in the Covered Project; and d) a description of both the housing option(s) and benefits associated with the right of return and the alternative housing options and benefits being offered. In the description of the available housing options and benefits, the PHA or Project Owner shall include a description of any temporary housing options associated exercising the right of return and a description of any permanent alternative housing options as well as a reasonable estimate of the financial implications of all temporary and permanent options on the resident long-term.

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<sup>94</sup> Monetary payments other than Required Relocation Payments are considered "temporary, nonrecurring or sporadic income" pursuant to 24 C.F.R. § 5.609(c)(9) and consequently are excluded from income for purposes of eligibility and assistance calculations under certain HUD programs. Residents should be reminded that monetary payments other than URA relocation payments may be taxable under the Internal Revenue Code, that monetary payments, including required relocation payments, may affect residents' eligibility for other assistance programs and that the resident should seek knowledgeable guidance on these matters, including guidance on the taxation of monetary payments under state law.

<sup>95</sup> In the case of a transfer of assistance to a new site a significant distance from the Converting Project as described in Section 6.4(E), the resident shall be informed of the resident's right to return to the Covered Project at the new site and of the resident's right to an assisted unit within a reasonable distance of the site of the Converting Project, as described in Section 6.4(E).

The written notification may request written consent from the resident to exercise the alternative housing option and receive permanent relocation assistance and payments pursuant to RAD, the URA and/or Section 104(d), as applicable, in addition to any benefits associated with the alternative housing option. As part of any voluntary consent, the resident head of household must acknowledge in writing that acceptance of such assistance terminates the resident's right to return to the Covered Project. In order to ensure that the resident has sufficient time to seek advice and consider the alternative housing options, any consent to an alternative housing option executed within 30 days of the written presentation of the options shall be invalid.

Any offer of alternative housing options must be made in writing and the acceptance of the alternative must be voluntary and in writing. The offer of an alternative housing option must contain the following elements:

- The resident is informed of his or her right to return to the Covered Project and that neither the PHA nor the Project Owner can compel the resident to relinquish his or her right to return. The offer of alternative housing options must clearly state that acceptance of any alternative would relinquish the resident's right to return to the Covered Project.
- The offer of an alternative housing option must be accompanied by identification of comparable housing units which the resident may use to understand the nature of housing options available to them and the rent and estimated utility costs associated with such housing options. This information must also be accompanied by a reasonable estimate of any replacement housing payment or "gap payment" for which the resident may be eligible.
- The offer of an alternative housing option must be accompanied by information regarding moving payments and assistance that would be available if the resident exercises the right of return and if the resident accepts the alternative housing option.
- Residents must be offered advisory assistance to consider their options.
- To be fully informed, the offer must outline the implications and benefits of each alternative housing option being made available (i.e., of accepting each alternative housing option as compared to exercising his or her right to return) as well as a reasonable estimate of when the resident's relocation might occur. Implications and benefits include payment amounts, differences in rent calculations, differences in program rules, housing location, and potential long-term implications such as household housing expenses multiple years in the future.
- To be fully voluntary, the resident must have at least thirty (30) days following delivery of the written offer to consider their options. LEP persons must be provided a written translation of the offer and oral interpretation of any meetings or counseling in the appropriate language. In addition, PHAs must comply with their obligation to ensure effective communication with persons with disabilities.
- The resident cannot be asked to make a decision which will be implemented at a distant future time. Consequently, the resident may not provide written consent to an alternative housing option (and consequently, consent to voluntary permanent relocation) until after



the earlier of issuance of the NOIA or the effective date of the RCC.<sup>96</sup> If a resident signs a written consent to accept an alternative housing option, that written consent is valid for 180 days. If relocation (after the applicable notice periods) has not occurred within this 180 day period, then the PHA or Project Owner must secure a new consent to accept an alternative housing option. New relocation notices are generally not required.

- The acceptance must be in writing signed by the resident head of household, including a certification of facts to document that the household is relinquishing its right to return and that the decision and the acceptance of the alternative housing option was fully informed and voluntary.
- Residents accepting alternative housing options to relinquish their right to return will be considered to have voluntarily and permanently relocated. Such residents are to be provided applicable RAD, URA and/or Section 104(d) relocation assistance and payments.

The information included with the offer of alternative housing options is to aid the resident in making decisions regarding the desirability of the alternative housing options and neither satisfies nor replaces the relocation notices and information required to be provided to residents pursuant to this Notice, the URA or Section 104(d).

While HUD does not require PHAs to submit documentation of alternative housing options offered to residents or the residents' elections, PHAs must keep auditable written records of such consultation and decisions. HUD may request this documentation at any time, including as part of a review of the Checklist or if relocation concerns arise.

### **6.11. Lump Sum Payments**

PHAs and Project Owners should note that certain relocation payments to displaced residential tenants may be subject to 42 USC § 3537c ("Prohibition of Lump-Sum Payments") and must be disbursed in installments. The PHA or Project Owner may determine the frequency of the disbursements which must be made in installments. Handbook 1378, Chapter 3-7(D) provides guidance on the manner and frequency of disbursing payments subject to this requirement.

Any monetary element beyond Required Relocation Payments which may be associated with an alternative housing option described in Section 6.10, above, is not relocation assistance and is therefore not subject to the requirements regarding lump sum payments.

## **SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS**

### **7.1. HCV Waiting List Administration Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may place themselves on the PHA's waiting list for HCVs independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs should continue to

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<sup>96</sup> The PHA and Project Owner should note that securing resident consent to an alternative housing option may delay the issuance of the RAD Notice of Relocation. The RAD Notice of Relocation must be specific to whether the resident will be temporarily or permanently relocated.

administer their HCV waiting list in accordance with their Section 8 Administrative Plans. Residents who rise to the top of the HCV waiting list independent of any preference for relocating RAD residents or other RAD provisions and accept an HCV are not considered to be relocated as a result of the RAD conversion. Standard administration of the PHA's HCV waiting list is not considered relocation.

## **7.2. HCV Waiting List Administration Related to the RAD Transaction**

From time to time, a PHA may wish to use HCV resources as a relocation option in connection with a RAD transaction. In order to do so, a PHA must modify its Section 8 Administrative Plan to provide a preference for relocating RAD residents and the PHA is subject to Section 6.8 of this Notice relating to initiation of relocation. Further, if a PHA provides a preference for relocating RAD residents, the PHA must be explicit regarding the nature of the HCV as a relocation resource. If the PHA anticipates using the HCV as a temporary relocation resource, the PHA must recognize that it cannot rescind an HCV once issued to the resident (i.e., the family would have to voluntarily relinquish their voucher and may choose to remain in the HCV program indefinitely). The PHA must also provide a preference for admission to the Covered Project in order to satisfy the right to return. Alternatively, if the PHA anticipates using the HCV as a voluntary permanent relocation resources, the PHA must comply with the alternative housing options provisions of Section 6.10.<sup>97</sup>

## **7.3. Public Housing Transfers Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may request a transfer to another public housing property independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs must continue to administer their admissions and occupancy procedures as adopted. Any prohibitions in this Notice on implementing relocation do not apply to residents requesting public housing transfers, moves pursuant to the Violence Against Women Act (VAWA)<sup>98</sup> or reasonable accommodation moves. Standard administration of the PHA's admissions and occupancy policy is not considered relocation.<sup>99</sup> Transfers not undertaken for the RAD project are not subject to URA. However, it is recommended that the PHA document the transfer carefully, including an acknowledgement by the resident that the transfer is not undertaken for the RAD project, is not

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<sup>97</sup> PHAs and Project Owners should note that while in most cases, there is no rent differential between the tenant paid rent in a public housing unit and in an HCV, there are some situations (such as flat rent households) where a difference does exist. Rental assistance payments under the URA are required if there is a difference between these two amounts.

<sup>98</sup> Title IV, section 40001-40703.

<sup>99</sup> Standard administration of the PHA's admissions and occupancy policy is permitted. However, HUD is sensitive to concerns that discussion of the planned RAD conversion and construction activities may cause residents to perceive a pressure to transfer without the counseling and moving assistance which would be available were the household to wait until relocation. If relocation at the Converting Project is planned, PHAs are strongly advised to document any such transfers carefully and to provide any households moving under standard admissions and occupancy policies with additional notices referencing the assistance and payments which would be available if the household were to remain in place until the relocation plan is implemented.

subject to URA requirements and that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA.

#### **7.4. Resident Initiated Public Housing Transfers Related to the RAD Transaction**

Pursuant to Section 1.8 of the RAD Notice, households in the Converting Project who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA. Such move shall be implemented as a transfer and shall be prioritized equivalent to a “demolition, disposition, revitalization or rehabilitation transfer” as described in Section 11.2 of the applicable Public Housing Occupancy Guidebook. Transfers for this purpose do not require any modification to the PHA’s admissions and occupancy policy and may occur at any time pursuant to the PHA’s admissions and occupancy policy. Transfers for this purpose, while initiated by the resident, are the result of the PHA-initiated RAD transaction and the PHA must bear the reasonable costs of transfer. The reasonable cost of the transfer includes not just the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid services such as telephone and cable television. The PHA must also document that the resident’s transfer request is fully informed and fully voluntary, which documentation must include an acknowledgement by the resident that the transfer is not undertaken at the request of the PHA or under pressure from the PHA, that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA and that the resident is withdrawing from participation in the RAD program and consequently losing rights, including the right to return, which accrue to residents participating in the RAD program. A public housing resident who voluntarily seeks a public housing transfer is generally not considered to be displaced under the URA or Section 104(d), where applicable.

#### **7.5. Public Housing as a Temporary Relocation Resource**

PHAs and Project Owners may wish to mitigate the relocation budget associated with the RAD conversion by using units within the PHA’s portfolio as relocation resources. In light of its mission to serve as many low-income households as possible, including its need to accommodate emergency transfers (such as moves pursuant to VAWA), the PHA should minimize the use of the public housing units not converting under RAD for temporary relocation of RAD impacted residents. HUD has a strong preference that the PHA use the units within the PHA’s Converting Projects as a temporary relocation resource prior to using units in the remainder of the PHA’s public housing portfolio. PHAs may elect not to lease units within the Converting Projects or, if necessary, the remainder of its portfolio, for this purpose only to the extent reasonably necessary to facilitate construction or rehabilitation.

Upon the effective date of the HAP contract (usually also the effective date of the RAD conversion), each resident of a Covered Project becomes a participant in the Section 8 program and is no longer part of the public housing program. A PHA may use public housing as a temporary relocation resource if approved by HUD, which approval shall depend on the proposed structure. PHAs wishing to use public housing units as a temporary relocation resource must consult with HUD’s Office of Public and Indian Housing (PIH) prior to the formal request for HUD approval. It is unlikely that HUD would approve a request to use public housing units

as a relocation resource for a period exceeding one year after the effective date of the HAP contract.

If HUD grants approval, HUD shall provide alternative requirements regarding PIH Information Center (PIC) documentation of the occupancy of these temporary relocation resources. PHAs must follow any guidance or instructions regarding treatment of the public housing units in HUD's data systems as may be provided from time to time.

PHAs and Project Owners should note that, absent written approval, if a resident seeks to occupy a public housing unit after the effective date of the HAP contract, the resident would need to be readmitted to public housing in a manner consistent with the waitlist and admissions policies and must exit the Section 8 program.

#### **7.6. Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction**

Public housing program requirements related to continued occupancy and termination, including rules on grievances and related hearings, remain in effect until the effective date of a new PBV or PBRA HAP contract. If a resident is evicted in accordance with applicable state and local law and the eviction is not undertaken for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA (49 C.F.R. § 24.206). If a resident voluntarily ends his or her participation in the public housing program, in the absence of evidence that the end of participation was induced by the PHA for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA.

#### **7.7. Right-Sizing**

Public housing, PBV and PBRA requirements mandate that, upon the availability of a unit which is appropriate for the household size, the PHA or Project Owner must transfer a household that is under- or over-housed into the unit appropriate to the household's size. However, accommodating all residents pursuant to the right of return has primacy over right-sizing requirements and may, in some cases, require temporarily over-housing households. In such circumstances, the PHA or Project Owner shall subsequently transfer the household to an appropriate size unit when available, as is required by the applicable program regulation. Such actions shall be governed by the applicable program regulation and shall not be considered relocation under this Notice.

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Lourdes Castro-Ramirez  
Principal Deputy Assistant Secretary for  
Public and Indian Housing

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Edward L. Golding  
Principal Deputy Assistant Secretary for  
Housing

**APPENDIX I: Applicable Legal Authorities**

**APPENDIX II: Recommended Relocation Plan Contents**

## **APPENDIX I: Applicable Legal Authorities**

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### **Part 1**

This Appendix to the Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. This Appendix is not exhaustive of applicable legal authorities, which authorities may also include other Federal statutes, regulations and Executive Orders, and civil rights provisions related to other programs (including funding programs) associated with the RAD transaction.

#### **Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended)**

The Fair Housing Act, 42 U.S.C. § 3601 et seq., and its implementing regulations, 24 C.F.R. part 100, prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, or familial status. The Fair Housing Act applies to for-sale and rental housing, whether the housing is privately or publicly funded, including housing supported by tax credits. Single family homes, condominiums, apartment buildings, time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and other types of housing are all covered by the Fair Housing Act.

Among its substantive provisions, the Fair Housing Act requires “covered multifamily dwellings,” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas are subject to the Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to the Act’s design and construction requirements.<sup>100</sup> In addition, the Fair Housing Act requires that housing providers make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas, and that housing providers permit reasonable modifications of existing premises for persons with disabilities.

The Fair Housing Act also requires HUD to administer HUD programs and activities in a manner that affirmatively furthers fair housing (42 U.S.C. § 3608(e)(5)). HUD’s affirmatively furthering fair housing (“AFFH”) rule in 24 C.F.R. §§ 5.150-5.180 will apply to PHAs (except for qualified PHAs) for the PHA’s fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5. The affirmatively furthering fair housing regulations will apply to qualified PHAs, for the PHA’s fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5.<sup>101</sup>

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<sup>100</sup> See 42 U.S.C. § 3604(f)(3)(c) and 24 C.F.R. § 100.205.

<sup>101</sup> For purposes of the AFFH rule, “[a]ffirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing under the AFFH rule means taking meaningful actions that, taken together, address

Additional detail and discussion of the interplay between the Fair Housing Act, Section 504, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

#### United States Housing Act of 1937 (1937 Act)

The United States Housing Act of 1937 (1937 Act) (42 U.S.C. § 1437c-1(d)(15)) requires PHAs to submit a 5-year plan and an Annual Plan. Pursuant to HUD regulations, the Annual Plan includes a certification by the PHA that the PHA will affirmatively further fair housing.

#### Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and HUD's implementing regulation (24 C.F.R. part 1) prohibit recipients of Federal financial assistance from discriminating, excluding from participation, or denying benefits to, any person on the basis of race, color, or national origin. In addition, Title VI regulations prohibit HUD recipients of Federal financial assistance from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin (24 C.F.R. § 1.4(b)(2)(i)). When determining the site or location of housing, recipients may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, or national origin (24 C.F.R. § 1.4(b)(3)). An applicant or recipient of HUD financial assistance also has an obligation to take reasonable action to remove or overcome the consequences of prior discriminatory practices regardless of whether the recipient engaged in discriminatory conduct (24 C.F.R. § 1.4(b)(6)).

Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English – i.e., individuals who have limited English proficiency (LEP). This includes oral and written communications during relocation and throughout a RAD transaction. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings. Otherwise, LEP persons may be denied participation in, and the benefit of, the recipients' program or activity. On January 22, 2007, HUD issued "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (LEP Guidance), available at: [http://www.lep.gov/guidance/HUD\\_guidance\\_Jan07.pdf](http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf).<sup>102</sup>

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significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws." 24 C.F.R. § 5.150. Meaningful actions means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity. See 24 C.F.R. § 5.152.

<sup>102</sup> See also Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, which requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to

## Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides: “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance.”<sup>103</sup>

Among other things, HUD’s regulations implementing Section 504 (in 24 C.F.R. part 8) prohibit recipients of Federal financial assistance, in determining the site or location of a facility receiving such assistance, from making site selections the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefits of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>104</sup> These prohibitions apply to both determining the site of permanent facilities and a site for relocation of residents.

Furthermore, HUD’s implementing regulations prohibit discrimination, the denial of benefits, or the exclusion of participation of individuals with disabilities from the programs or activities of recipients of federal financial assistance because a recipient’s facilities are inaccessible. Such recipients must provide qualified individuals with disabilities with program access, which may require modification of architectural features of facilities in RAD transactions for individuals with disabilities to have access to the program. Certain architectural specifications apply to facilities that are altered or newly constructed with HUD financial assistance, such as facilities where assistance is transferred and facilities used as temporary or permanent relocation sites for residents of a project undergoing a RAD conversion. If alterations are made to a housing facility, the alterations to dwelling units in the facility are required, to the maximum extent feasible (i.e., if doing so would not impose undue financial and administrative burdens on the operation of the project), to be made readily accessible to and usable by individuals with disabilities. If alterations taken to a development that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility (except when it requires removal of structural load-bearing members), or if the facility is newly constructed, then a minimum of 5% of the total dwelling units, or at least one unit in a development, whichever is greater, must be made accessible for persons with mobility impairments. An additional 2% of the units, but not less than one unit, in a development must be accessible for persons with hearing and vision impairments.

In addition, regulations implementing Section 504 require recipients to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Section 504 also includes effective communication requirements, such as

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their programs and activities for LEP persons. E.O. 13166 directs all Federal agencies, including HUD, to issue guidance to help recipients of Federal financial assistance in providing such meaningful access to their programs.

<sup>103</sup> 29 U.S.C. § 794. HUD’s Section 504 regulation that applies to recipients of Federal financial assistance, including PHAs and Project Owners, is located at 24 C.F.R. part 8.

<sup>104</sup> 24 C.F.R. § 8.4(b)(5).



providing interpreters and alternate format documents (e.g., Braille, large print, accessible electronic communications) for persons with disabilities.

Additional detail and discussion of the interplay between Section 504, the Fair Housing Act, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Titles II and III of the Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing developed or operated by state and local governments, which includes a PHA. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. For example, Title III applies to rental offices, sales offices, homeless shelters, hotels and motels, and commercial spaces associated with housing, such as daycare centers, social service offices, and sales and retail establishments. Titles II or III also will generally apply to community spaces and facilities, such as neighborhood networks, to computer centers (including the computers in the centers), and to transportation services and conveyances provided by PHAs and Project Owners.

Additional detail and discussion of the interplay between Titles II and III of the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Section 109

Section 109 of the Housing and Community Development Act of 1974 (HCDA of 1974), Title I, prohibits discrimination on the basis of race, color, national origin, disability, age, religion, and sex in Community Development Block Grant (CDBG) programs and activities. Section 109 applies to RAD projects that receive CDBG or other assistance under Title I of the HCDA of 1974.

In addition to its responsibility for enforcing other Federal statutes prohibiting discrimination in housing, HUD has a statutory obligation under Section 109 to ensure that individuals are not subjected to discrimination on the basis of race, color, national origin, disability, age, religion, or sex by recipients of CDBG funds. Section 109 charges HUD with enforcing the right of individuals to live in CDBG-funded housing and participate covered programs and activities free from such discrimination. However, this additional statutory authority only applies to programs authorized under Title I of the HCDA of 1974, such as CDBG and programs, such as Section 108 loan guarantees and the Historically Black Colleges and Universities program.

### Equal Access to HUD-assisted or HUD-insured Housing

HUD requires its housing programs to be open to all eligible individuals and families regardless of sexual orientation, gender identity or marital status. HUD recipients and subrecipients must comply with 24 C.F.R. § 5.105(a)(2) when determining eligibility for housing assisted with HUD

funds or subject to an FHA-insured mortgage, and when making such housing available. This includes making eligibility determinations and making housing available regardless of actual or perceived sexual orientation, gender identity, or marital status, and prohibiting inquiries about sexual orientation or gender identity for the purpose of making eligibility determinations or making housing available. Applicants are encouraged to become familiar with these requirements, HUD's definitions of sexual orientation and gender identity at 24 C.F.R. § 5.100, clarifications to HUD's definition of family at 24 C.F.R. § 5.403, and other regulatory changes made through HUD's Equal Access Rule, published in the Federal Register at 77 FR 5662 (Feb. 3, 2012).

### Section 3: Economic Opportunities for Low- and Very Low-income Persons.

Certain HUD programs require recipients of assistance to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. § 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 C.F.R. part 135. The regulations at 24 C.F.R. part 135 implementing Section 3 ensure, to the greatest extent feasible, that training, employment, contracting and other economic opportunities be directed to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons where proposed project is located. Recipients of funds covered by Section 3 must comply with 24 C.F.R. part 135, particularly subpart B-Economic Opportunities for Section 3 residents and Section 3 Business Concerns, and Subpart E-Reporting and Recordkeeping. HUD encourages recipients to search the national Section 3 Business Registry to find local businesses that prioritize hiring Section 3 residents.

### Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition.<sup>105</sup> The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

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<sup>105</sup> For additional guidance, see HUD Handbook 1378 Tenant Assistance, Relocation, and Real Property Acquisition), available at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation/policyandguidance/handbook1378](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378).

## Section 104(d) of the Housing and Community Development Act of 1974

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 USC § 5304(d), (Section 104(d)), is a Federal law that applies when a lower-income dwelling is demolished or converted (as conversion is defined in accordance with 24 C.F.R. § 42.305) to a use other than lower-income housing in connection with a Community Development Block Grant Program (CDBG) or HOME Investment Partnerships Program (HOME) funded activity. Under Section 104(d), a lower-income person is considered displaced and, therefore eligible for Section 104(d) relocation assistance if the person permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with a CDBG or HOME funded activity. The Section 104(d) one-for-one replacement housing requirements may apply with respect to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income dwelling units in connection with CDBG or HOME funded activity. Section 104(d) implementing regulations can be found at 24 C.F.R. part 42, Subpart C. Additional HUD policy and guidance for Section 104(d) is available in HUD Handbook 1378, Chapter 7.

## **Part 2 – Accessibility Requirements**

Federal accessibility requirements apply to all RAD projects – whether they include new construction, alterations, or existing facilities. Applicable laws include, but are not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, and Titles II or III of the Americans with Disabilities Act (ADA). A PHA or Project Owner must comply with each law that applies to its project and with the requirement that provides the most accessibility when two or more laws apply. All three laws include new construction requirements. Substantial alterations, additions, rehabilitation and existing facilities must be in compliance with applicable requirements of Section 504 and the ADA.<sup>106</sup> All three laws may also require reasonable accommodations or modifications.

### Accessibility Requirements for New Construction

The Fair Housing Act requires all “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas must meet the Fair Housing Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas must meet the Fair Housing Act’s design and construction requirements. The Fair Housing Act requires that all covered multifamily dwellings be designed and constructed so that public and common use areas are readily accessible to and usable by persons with disabilities; all doors are sufficiently wide to allow passage by persons using wheelchairs; all units contain accessible routes into and through the dwelling unit; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements are installed in bathroom walls to allow later installation

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<sup>106</sup>See 24 C.F.R. § 100.205 (Fair Housing Act) and 24 C.F.R. §§ 8.22 and 8.23 (Section 504). See also 28 C.F.R. § 35.151(b) and 28 C.F.R. part 36 (ADA Titles II and III regulations, respectively).

of grab bars; and kitchens and bathrooms are usable such that a person in a wheelchair can maneuver about the space.<sup>107</sup> These design and construction requirements apply whether the housing is privately or publicly funded, including housing supported by tax credits.<sup>108</sup>

New construction of a multifamily housing project containing five or more dwelling units is also subject to physical accessibility requirements under Section 504. Under Section 504, a “project” includes all residential and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application for Federal financial assistance, or are treated as a whole for processing purposes, whether or not they are located on a single site.<sup>109</sup> The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS).<sup>110</sup> HUD recipients may also use the 2010 ADA Standards for Accessible Design under title II of the ADA, except for certain specific identified provisions, as detailed in HUD’s Notice on “Instructions for use of alternative accessibility standard,” published in the Federal Register on May 23, 2014 (“Deeming Notice”). This option exists until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard. Refer to HUD’s Deeming Notice for more information.

Section 504 also requires that a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with mobility impairments. An additional 2% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with vision and hearing impairments.<sup>111</sup> HUD may prescribe a higher percentage or number of units upon request by any affected recipient or by any State or local government or agency based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data, or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without disabilities.<sup>112</sup>

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing programs, including housing developed or operated by state and local governments, which includes PHAs. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations, including rental offices, and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. All newly constructed or altered facilities, including facilities altered to

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<sup>107</sup> See 24 C.F.R. § 100.205.

<sup>108</sup> For more information about the design and construction provisions of the Fair Housing Act, see [www.fairhousingfirst.org](http://www.fairhousingfirst.org). See also the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013), available at: [www.hud.gov/offices/fheo/library/hudjointstatement.pdf](http://www.hud.gov/offices/fheo/library/hudjointstatement.pdf).

<sup>109</sup> See 24 C.F.R. § 8.3.

<sup>110</sup> The UFAS are available at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>). See also 24 C.F.R. § 8.32.

<sup>111</sup> See 24 C.F.R. § 8.22.

<sup>112</sup> See HUD regulation at 24 C.F.R. § 8.22(c).

comply with program access and readily achievable barrier removal obligations that exist under Titles II or III of the ADA, must comply with the U.S. Department of Justice's ADA architectural accessibility standards as described in the following U.S. Department of Justice Technical Assistance document ADA Requirements, Effective Date/Compliance Date (Feb. 2011), [http://www.ada.gov/revised\\_effective\\_dates-2010.htm](http://www.ada.gov/revised_effective_dates-2010.htm).

### Accessibility Requirements for Alterations

If a building was constructed for first occupancy after March 13, 1991, the building must be in compliance with, and all alterations must maintain the building's accessible features so that the building continues to meet, the Fair Housing Act's accessibility requirements. In addition, without regard to the date of construction for first occupancy, certain alterations may be required under the Fair Housing Act if requested by a resident as a reasonable accommodation or modification or otherwise required to remediate accessibility deficiencies in the design and construction of the building.

Under HUD's Section 504 regulation, alterations include any structural change in a facility or a change to its permanent fixtures or equipment. If alterations are undertaken to a project that has fifteen or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, this qualifies as "substantial alterations," in which the new construction provisions of 24 C.F.R. § 8.22 apply.<sup>113</sup>

When alterations are made that do not qualify as substantial alterations, alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities.<sup>114</sup> If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5% of the dwelling units in a housing project are readily accessible to and usable by individuals with mobility impairments, no additional elements of dwelling units or entire dwelling units are required to be accessible under this provision. However, alterations to meet ongoing accessibility needs are always required, for example, in response to a reasonable accommodation request. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.<sup>115</sup>

All altered facilities covered by Titles II or III of the ADA must be altered in accordance with the U.S. Department of Justice's 2010 ADA Standards for Accessible Design and applicable ADA

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<sup>113</sup> See 24 C.F.R. § 8.23(a). The sole exception is that load bearing structural members are not required to be removed or altered.

<sup>114</sup> HUD may require a higher number or percentage of accessible units pursuant to 24 C.F.R. § 8.22(c) and 24 C.F.R. § 8.23(b)(2).

<sup>115</sup> 24 C.F.R. § 8.23(b).

regulations, unless subject to certain safe harbors identified in the 2010 ADA revised regulations for Titles II and III, as applicable.<sup>116</sup>

HUD will consider on a case-by-case basis a PHA's request to undertake limited new construction on the site of a Covered Project undergoing rehabilitation to comply with accessibility requirements on the site.

#### Additional Accessibility Requirements for Both New Construction and Alterations

Accessible units must be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible under the same program.<sup>117</sup> This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

PHAs are encouraged to use universal design principles, visitability principles and active design guidelines in planning new construction or retrofit work, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA and the Fair Housing Act.

#### Program Accessibility Requirements

Under Section 504, recipients must operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Title II of the ADA also includes a program access requirement, while Title III of the ADA requires readily achievable barrier removal.<sup>118</sup> Further, Section 504, the Fair Housing Act, and the ADA require that reasonable accommodations/modifications be granted to address disability-related needs of individuals with disabilities.<sup>119</sup>

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<sup>116</sup> See <http://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm>.

<sup>117</sup> See 24 C.F.R. §§ 8.26 and 8.27.

<sup>118</sup> See 28 C.F.R. § 35.150; 28 C.F.R. § 36.304.

<sup>119</sup> For more information on reasonable accommodations, see the HUD/DOJ Joint Statement on Reasonable Accommodations Under the Fair Housing Act at <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>. While this joint statement focuses on the Fair Housing Act, the principles discussed in the statement generally apply to requests for reasonable accommodation under Section 504, except, for purposes of Section 504, HUD recipients are required to provide and pay for structural modifications as a reasonable accommodation.

## **APPENDIX II: Recommended Relocation Plan Contents**

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While RAD mandates written relocation plans only for projects which involve permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year, HUD strongly encourages PHAs to document their relocation planning process and procedures in a written relocation plan. The following provides suggested content for required and recommended relocation plans. In the case of any discrepancy between this description of the recommended relocation plan contents and the provisions of the Notice to which this Appendix is attached or any applicable laws or regulations with respect to the URA or Section 104(d), the provisions of the Notice or applicable laws and regulations shall govern.

The basic elements of the relocation plan include:

- A general description of the project and project elements that may create relocation needs;
- Information on residents of the project and eligibility for relocation assistance and payments;
- Information regarding how the project will address the RAD right to return requirements and the project's re-occupancy policies;
- A detailed discussion of plans for temporary relocation assistance;
- A detailed discussion of any transfer of assistance;
- A detailed discussion of any offers of alternative housing options and plans for voluntary permanent relocation assistance;
- A detailed discussion of compliance with fair housing and civil rights requirements, including accessibility requirements;
- The relocation budget; and
- The appeals process.

The plan as a whole should discuss the specific steps to be taken to minimize the adverse impacts of relocation on the residents.

### **I. Project Summary**

The Relocation Plan should provide a general description of the property (e.g., year built, location, number of units, configuration, resident population served). The project summary should also identify the nature of the activities to be undertaken, including acquisition, demolition, rehabilitation, and construction activities and additional detail regarding the project scope (e.g., gut rehab, systems replacement, modest in-unit renovations, transfer of assistance). The project summary should also discuss how any construction activities are to be implemented (i.e., vacate the property entirely, vacate specific floors or buildings, rehabilitation with residents in place). The summary should also discuss the overall theory of relocation, for example, whether a few households will be relocated off-site and the vacant units will be used as temporary housing before other households move back to their original units (a "hoteling" approach), or whether the vacant units will be permanently occupied, with the residents vacating other units to be renovated (a "domino" approach).

The relocation plan should also identify the funding sources which may trigger relocation requirements, with particular attention to the potential presence of HOME or CDBG funds which may trigger Section 104(d) requirements.

## **II. Project Occupancy**

The Relocation Plan should provide information on occupancy of the property including the number of residents, their household type (family, elderly), any non-residential (commercial) occupants, and should identify how any routine needs (such as continuation of utilities such as telephone service) and civil rights compliance issues (for example, limited English proficiency, disabilities, reasonable accommodations and unit modifications that have been or may be necessary) shall be identified and addressed. The Relocation Plan may specify the community meetings, interviews and/or other processes that will be undertaken to assess the residents' needs.

The Relocation Plan should also address eligibility for relocation assistance and payments, applying the rules of the Notice to the particularities of the project.

## **III. Resident Return and Re-occupancy Policies**

The Plan should address how the project will honor the RAD right to return requirements and the “no re-screening upon conversion” policy. With respect to residents who will be temporarily relocated, the Plan should include the methodology that will be used to determine the sequence in which residents will re-occupy units at the project after rehabilitation, demolition, and/or construction is completed, and to determine how residents are matched with units if the residents are not able to return to their original unit. For example, if units will come online in stages, the plan should outline how the PHA or Project Owner will determine when each resident will return to the property.

## **IV. Temporary Relocation Assistance**

The plan should detail the temporary housing resources to be used, the anticipated duration of temporary relocations, notices to be provided and the temporary relocation assistance the PHA or Project Owner will provide for residents (Paragraph 2-7 of HUD Handbook 1378). Topics to be addressed in the Plan include:

- Temporary Housing Resources. The Plan should identify the nature and availability of the temporary housing resources the PHA or Project Owner anticipates using. On-site resources are generally preferred. However, in some cases, PHAs or Project Owners may need to use hotel rooms for short-term relocations, or market-rate apartments. If the PHA or Project Owner anticipates using other assisted housing resources (such as HCVs, public housing or other properties with regulatory restrictions), the PHA or Project Owner should take particular care to address regulatory issues.
- Allocation of Temporary Relocation Resources. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- Duration of Temporary Relocation. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those



residents (such as the issuance of a *Notice of Relocation* to the resident covering eligibility for URA relocation assistance, the offer of permanent relocation assistance and payments at URA levels and, if conditions warrant, the subsequent issuance of a *Notice of Eligibility*) as distinct from requirements that apply to residents who are not relocated for more than one year.

- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses. The PHA or Project Owner can choose to do one or more of the following:
    - Undertake the moves itself, using employees of the PHA or Project Owner or “force account labor”<sup>120</sup>
    - Use a contractor or moving company
    - Reimburse residents for all actual, reasonable and necessary moving expenses.
- Storage. The Plan should address whether storage of the resident’s personal property is necessary and the arrangements for such storage.
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Out-of-Pocket Expenses. The nature of out of pocket expenses vary based on the nature of the temporary relocation moves. For example, hotel stays or in-place renovation may trigger the need for reimbursement of meals while a kitchen is unavailable. The Plan should outline the anticipated out-of-pocket expenses and the PHA’s or Project Owner’s plans and budget with respect to these expenses.
- Leasing Arrangements. The Plan should address whether the resident will have a direct lease or other contractual relationship with the owner of the temporary relocation resource or whether the PHA or Project Owner will hold the lease and the resident will maintain a contractual relationship with the PHA or Project Owner.
- Utility Costs. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

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<sup>120</sup> Defined at 24 C.F.R. 905.108.

- Reasonable Accommodations. The plan should address whether residents with disabilities will require reasonable accommodations during temporary relocation and, if so, how the PHA or Project Owner anticipates ensuring the provision of reasonable accommodations and any associated expenses. Reasonable accommodations may include, among other items, the provision of transportation assistance, relocation to locations which are physically accessible and located near public transportation, and modifications to policies to allow individuals with disabilities to reside with a live-in aide.

## **V. Transfer of Assistance**

Relocation planning in the context of transfer of assistance is particularly complex. The PHA should address how RAD, URA and Section 104(d) requirements each apply, as the same activity may be treated differently under each regulatory framework. The Plan should specifically outline the PHA's procedures to ensure that the applicable requirements are applied to each situation appropriately. The Plan should also address whether relocation is required for any businesses or residents at the destination site. Finally, the Plan should address whether two moves – from the public housing site to an intermediate site and then to the transfer of assistance site – are necessary while the Covered Project is being constructed or rehabilitated.

## **VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance**

If the PHA or Project Owner seeks to offer alternative housing options, the Plan should identify those options and the manner in which they are presented to residents for decision. The plan should also outline the counseling the PHA or Project Owner will provide to assist the residents in determining what options may be available and the financial implications of those options, for example,

1. Discussion of whether units available in the market (either in the affordable market or the unrestricted market) will meet the financial and dwelling requirements of relocated residents;
2. The general area or location of unit(s);
3. Where applicable, the accessibility of such units for individuals with disabilities;
4. Criteria for receiving relocation assistance; and
5. Any other information that might benefit residents in their consideration of housing choices.

The Plan should identify how the PHA or Project Owner will work with any residents who have elected voluntary permanent relocation. The Plan should further include a description of the permanent relocation assistance the PHA or Project Owner will provide to such residents. Topics to be addressed in the Plan include:

- Replacement Housing. The Plan should address the availability of comparable replacement housing, the notices to be provided and the provisions to ensure that appropriate accessibility features are available in compliance with applicable laws and regulations.

- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses consistent with 49 C.F.R. § 24.301 or, at the resident's option, 49 C.F.R. § 24.302.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage. See 49 C.F.R. § 24.301(g)(4).
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Dislocation Allowance. The Plan should address when the resident is entitled to a dislocation allowance and the amount of such dislocation allowance, consistent with the URA Fixed Residential Moving Cost Schedule available at: [www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm).
- Appliances. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Security Deposits and Utility Costs. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d).<sup>121</sup>

## **VII. Relocation Budget**

Based on the results of the planning process, the PHA or Project Owner should create a relocation budget that includes the following six components:

- 1) The cost of administering the plan and providing assistance and counseling.
- 2) Reasonable moving expenses for a person with disabilities, which may include the cost of moving assistive equipment that is the personal property of the residents, the furnishings and personal belonging of a live-in aide, and/or other reasonable accommodations (HUD Handbook 1378, Paragraph 3-2).
- 3) The cost of the physical move of the residents' belongings. (It is suggested that the move costs be broken down by average cost per move type multiplied by the number of moves.) This physical move cost total should be based on the move scenarios anticipated or projected by the resident survey. The move costs should consider:

For temporary relocation moves:

- Number and cost of two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
- Number and cost of two-way moves to a unit not in the same building/complex

For permanent moves:

- Number and cost of one-time moves into another unit in the same building/complex.
  - Number and cost of one permanent move to a unit not within the same building/complex
  - Any required dislocation allowance
- 4) The estimated cost of projected increases in monthly housing costs and other expenses for temporary relocation (if applicable).
  - 5) The estimated cost of projected replacement housing payments (RHP) (42-month period for URA or 60-month period if Section 104(d) applies).
  - 6) Contingency costs estimated for carrying out the relocation process necessary to complete the proposed project.

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<sup>121</sup> See also, CPD Notice 2014-09 "Effective Date of Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) Changes to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) Payment Limits and Replacement Housing Payment Eligibility Criteria."

### **VIII. Written and Oral Communications with Individuals with Disabilities and LEP Persons and Use of Accessible Meeting Locations**

The Plan should identify how the PHA or Project Owner will take appropriate steps to ensure effective communication with residents and other individuals with disabilities involved in the relocation, such as through the provision of sign language and other interpreters and large print, Braille, accessible electronic, and other alternate format written communications. The Plan should identify the measures to be taken to ensure the most integrated meeting settings appropriate to individuals with disabilities. The Plan should identify how the PHA or Project Owner will ensure meaningful access for LEP persons, such as through written materials and oral communications provided in languages other than English.

### **IX. Appeal Process**

The Plan should specify the procedures to be followed if a resident disagrees with the PHA's or Project Owner's decision as to the resident's eligibility to receive relocation assistance, the amount of a relocation payment, or the adequacy of a comparable replacement dwelling offered to a resident. These procedures should include the process for filing a written appeal to the displacing agency and the specific appeal procedures to be followed consistent with 49 C.F.R. 24.10 (and 24 C.F.R. § 42.390 if Section 104(d) is involved).

### **X. Certification**

The Plan should contain a certification of compliance with this Notice (or H 2014-09/PIH 2014-17, if applicable), the URA, fair housing and civil rights requirements and, if applicable, Section 104(d).

### **Technical Assistance**

For detailed technical assistance regarding the contents or provisions of a written relocation plan, the PHA or Project Owner should direct questions to their RAD Transaction Manager or email [rad@hud.gov](mailto:rad@hud.gov).

**PHILADELPHIA HOUSING AUTHORITY  
NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD**

The Philadelphia Housing Authority (PHA) is providing an opportunity for public review and comment on the following:

- **Proposed Amendments to PHA's Moving to Work (MTW) Annual Plan** for PHA to convert public housing assistance for 58 scattered site public housing units to Project Based Voucher (PBV) assistance at a proposed new construction family development in the Sharswood neighborhood under the transfer of assistance provisions of the Rental Assistance Demonstration (RAD) program, and conversion under RAD of the 50 unit Casa Indiana development. The Amendments will be incorporated in their entirety into PHA's then-current MTW Annual Plan through an attachment entitled "Rental Assistance Demonstration Significant Amendment". PHA's MTW Annual Plan for Fiscal Year 2021 was approved by HUD on March 24, 2020. PHA's FY 2022 MTW Annual Plan, which was submitted to HUD in January 2021, is pending HUD approval as of the publication date of this notice.
- **Proposed revisions to the Public Housing Admissions and Continued Occupancy Policy and the Housing Choice Voucher Administrative Plan.** PHA is proposing revisions to these documents which were last updated and approved in October 2019.

The above-referenced documents are available for public review and downloading on PHA's website at [www.pha.phila.gov](http://www.pha.phila.gov) under the "Latest News" section and may also be reviewed at PHA Headquarters at the address noted below.

PHA residents, Housing Choice Voucher participants and the public may provide oral comments by attending the virtual public hearing described below and/or by submitting written comments during the comment period. A public hearing will be conducted at the following time and location:

**Wednesday, March 17, 2021 at 2:00 PM**

**Join by web by link:**

<https://pha.webex.com/pha/j.php?MTID=m551c7964fa372dbf919fd361ec620d5e>

**Join by web manually via WebEx:**

**Meeting number: 129 387 6728/Password: paPFn334eTu**

**Call in:**

**1-415-655-0001 - Access code: 129 387 6728**

The public comment period begins on March 1, 2021 at 12 noon and ends on March 31, 2021 at 12 noon. Comments must be received by the end of the comment period. Please send written comments to:

Philadelphia Housing Authority  
Attention: RAD Significant Amendment, ACOP and Administrative Plan Comments  
Office of the General Counsel  
2013 Ridge Avenue, Philadelphia, PA 19121  
or  
[Jennifer.Ragen@pha.phila.gov](mailto:Jennifer.Ragen@pha.phila.gov)

The public hearing is being held virtually. If you require assistance, sign language interpreter or other accommodations, email [Alicia.Walker@pha.phila.gov](mailto:Alicia.Walker@pha.phila.gov). Please use the AT&T Relay Service for TTY.

**RESOLUTION NO. 12147**

**RESOLUTION AUTHORIZING AN AMENDMENT TO THE PHILADELPHIA HOUSING  
AUTHORITY MOVING TO WORK PLAN APPROVED AT THE TIME OF SUBMISSION OF  
THE AMENDMENT**

**WHEREAS**, the Philadelphia Housing Authority ("PHA") is a participant in the Moving to Work ("MTW") Demonstration Program pursuant to an agreement with the U.S. Department of Housing and Urban Development ("HUD"); and

**WHEREAS**, under the terms of its participation in the MTW program, PHA must submit an MTW Annual Plan ("MTW Plan") for HUD approval each fiscal year that describes proposed MTW plans and activities; and the PHA Board of Commissioners approved the MTW Plan for Fiscal Year ("FY") 2021 on December 19, 2019, which was subsequently submitted to and approved by HUD on March 24, 2020; and

**WHEREAS**, on December 17, 2020, the PHA Board of Commissioners approved the MTW Plan for FY 2022; PHA submitted it to HUD and it is pending approval; and

**WHEREAS**, all proposed transfers of assistance and conversions of public housing units to long-term project based assistance under HUD's Rental Assistance Demonstration ("RAD") program, must be identified in the MTW Plan, either in the original Plan submission to HUD or by submission of a Board-approved Amendment, if identified after submission of the original MTW Plan; and

**WHEREAS**, PHA has identified one (1) additional RAD development for conversion and one (1) transfer of assistance to a new site, to add to the MTW Plan, which were not identified in PHA's FY 2021 HUD-approved MTW Plan or PHA's FY 2022 awaiting-HUD-approval MTW Plan; and

**WHEREAS**, the two additions, noted in the Amendment are: 1) conversion under RAD for the Casa Indiana development, which consists of fifty (50) total units, and 2) the transfer of assistance under RAD from fifty-eight (58) scattered sites to Sharswood 4a, a new development in Sharswood as described in the Plan Amendment; and

**WHEREAS**, the above-described Amendment would be submitted to amend whichever MTW Plan is the most recent one that is HUD-approved at the time of submission of the Amendment for HUD approval, whether FY 2021 or FY 2022; and

**WHEREAS**, PHA has fulfilled the HUD requirement of providing opportunities for resident and public participation and comment on the MTW Plan Amendment, including scheduling at least one (1) public hearing, by: 1) making available copies of the MTW Plan Amendment to the public and to residents as of March 1, 2021; 2) holding a public hearing on March 17, 2021; 3) posting the MTW Plan Amendment on PHA's website; 4) briefing Resident Leadership at the March 2021 Resident Roundtable meeting; 5) conducting a public comment period from March 1 through March 31, 2021; and 6) taking into consideration any comments received during the public comment period and public hearing;

**BE IT RESOLVED**, that the Board of Commissioners does hereby approve the Amendment to the MTW Plan for FY 2021 or 2022, as set forth above, as presented to the Board of Commissioners and referenced herein, and authorizes PHA's Chair and/or its President & CEO or his or her authorized designee(s) to take all steps necessary to finalize and secure HUD approval of and to implement the Amendment.





I hereby certify that this was  
APPROVED BY THE BOARD ON 4/15/2021

ATTORNEY FOR PHA


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





Meeting content

Recording Report

Name	Connection time	Duration	Connection type
 Jennifer Ragen	1:55 PM - 2:34 PM	39 mins	Desktop app
 BH Bret Holden	1:56 PM - 2:33 PM	38 mins	Desktop app
 TM Thomas Magras	1:57 PM - 2:33 PM	37 mins	Other
 TM Thomas Magras	1:57 PM - 2:33 PM	37 mins	Desktop app



TM	Thomas Magras	1:57 PM - 2:33 PM	37 mins	Desktop app
AC	Annie Cheng	1:58 PM - 2:33 PM	35 mins	Desktop app
DR	Dakota Rees	1:58 PM - 2:33 PM	35 mins	Desktop app
ND	Nicholas Dema	2:00 PM - 2:34 PM	35 mins	Desktop app
NT	Nichole Tillman	1:58 PM - 2:31 PM	33 mins	Mobile app
TR	Tom R	2:02 PM - 2:33 PM	32 mins	Desktop app
	Janea Jordon	2:04 PM - 2:34 PM	30 mins	Desktop app
B	Brinkley	2:00 PM - 2:29 PM	29 mins	Other

	Brinkley	2:00 PM - 2:29 PM	29 mins	Other
	Celeste Fields	2:06 PM - 2:33 PM	28 mins	Desktop app
	Seth	2:06 PM - 2:31 PM	26 mins	Desktop app
	George McDowell	2:14 PM - 2:33 PM	20 mins	Desktop app
	Call-in User_4	2:28 PM - 2:34 PM	6 mins	Other
	Call-in User_5	2:29 PM - 2:33 PM	4 mins	Other

## **Appendix I: RAD Significant Amendment #2 (December 23, 2021)**

**Philadelphia Housing Authority**  
**Fiscal Year 2022 Moving to Work Annual Plan**  
**Rental Assistance Demonstration Significant Amendment**

The Philadelphia Housing Authority (PHA) is proposing an amendment to its FY 2022 Moving to Work (MTW) Annual Plan as required by the US Department of Housing and Urban Development (HUD) to provide information on PHA's planned activities under the Rental Assistance Demonstration (RAD) program. The amendment will be incorporated in its entirety into the FY 2022 MTW Annual Plan, which was first approved by HUD on April 16, 2021 with approval for Amendment #1 on June 10, 2021.

Pursuant to this Amendment, PHA will convert the remaining 188 public housing units at Harrison Plaza (low-rise buildings only), PA002000015, to project-based assistance under RAD. PHA has recently converted 112 public housing units at the Harrison Plaza Tower, pursuant to a previous RAD Significant Amendment.

### **Background**

Subject to HUD approval, PHA intends to proceed with the conversion of the remaining 188 public housing units at Harrison Plaza (low-rise) pursuant to the guidelines of PIH Notice 2019-23, Revision 4 dated September 5, 2019 and PIH Notice 2016-17 dated November 10, 2016 ("HUD RAD Notices") and any other successor Notices issued by HUD. As noted, PHA has recently converted 112 public housing units at the Harrison Plaza Tower, pursuant to a previous RAD Significant Amendment.

PHA is required to submit a Significant Amendment to the MTW Annual Plan that incorporates required information on PHA's RAD conversion plans. This document provides the required information and serves as PHA's RAD Significant Amendment for the subject units. PHA intends to propose further Significant Amendment(s) for additional HUD-approved RAD conversions, including transfers of assistance, at future dates. PHA will provide a thirty-day public comment period, and conduct a Public Hearing to allow residents and the general public an opportunity to review and comment on the RAD Significant Amendment. The PHA Board of Commissioners will conduct a vote on the RAD Significant Amendment at a future public meeting.

### **RAD Conversion Plan**

This Significant Amendment provides information on PHA's plans to convert public housing units to project-based assistance under RAD at the subject site, as further described in Attachment 1. Attachment 1 includes the following information:

*Current Units:* Total number of units, bedroom size distribution and unit type.

*Post-Conversion Units:* If applicable, any changes proposed to the current number of units, the bedroom size distribution or the unit type including de minimis reductions.

<i>Transfer of Assistance:</i>	Whether PHA intends to transfer assistance to another development as part of the RAD conversion and, if so, the location, number of units, bedroom size distribution, and unit type where known.
<i>PBV or PBRA:</i>	Whether PHA intends to convert the development to the Project Based Voucher (PBV) program or to the Project Based Rental Assistance (PBRA) program, along with information on resident rights, resident participation, waiting list and grievance procedures applicable to each program. PHA intends to convert assistance to the PBV program.
<i>Capital Fund Impact:</i>	The current amount of Capital Fund dollars received prior to RAD conversion. Developments converted through the RAD program are not eligible for Public Housing Capital Funds after conversion.
<i>Transfer of Waiting List:</i>	How existing waiting lists will be addressed as part of the conversion where applicable.

### **Conversion to Project Based Vouchers or Project Based Rental Assistance**

Public housing developments that are converted to project-based assistance will no longer be subject to HUD rules and regulations pertaining to the public housing program. Upon conversion to RAD, the former public housing units will be subject to the rules and regulations pertaining to either the PBV or PBRA programs, depending on which program option is selected by PHA. HUD has modified the PBV and PBRA program rules and regulations to incorporate additional provisions that apply solely to units converted under RAD. These additional provisions provide important protections to current residents of public housing that are impacted by a RAD conversion.

PHA intends to convert the developments/units listed in Attachment 1 to the PBV program. As part of the conversion initiative, PHA will adopt all required RAD PBV rules except where MTW or other waivers are approved by HUD, and will modify its existing Housing Choice Voucher Program Administrative Plan as needed to incorporate those rules related to resident rights, resident participation, waiting list, lease, waiting list, grievance processes and other areas.

Attachment 2 provides information on the RAD PBV program as required by the HUD RAD Notices related to resident rights and participation, waiting list and grievance procedures.

### **Capital Fund Budget**

Conversion of existing public housing developments under the RAD program will enable PHA to leverage existing funds to secure additional private and other funding. This new funding will be used to undertake long-deferred capital improvements and, in instances where transfer of assistance is involved, to construct or rehabilitate new or existing affordable housing units.

PHA currently receives HUD Capital Funds on an annual basis, subject to Congressional appropriations for the majority of its public housing units. Attachment 1 includes the most recent Capital Fund allocation for each RAD conversion site. Upon conversion to RAD, PHA will no

longer receive a Capital Fund allocation for units that have been converted, and the annual Capital Fund grant will be decreased.

The total estimated reduction in PHA Capital Funds on an annual basis for the subject units covered under this Significant Amendment is approximately \$836,269 based on FY2021 funding levels. Over a five-year period, the estimated Capital Fund reduction is approximately \$4,181,345 based on FY2021 funding levels. The actual amount of the reduction may vary depending on Congressional appropriations. As RAD conversions are completed, PHA will modify its existing capital plans to reflect the reduction in funding and change in work scopes.

The RAD conversions will not impact PHA's existing Capital Fund Financing Program (CFFP) obligations. PHA currently projects that it will utilize MTW Block Grant funds for capital improvements and to establish a RAD reserve for the subject developments. Actual amounts will be incorporated into the final financing plan.

### **Site and Neighborhood Standards**

The RAD conversions described herein comply with all applicable site selection and neighborhood review standards. PHA has included individual certifications for each proposed project in Attachment 1. PHA certifies that:

1. The sites are suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and
2. In conducting its review of site selection for the proposed projects, PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

### **Relocation Plan**

Resident relocation will be required during the construction period. Resident relocation will be conducted in accordance with the requirements of the RAD Program and PHA's Relocation Plan.

### **Compliance**

PHA is not presently subject to a voluntary compliance agreement, consent order, consent decree, final judicial ruling or administrative ruling that has any relation to or impact on the planned RAD conversion.

### **Moving To Work**

PHA may utilize MTW Block Grant fungibility and programmatic flexibility to support the RAD conversion effort subject to any necessary Board and HUD approvals. PHA certifies that regardless of any funding changes that may occur as a result of conversion under RAD, PHA

will continue to administer and maintain service levels for its remaining portfolio of public housing units subject to funding availability. PHA will do this by utilizing available funding including Public Housing Operating Fund, Capital Fund, and Tenant Rental Income.

### **Significant Amendment Definition**

As part of the RAD conversion initiative, a Significant Amendment to the MTW Plan will not be required for the following RAD-specific actions:

- Changes to the Capital Fund budget produced as a result of each approved RAD conversion regardless of whether the proposed conversion will include use of additional Capital Funds;
- Decisions to apply MTW funding or programmatic flexibility to post-conversion RAD developments;
- Decisions or changes related to the ownership and/or financing structures for each approved RAD conversion including decisions to allocate PHA financial resources as a source of funds to support the RAD conversion initiatives;
- Changes to the construction and rehabilitation plans and scheduled for each approved RAD conversion;
- Changes to the project names or sponsor entity names;
- Changes in the post-conversion bedroom size distribution and/or the number of de minimis unit reductions up to the 5% permitted under RAD program rules;
- Changes to the pre-conversion bedroom size distribution and/or the project or AMP from which transfer of assistance units will be converted; and,
- Decisions to convert to either Project Based Vouchers or Project Based Rental Assistance.

**Philadelphia Housing Authority**  
**Moving to Work Annual Plan Amendment**  
**Rental Assistance Demonstration Significant Amendment**  
**Attachment 1 – Information on Public Housing Developments to be Converted**

The following pages provide required information on each development and/or Asset Management Project (AMP) to be converted from public housing assistance to Project Based Voucher (PBV) assistance under the Rental Assistance Demonstration (RAD) program.



## RAD Significant Amendment Attachment 1

**Development Name** Harrison Plaza  
**PIC Development ID #** PA002000015  
**Conversion Type (PBV or PBRA)** PBV  
**Capital Fund Grant (FFY21)** \$836,269

**Pre-Conversion Total Units** 188  
**Pre-Conversion Unit Type** Family

Pre-Conversion Bedroom Size		PA002000015
		# of Units
0 BR		0
1 BR		15
2 BR		29
3 BR		112
4 BR		24
5 BR		8
6 BR		0

**Post-Conversion Total Units** 188  
**Post-Conversion RAD Units** 188  
**Post-Conversion Unit Type** Family  
**Post- Conversion Development Name and Address** Harrison Low-Rise  
 11th to 12th & Master Street to Stiles Street  
**Post - Conversion Sponsor** Philadelphia Housing Authority  
**Project Description** This conversion includes the rehabilitation of existing low-rise units, which will include new kitchens, bathrooms, flooring, closet doors, fixtures, the upgrade of electric panels to 100 amps, central air upgrades, and new furnaces. It will include exterior upgrades to the front facade (doors and windows, accents, awnings, and more), rear facade, roofing and site work, including concrete, landscaping and fence repairs.

### Post-Conversion Bedroom Size

	# of Units	# of RAD Units
0 BR	0	0
1 BR	15	15
2 BR	29	29
3 BR	112	112
4 BR	24	24
5 BR	8	8
6 BR	0	0

**Transfer of Assistance** Conversion  
**De Minimis Reduction** N/A

**Transfer of Waiting List** Following conversion to PBV under RAD, eligible applicants on the existing Public Housing site-based waiting list will be transferred to a PBV site-based waiting list. No changes are planned to waiting list preferences, and applicants will maintain their original date and time of application. The owner will manage and maintain the site-based waiting list in accordance with PHA's Housing Choice Voucher program Administrative Plan. PHA will post information on how to apply for the PBV site-based waiting list on the PHA website.

### Certification

For the Harrison Low-Rise Rental Assistance Demonstration (RAD) project located in Philadelphia, the Philadelphia Housing Authority certifies that site complies with all site selection requirements applicable to Project Based Voucher (PBV) RAD projects, including:

1. The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto; and,
2. In conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA.

**Moving to Work Annual Plan Amendment**  
**Rental Assistance Demonstration Significant Amendment**  
**Attachment 2 – Project Based Voucher Program (PBV)**

Information on resident rights and participation, waiting list and grievance procedures for Rental Assistance Demonstration (RAD) program conversions to the Project Based Voucher (PBV) program are included in this attachment:

HUD PIH Notice 2019-23, Revision 4 dated September 5, 2019, Sections 1.6.C and 1.6.D and Table 1B.

HUD Joint Housing Notice H-2016-17, PIH-2016-17 dated November 10, 2016 in its entirety.

Excerpts from HUD PIH Notice 2019-23, Revision 4 dated September 5, 2019

**C. PBV Resident Rights and Participation.**

- 1. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.<sup>36</sup> Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the 1937 Act and 24 CFR § 982.201, concerning eligibility and targeting of

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<sup>36</sup> 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.

tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement. Further, so as to facilitate the right to return to the assisted property, HUD waives Section 8(o)(4) and 24 CFR § 982.201 to the extent necessary for this provision to apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR Part 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.

2. **Right to Return.** See Section 1.4.A.5.b. and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
3. **Phase-in of Tenant Rent Increases.** If, purely as a result of conversion, the amount a tenant would pay for rent and utilities under the PBV program (the tenant's TTP) would increase the tenant's TTP by more than the greater of 10 percent or \$25, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years or a combination depending on circumstances and must communicate such policy in writing to affected residents. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

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

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full Calculated PBV TTP<sup>37</sup>

Five Year Phase in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 5 AR and all subsequent recertifications – Full Calculated PBV TTP

*Please Note:* In either the three year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. MTW agencies must also implement a three or five-year phase-in for impacted residents, but may alter the terms above as long as it establishes a written policy setting forth the alternative terms. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

**4. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are currently FSS participants will continue to participate in the PHA's FSS program.

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<sup>37</sup> For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TTP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, PHAs should note that until provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act are implemented, there are certain FSS requirements (e.g., escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and PHAs must follow such requirements accordingly. All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR part 984 (current, or as amended), the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.<sup>38</sup> Further, upon conversion to PBV, if the PHA no longer has a public housing program, funds already escrowed for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.<sup>39</sup>

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

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

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<sup>38</sup> The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

<sup>39</sup> Where the PHA maintains a public housing program, any forfeited funds that had been escrowed prior to conversion would revert to the PHA's Operating Reserves.

which, by statute, can only serve public housing residents. At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local Resident Association and this consequence of a RAD conversion may impact those entities. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

5. **Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.
6. **Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the required tenancy addendum (HUD Form 52530-c), as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.
  - a. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD and to non-RAD PBV units located at the Covered Project. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be :
    - i. A reasonable period of time, but not to exceed 30 days:
      1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
      2. In the event of any drug-related or violent criminal activity or any felony conviction;
    - ii. Not less than 14 days in the case of nonpayment of rent; and
    - iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.



- b. **Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),<sup>40</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
  2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.
- iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- iv. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

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<sup>40</sup> § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

7. **Earned Income Disregard (EID).** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in 24 CFR § 5.617(b) limiting EID to disabled persons is waived. The waiver, and resulting alternative requirement, apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants that move into the property following conversion or tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

8. **Jobs Plus.** Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project. If the program is continued, the Project Owner must agree to continue to implement the program according to HUD's program requirements. Jobs Plus target public housing projects must enroll public housing residents into the Jobs Plus rent incentive, JPEID, prior to conversion. Any resident of the Covered Project that had not enrolled prior to conversion is not eligible to enroll in JPEID but may utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the Covered Project may voluntarily utilize Jobs Plus services that predominantly benefit the former public housing residents who resided at the target project at the time of RAD conversion.

- 9. When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. During any period when the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.<sup>41</sup> In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

Unless a waiver is requested and approved as described below, any new admission to the Covered Project must meet the eligibility requirements at 982.201 and require a subsidy payment at admission to the program, which means their TTP may not equal or exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an

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<sup>41</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

alternative requirement that the PHA must reinstate the unit after the family has left the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where “floating units have been permitted, Section 1.6.B.10 of the Notice.

A PHA may request a waiver from HUD for the Covered Project in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not made a housing assistance payment for a family in 180 days.

For a Covered Project that consists of 100 percent RAD PBV units, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty at the Covered Project. A PHA may evidence this by providing data showing, for example:

- how eligible income-certified applicants on the waiting list must be passed over because their incomes result in zero HAP at admission causing a higher concentration of poverty at the covered project; or
- how the income of newly admitted families is causing a markedly higher concentration of poverty than the PHA’s non-RAD PBV projects.

The resulting impact on the property must be compared with the concentration of poverty at non-RAD PBV projects in the PHA’s jurisdiction. If there are no non-RAD PBV projects in the PHA’s jurisdiction, the PHA may alternatively demonstrate that the median income of families that could be admitted to the Covered Project is significantly lower than the median income of new admissions from the waiting list to the PHA’s HCV program since the time of the RAD conversion.

For any other Covered Project, the PHA must demonstrate that the property contains specific units (e.g., units suitable for large families or accessible units) for which there are insufficient alternative housing opportunities.

If the waiver is approved, the new admission[s] families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family, and the unit is subject to all program requirements. Such waiver requests should be submitted to the PIH Field Office in accordance with Notice PIH 2018-16.

**10. Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate

sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived for current residents remaining or returning to the Covered Project. MTW agencies may not modify this requirement. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

#### **D. PBV: Other Miscellaneous Provisions**

- 1. Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.
- 2. Ongoing PHA Board Review of Operating Budget.** The Owner must submit to the administering PHA's Board the operating budget for the Covered Project annually. The PHA's Board must confirm that the Project Owner is making deposits into the Reserve for Replacement account in accordance with the RCC as well as assess the financial health of the Covered Project.<sup>42</sup>
- 3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** These sections have been moved to [1.4.A.13 and 1.4.A.14](#).
- 4. Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions shall apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:
  - a. Transferring an existing site-based waiting list to a new site-based waiting list.

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<sup>42</sup> For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

- b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other

outreach as appropriate. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).<sup>43</sup>

When using a site-based waiting list, PHAs should consider waiting list and transfer policies that expand opportunities for tenants seeking an emergency transfer under, or consistent with, the PHA's Emergency Transfer Plan. This includes allowing for easier moves between assisted properties.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c). To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

5. **Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.
6. **Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC but HUD review of liens must be performed prior to execution.
7. **Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the "year of conversion"), RAD PBV projects will be funded

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<sup>43</sup> For more information on serving persons with LEP, please see HUD's Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

with public housing funds. For example, if the project's assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

PHAs operating an HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to "section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998" and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

- 8. Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA's HCV program becomes PBV assistance, it is possible for most or all of a PHA's turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing the following alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory



turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

- 9. Reserve for Replacement.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.

- 10. Initial Certifications and Tenant Rent Calculations.** The Contract Administrator uses the family's public housing tenant rent (reflected on line 10f of the family's most recent HUD Form 50058) at the date of the conversion to calculate the PBV HAP and tenant rent until the effective date of the earlier of the family's first regular or interim recertification following the date of conversion. At the earlier of the family's first regular or interim recertification, the Contract Administrator will use the family's TTP based on the recertification and the HCV utility allowance (or the PBV site-specific utility allowance, if applicable) to determine the PBV HAP and tenant rent. This means that the family pays the same tenant rent as the family was paying under the public housing program until the earlier of first regular or interim reexamination following conversion, at which point the normally applicable PBV calculation for the tenant rent becomes effective. (Under the PBV program, the monthly HAP is the rent to owner minus the tenant rent, and the tenant rent is the family TTP minus the utility allowance.) To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project shall be subject to the terms of this provision. To effectuate this provision, HUD is waiving 24 CFR 5.601 and 983.3(c)(6)(iii).

**Attachment 1B – Resident Provisions in Conversions of Assistance  
from Public Housing to PBRA and PBV**

This Attachment contains two sections, describing:

- 1B.1 Summary of Resident Provisions
  - 1B.2 Resident Participation and Funding
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**1B.1 Summary of Resident Provisions**

The following is a summary of special provisions and alternative requirements related to tenants of public housing projects converting under RAD (including for those that will reside in non-RAD PBV units in the Covered project):

- Conversion will be considered a significant action requiring discussion in the PHA's Five-Year Plan, Annual Plan or MTW Plan or requiring a significant amendment to a PHA Plan (see [Section 1.5.E](#) of this Notice);
- Notification of proposed conversion, meetings during the conversion process, written response to residents comments on conversion, and notification of conversion approval and impact (see [Section 1.8](#) of this Notice);
- No rescreening at conversion (see [Section 1.6.C.1](#) of this Notice for conversions to PBV and [Section 1.7.B.1](#) for conversions to PBRA);
- A right to return, which covers the right to return to the rent-assisted property after temporary relocation (when temporary relocation is necessary to facilitate rehabilitation or construction), or the right to occupancy of the new unit if the rental assistance is transferred to a new unit. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Phase-in of tenant rent increases (see [Section 1.6.C.3](#) of this Notice for conversions to PBV and [Section 1.7.B.3](#) for conversions to PBRA);
- Relocation protections, including procedural rights, assistance with moving, and applicable relocation payments. (See [Section 1.4.A.5](#) of this Notice and the RAD Fair Housing, Civil Rights, and Relocation Notice.)
- Continued participation in the ROSS-SC FSS and JobsPlus programs (see [Sections 1.6.C.5 and 1.6.C.9](#) of this Notice, for conversions to PBV and [Section 1.7.B.4](#) for conversions to PBRA);
- Continued Earned Income Disregard (see [Section 1.6.C.8](#) of this Notice, for conversions to PBV and [Section 1.7.B.7](#) for conversions to PBRA);

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

- Continued recognition of and funding for legitimate residents organizations (see [Section 1.6.C.6](#) of this Notice for conversions to PBV, [Section 1.7.B.5](#) of this Notice for conversions to PBRA, and below in Attachment 1B.2 for additional requirements for both programs);
- Procedural rights consistent with section 6 of the Act (see [Section 1.6.C.7](#) of this Notice for conversions to PBV and [Section 1.7.B.6](#) of this Notice for conversions to PBRA); and
- Choice-mobility option allowing a resident to move with a tenant-based voucher after tenancy in the Covered Project (see 24 CFR § 983.260 for conversions to PBV and Section 1.7.C.5 of this Notice for conversions to PBRA).

The foregoing is a summary of special provisions and alternative requirements relating to residents of public housing projects converting to RAD and does not attempt to capture all program requirements and details. For additional information, refer to the full text of this Notice and to the RAD Fair Housing, Civil Rights, and Relocation Notice (Notice H 2016-17; PIH 2016-17).

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

### **1B.2 Resident Participation and Funding<sup>98</sup>**

The following provisions contain the resident participation and funding requirements for public housing conversions to PBRA and PBV, respectively.

#### **A. PBRA: Resident Participation and Funding**

Residents of Covered Projects converting assistance to PBRA will have the right to establish and operate a resident organization in accordance with 24 CFR Part 245 (Tenant Participation in Multifamily Housing Projects). In addition, a Project Owner must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate tenant organization at the covered property. Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation. These funds must be used for resident education, organizing around tenancy issues, and training activities.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible uses of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the HUD Field Office for intervention only after documented efforts to at direct resolution have proven unsuccessful.

#### **B. PBV: Resident Participation and Funding**

To support resident participation following conversion of assistance, residents of Covered Projects converting assistance to the PBV program will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living

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<sup>98</sup> For the purposes of this Attachment, HUD uses the term “Project Owner” to refer to the owner of a Converting Project or Covered Project, as applicable to the context.

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

- 1. Legitimate Resident Organization.** A Project Owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate if it has been established by the residents of a Covered Project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives.

In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization.

- 2. Protected Activities.** Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:
  - a. Distributing leaflets in lobby areas;
  - b. Placing leaflets at or under residents' doors;
  - c. Distributing leaflets in common areas;
  - d. Initiating contact with residents;
  - e. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
  - f. Posting information on bulletin boards;
  - g. Assisting resident to participate in resident organization activities;
  - h. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
  - i. Formulating responses to Project Owner's requests for:
    - i. Rent increases;
    - ii. Partial payment of claims;
    - iii. The conversion from project-based paid utilities to resident-paid utilities;
    - iv. A reduction in resident utility allowances;
    - v. Major capital additions; and

## **Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing**

### **vi. Prepayment of loans.**

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

- 3. Meeting Space.** Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
- a.** Residents or a resident organization and used for activities related to the operation of the resident organization; or
  - b.** Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. A PHA may waive this fee.

- 4. Resident Organizers.** A resident organizer is a resident or non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

Project Owners must allow resident organizers to assist residents in establishing and operating resident organizations.

- 5. Canvassing.** If a Covered Project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the project.

## Attachment 1B: Resident Provisions in Conversions of Assistance from Public Housing

If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

A resident has the right not to be re-canvassed against his or her wishes regarding participation in a resident organization.

- 6. Funding.** Project Owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization at the covered property.<sup>99</sup> These funds must be used for resident education, organizing around tenancy issues, and training activities. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner. Eligible use of funds are the same as those permitted under “Guidance on the use of Tenant Participation Funds,” Notice PIH 2013-21. The Department strongly encourages residents and Project Owners to resolve questions concerning specific uses of resident participation funds directly. If a dispute over funding arises the resident organization or Project Owner may refer any disputes over funding to the Contract Administrator for intervention only after documented efforts to at direct resolution have proven unsuccessful.

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<sup>99</sup> Resident participation funding applies to all occupied units in the Covered Project as well as units which would have been occupied if not for temporary relocation.



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**Office of Public and Indian Housing**  
**Office of Housing**

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<b>Special Attention of:</b>	<b>Notice</b>	H 2016-17 PIH 2016-17 (HA)
Public Housing Agencies		
Public Housing Hub Office Directors		
Public Housing Program Center Directors	<b>Issued:</b>	November 10, 2016
Multifamily HUB Directors		
Multifamily Program Center Directors	<b>Effective:</b>	November 10, 2016
Regional and Field Office Directors		
Regional Administrators	<b>Expires:</b>	This Notice remains in effect until amended, superseded, or rescinded
Performance Based Contract Administrators		
RAD Transaction Managers	<b>Supplements:</b>	
Regional Relocation Specialists		PIH Notice 2012-32 (HA) REV-2
	<b>Supersedes:</b>	
		H 2014-09/PIH 2014-17

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**SUBJECT:** Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.<sup>1</sup>

**SECTION 1. Purpose, Applicability and Major Provisions of this Notice**

**1.1. Purpose**

This notice (Notice) provides PHAs,<sup>2</sup> Project Owners, and their RAD development partners with guidance regarding key fair housing and civil rights statutory and regulatory requirements, explains the situations in which HUD is requiring front-end fair housing and civil rights reviews, and provides information regarding the types of information that must be submitted to facilitate HUD’s review of certain fair housing and civil rights requirements in connection with public housing conversions under the First Component of RAD. This Notice also includes guidance

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<sup>1</sup> While this Notice addresses fair housing and civil rights requirements and relocation requirements, the fair housing and civil rights requirements are not limited to relocation issues.

<sup>2</sup> Consistent with PIH Notice 2012-32 (HA) REV-2 (PIH 2012-32 (HA) REV-2) (the “RAD Notice”), this Notice uses the term “PHA” to refer to the owner of the project prior to the RAD conversion and “Project Owner” to refer to the owner of the project after the RAD conversion.



regarding key relocation statutory and regulatory requirements, and details relocation requirements under RAD. This Notice only applies to projects converting under the First Component of RAD; it does not apply to the Second Component of RAD.<sup>3</sup>

The RAD program was established as a tool for preserving and improving low-income housing stock. RAD is intended to facilitate reinvestment in or redevelopment of the long-term-affordable stock of HUD-assisted housing properties. RAD also provides mobility benefits for assisted residents of converted properties through the choice mobility option, allowing these households to access tenant-based Housing Choice Vouchers. In some cases, RAD can be a tool for transfer of rental assistance from distressed or poorly selected sites to new sites in high opportunity areas. In all cases, the objective is to better serve low-income residents and the broader community in complying with fair housing, other civil rights, and relocation laws.

This Notice provides PHAs and Project Owners with guidance relating to planning and implementing public housing (First Component) RAD conversions in a manner consistent with existing fair housing and other civil rights requirements, including, but not limited to, those associated with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, the Architectural Barriers Act of 1968, and their implementing regulations. Section 4 of this Notice summarizes key provisions of existing law applicable to RAD transactions.

To further compliance with these existing requirements, PIH 2012-32 (HA) REV-2, issued June 15, 2015 (the “RAD Notice”) established that specific PHA decisions and activities planned to be part of a First Component RAD conversion must be reviewed by HUD prior to implementation (the “front-end” fair housing and civil rights reviews). Through a front-end review of the enumerated PHA decisions, HUD seeks to assist PHAs and Project Owners in meeting their fair housing, other civil rights, and relocation obligations. Section 5 of this Notice explains the situations in which HUD is requiring front-end fair housing, other civil rights, and relocation reviews, details the procedures for HUD’s front-end review and the type of information that must be submitted for these reviews, and the timeframes for these reviews.

Finally, in Sections 6 and 7 this Notice provides PHAs and Project Owners with guidance regarding RAD program and other statutory and regulatory relocation assistance requirements when planning for or implementing resident moves as a result of a conversion of a public housing project under RAD. This guidance includes reiterated and new requirements, the corresponding required reviews, and explanation of the interaction between RAD relocation procedures and certain existing public housing requirements. PHAs and Project Owners implementing RAD transactions may be subject to (a) the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA),

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<sup>3</sup> Important fair housing, other civil rights, and relocation considerations apply also to the Second Component of RAD as provided in the RAD Notice. Participants in the Second Component of RAD must continue to comply with applicable fair housing, civil rights, and relocation statutes and regulations, and HUD may, at any time, initiate compliance or enforcement actions in connection with such requirements. The RAD Notice will continue as the primary source of information on fair housing and other civil rights requirements covering the Second Component of RAD without any change until further notice.

(b) the requirements of Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)) if CDBG or HOME funds are included as part of the project, (c) fair housing and other civil rights considerations implicated by relocation activities, and (d) requirements for relocating residents under the RAD Notice.

## **1.2. PHA and Project Owner Responsibilities**

This Notice explains RAD's front-end fair housing and other civil rights review requirements in greater detail than was provided in the RAD Notice and this Notice restates and revises RAD's relocation requirements. However, the fair housing, other civil rights, and relocation requirements that apply to RAD conversions are neither limited to those discussed in this Notice, nor to those specifically reviewed by HUD in the front-end review.

### **MEETING HUD'S PROCESS AND REVIEW REQUIREMENTS NEVER CONSTITUTES COMPLIANCE WITH SUCH LAWS. THE OBLIGATION TO COMPLY WITH APPLICABLE FAIR HOUSING, OTHER CIVIL RIGHTS, AND RELOCATION LAWS REMAINS WITH THE PHA AND PROJECT OWNER.**

The fair housing and civil rights requirements that apply to RAD conversions are not limited to those discussed in this Notice. PHAs and Project Owners are responsible at all times for ensuring that their RAD activities (including those activities implemented by their agents, consultants, contractors, or other RAD team members) comply with all applicable fair housing and civil rights requirements. PHAs and Project Owners shall be accountable for all fair housing and civil rights compliance issues with respect to their RAD activities, whether those activities are undertaken directly or through agents, consultants, contractors, or other RAD team members. While HUD provides this non-exhaustive guidance to assist PHAs and Project Owners during transactions, complying with the requirements set forth in this Notice does not necessarily mean that they, or their agents or consultants, are in compliance with fair housing and civil rights requirements.<sup>4</sup>

This Notice is not intended to, and shall not be construed to, reduce or in any way limit the application of fair housing, other civil rights, and relocation laws and regulations to RAD transactions. For example, HUD's reliance on a PHA's certification that a site meets the site and neighborhood standards required by the RAD Notice is not a determination of compliance with the duty to affirmatively further fair housing or other fair housing and civil rights requirements. As another example, HUD's approval of a site for new construction does not, by itself, constitute a determination of the PHA's compliance with all provisions of Title VI and its duty to affirmatively further fair housing found in the Fair Housing Act and other fair housing and civil rights requirements, nor indicate HUD's approval of the PHA's or locality's overall housing strategy. HUD's approval of a RAD conversion after front-end review reflects only that the project may proceed through the RAD conversion process; it does not constitute a determination

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<sup>4</sup> The PHA's or Project Owner's agents, consultants, contractors, and other RAD team members may also have fair housing and other civil rights obligations (whether under this Notice or otherwise) and the forgoing does not, in any way, limit the independent obligation of any such parties to ensure their own compliance with applicable fair housing and other civil rights laws.

that the project is in compliance with applicable fair housing, civil rights, and relocation requirements.

HUD's approval of a front-end review submission is based on limited information and is intended to assist the PHA or Project Owner in meeting their fair housing, civil rights, and relocation obligations.<sup>5</sup> The PHA is responsible for ensuring that its RAD conversion is consistent with its certification to affirmatively further fair housing and complies with applicable civil rights laws.<sup>6</sup> The front-end reviews described in this Notice shall not be construed to limit other fair housing and civil rights investigations that HUD may conduct. HUD retains all compliance and enforcement authority.

HUD's determination that the PHA or Project Owner has failed to meet submission, certification, or approval requirements with respect to fair housing, other civil rights, or relocation requirements is grounds for terminating a Commitment to enter into a Housing Assistance Payments Contract (CHAP), denying the issuance of a RAD Conversion Commitment (RCC), or denying authority to convert under RAD.

### **1.3. Applicability**

The content of this Notice should not be relied upon in carrying out any other activities funded under any other HUD program, except where specifically directed by HUD.

This Notice supplements the RAD Notice with respect to fair housing and civil rights requirements applicable to public housing properties converting under RAD and with respect to all matters related to the relocation of residents as a result of RAD public housing conversions. To the extent that there is a conflict between this Notice and the RAD Notice, this Notice shall govern. This Notice replaces and supersedes Notice H 2014-09/PIH 2014-17 (issued July 14, 2014).

Upon issuance, the terms of this Notice will apply to all projects that have applied for conversion of assistance under the First Component of RAD but have not yet converted. As this Notice provides guidance, clarification, and explanation regarding fair housing and civil rights requirements that are already applicable to RAD conversions, this Notice shall not affect any front-end civil rights approvals provided by HUD prior to the effective date of this Notice and otherwise shall be effective with respect to front-end civil rights approvals without exception. However, with respect to relocation activities for Converting Projects under the First Component where a PHA has already submitted a Financing Plan pursuant to the RAD Notice at the time of issuance of this Notice, and provided that the Financing Plan has been accepted for full review after initial screening for completeness, the PHA may, within sixty (60) days after issuance of this Notice, request (in writing uploaded to the RAD Resource Desk) to be governed by H 2014-

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<sup>5</sup> For example, the front-end review is specific to an individual site. A PHA that does not promote fair housing choice outside areas of minority concentration and continues to site affordable housing in minority concentrated areas may be in noncompliance with the duty to affirmatively further fair housing and other fair housing and civil rights obligations, even if the specific site is approved based on the information provided and pursuant to the front-end review of the PHA's site and neighborhood standards submission.

<sup>6</sup> See 24 C.F.R. § 5.105 and, as applicable, 24 C.F.R. § 983.57(b)(2) or Appendix III of the RAD Notice.

09/PIH 2014-17. For such projects and where otherwise appropriate in cases of hardship as determined by HUD, HUD may apply the terms of H 2014-09/PIH 2014-17 with respect to relocation activities, but not with respect to fair housing and civil rights requirements.

RAD projects which have been awarded Choice Neighborhoods Implementation (CNI) grants are subject to the provisions of the applicable Choice Neighborhoods Notice of Funding Availability (NOFA) and grant agreement regarding site and neighborhood standards and are not subject to the RAD front-end civil rights transaction reviews described in this Notice. For properties being redeveloped with funding under a CNI grant, the relocation requirements set forth in this Notice are superseded by guidance regarding relocation included in the CNI NOFA. Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a Choice Neighborhood project's conversion of assistance.

#### **1.4. Explanation of Major Provisions**

This Notice adds to and revises pre-existing guidance related to fair housing, civil rights, and relocation (as contained in the RAD Notice and H 2014-09/PIH 2014-17) with respect to RAD transactions. Among the key provisions and changes are the following:

##### Fair Housing & Civil Rights

- Reaffirms the applicability of fair housing and civil rights requirements to all RAD-related activities (see, e.g., Section 3.3 and Section 4);
- Reiterates when HUD front-end civil rights review (originally outlined in the RAD Notice) is required in addition to the PHA's analysis and certification of compliance, to assist the PHA and Project Owner to comply with fair housing and civil rights requirements (see Section 5.3);
- Outlines certain conditions under which HUD will conduct a front-end review to determine whether the site is in an area of minority concentration relative to the site's housing market area (see Section 5.4(A));
- Provides guidance, for purposes of the RAD front-end civil rights review, on the concepts of "area of minority concentration" and "housing market area" that are reviewed when determining whether a site is in an area of minority concentration (see Section 5.4(B));
- Elaborates on specific information that HUD will consider, and that PHAs should provide evidence of, in order for a proposed site to meet the existing exceptions to permit new construction in an area of minority concentration, identifies presumptions for meeting the sufficient comparable opportunities exception and describes factors that HUD may consider in evaluating the overriding housing needs exception (see Section 5.4(C) and Section 5.4(D));
- Articulates issues that HUD will consider in completing the front-end civil rights review for transfers of assistance, including, for example, accessibility and minority concentration (see Section 5.5);
- Outlines the information to be submitted for HUD's front-end civil rights review of transactions where unit reductions, unit reconfigurations, or changes in occupancy are proposed (see Section 5.6);
- Identifies the situations where front-end civil rights reviews are required when changes in the accessibility features of a site are made (see Section 5.7(B)); and

- Prohibits the Project Owner of a Converted Project with a PBRA HAP contract from initiating any new leasing or marketing activities (other than leasing and outreach to households holding a right to return to the Covered Project), including the solicitation, distribution or acceptance of applications or development of a waiting list, until HUD has approved the Affirmative Fair Housing Marketing Plan (“AFHMP”) (see Section 5.8).

#### Relocation

- Requires PHAs or Project Owners to prepare a written relocation plan for all transactions that involve permanent relocation or temporary relocation anticipated to exceed 12 months (see Section 6.1);
- Requires PHAs to provide residents with a RAD Information Notice (RIN) in order to ensure that residents are informed of potential project plans and of their rights in connection with RAD prior to submission of the RAD application (see Section 6.6(A));
- Clarifies that the General Information Notice (GIN), when applicable, should be provided as soon as feasible and no later than 30 days following the issuance of the CHAP (see Section 6.6(B));
- Requires Project Owners to provide a notification of Return to the Covered Project, when applicable (see Section 6.6(F));
- Moves the date before which PHAs are prohibited from beginning any physical relocation earlier in the conversion process (specifically, from the date of Closing to the later of the effective date of the RCC and the expiration of the 30- or 90-day RAD Notice of Relocation period, as applicable) (see Section 6.8);
- Clarifies the specific requirements applicable to different types of relocation (e.g., moves within a property, temporary relocation of less than 12 months, etc.) (see, e.g., Section 6.4);
- Provides enhanced guidance on the right to return requirements, any offers of alternative housing options and the documentation that must be retained when tenants choose an alternative housing option and decline their right to return (see, e.g., Section 6.2 and Section 6.10);
- Describes how HUD has administratively implemented URA requirements and URA relocation assistance and payments for displaced persons, when applicable, to residents who choose to decline the right of return and, instead, choose voluntary permanent relocation (see, e.g., Section 6.4(C) through (F) and Section 6.10);
- Requires PHAs to maintain detailed data regarding each household that will be relocated, with key dates of notices and moves (see Section 6.9); and
- Identifies key fair housing and civil rights requirements applicable during relocation (see, e.g., Section 4).

### **1.5. Request for Public Comment**

HUD acknowledges the complexity of the issues addressed in this Notice. This Notice is effective immediately upon issuance, but HUD also seeks comment from the public regarding the clarity and organization of the Notice and regarding areas where the policies and procedures described are unclear or ambiguous. HUD will consider whether changes in response to comments are justified and will implement any appropriate changes in a revision of this Notice. Please submit all comments to [RAD@hud.gov](mailto:RAD@hud.gov) within 30 days of the issuance of this Notice.

## **1.6. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act (PRA), HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. OMB approved information collection forms will be posted on the RAD website and the Federal Register.

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## **SECTION 3. Background**

### **3.1. RAD Authority**

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, enacted November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, enacted January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, enacted December 6, 2014), and the Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2016), collectively and as it may be further amended from time to time, the “RAD Statute.” RAD allows certain eligible properties to convert assistance to long-term project-based Section 8 contracts and has two separate components. The First Component allows projects funded under the public housing program to convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, public housing agencies (PHAs) may choose between two different Section 8 housing assistance programs: project based vouchers (PBVs) or project-based rental assistance (PBRA). The “Second Component” of RAD allows owners of projects funded under the Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Moderate Rehabilitation programs to convert certain units to PBV or PBRA Section 8 units following certain contract expirations or terminations. The RAD Statute is implemented by the RAD Notice.

### **3.2. Definitions**

All capitalized terms defined in the RAD Notice, as amended, shall have the definitions ascribed to them therein unless otherwise specifically noted in this Notice.<sup>7</sup> Pre-conversion projects whose assistance is converting from public housing to Section 8 under RAD are referred to in the RAD Notice and in this Notice as “Converting Projects.” Post-conversion projects are referred to in the RAD Notice and this Notice as “Covered Projects.”

### **3.3. Applicable Legal Authorities**

Appendix I to this Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. Part 2 of Appendix I provides greater detail regarding federal accessibility requirements set forth in three of the legal authorities described in Appendix I,

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<sup>7</sup> Many of the fair housing and civil rights concepts used throughout this Notice are terms of art that are defined in applicable statutes and regulations identified in Appendix I of this Notice, while others have been developed through judicial interpretation. PHAs and Project Owners should familiarize themselves with these terms of art and should consult 42 U.S.C. § 3602 (Fair Housing Act); 24 C.F.R. §§ 5.152-100.20 (Fair Housing Act); 42 U.S.C. §§ 2000d-2000d-4a (Title VI of the Civil Rights Act of 1964); 24 C.F.R. § 1.2 (Title VI); 29 U.S.C. § 705 (Rehabilitation Act); 24 C.F.R. § 8.3 (Section 504); 42 U.S.C. §§ 12102, 12132, 12181 (Americans with Disabilities Act (ADA)); 28 C.F.R. § 35.104 (Title II of the ADA); and 28 C.F.R. § 36.104 (Title III of the ADA). In addition, many of the relocation concepts are terms of art that are defined in 42 U.S.C. § 4601 *et seq.* (Uniform Relocation Act (URA)), Section 104(d) of the Housing and Community Development Act of 1974 codified at 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

Part 1. PHAs and Project Owners must be familiar with these legal authorities and must evaluate, based on the facts of their situation, which legal authorities are applicable in which situations. **Failure to comply with any legal authority as applicable to the PHA's or Project Owner's actions or inactions may result in liability under such authority.** Appendix I does not attempt to provide a complete and exhaustive explanation of the legal authorities, nor to fully inventory the situations in which each legal authority is applicable. Instead, Appendix I is an overview intended to serve as a general introduction or reminder for PHAs and Project Owners of these fair housing, other civil rights, and relocation authorities and to facilitate their identification of appropriate topics for further research or expert counsel. The recitation of these legal authorities neither expands nor diminishes their applicability to the PHA's and Project Owner's activities in connection with their RAD conversion.

The RAD Statute authorizes the Secretary of HUD to waive or specify alternative requirements for certain provisions of law, except for requirements related to, among others, fair housing and nondiscrimination.<sup>8</sup> In addition to the general application of various federal statutes and their implementing regulations as discussed in Appendix I, below, HUD regulations at 24 C.F.R. § 5.105 apply such authorities to all HUD programs, including RAD.

### **3.4. Further Information**

Because each RAD proposal varies in its scope, this Notice may not address each PHA's or Project Owner's specific circumstances. PHAs and Project Owners should carefully review the laws, regulations, notices, and guidance material referenced in this Notice. Any questions related to the administration of the RAD program should be referred to the appropriate RAD Transaction Manager (TM) or may be emailed to [rad@hud.gov](mailto:rad@hud.gov).

## **SECTION 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant Throughout the RAD Conversion Process**

This Section provides a summary overview of key principles regarding program implementation and an overview of generally applicable fair housing and civil rights requirements. Appendix I identifies the key legal authorities from which these principles are derived. These key principals, together and with the legal authorities identified in Appendix I, frame the PHA's efforts to implement a RAD conversion. In some cases, these requirements are particularly relevant to the process of planning the RAD conversion, while in others they have particular relevance for the structure of the RAD transaction itself, and in yet other cases, both. Elements of RAD transactions that have civil rights implications include, but are not limited to, transfers of assistance, temporary and permanent relocation, demolition, site selection, new construction, occupancy policies, changes in unit configuration, increases or reductions in units, waiting list administration policies, policies regarding return of temporarily relocated tenants, substantial rehabilitation or alteration, program accessibility, tenant selection policies and priority transfers, providing information to and communicating with persons with Limited English Proficiency (LEP) and persons with disabilities, reasonable accommodation policies, and Affirmative Fair

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<sup>8</sup> See Pub. L. No. 112-55, as amended.

Housing Marketing Plans (AFHMPs). All PHAs must consider civil rights when structuring these and other elements of their RAD transaction.

RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally.<sup>9</sup> Converting Projects are subject to civil rights and equal opportunity requirements under the public housing regulations, and Covered Projects are subject to civil rights and equal opportunity requirements under the PBV regulations or the PBRA regulations, as applicable.<sup>10</sup> As described further below, the Fair Housing Act prohibits discrimination in housing<sup>11</sup> and requires all federal executive departments and agencies to “administer their programs and activities relating to housing and urban development ... in a manner affirmatively to further” fair housing.<sup>12</sup> In addition, all programs or activities receiving Federal financial assistance are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color, and national origin<sup>13</sup> and Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that programs or activities receiving Federal financial assistance make such programs or activities “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities.<sup>14</sup> RAD transactions are also subject, as applicable, to the requirements of Titles II and III of the Americans with Disabilities Act, Executive Order 11063, and HUD regulations at 24 C.F.R. part 107. Thus, as with the administration of all HUD programs and all HUD-assisted activities, fair housing and civil rights issues must be considered in the administration of the RAD program. PHAs must not implement actions and policies that may have a discriminatory effect on the basis of race, color, sex, national origin, religion, disability, or familial status or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing.<sup>15</sup> Note, in particular, the following requirements:

- **Affirmatively Furthering Fair Housing (AFFH):** The Fair Housing Act requires that HUD administer its programs and activities in a manner that affirmatively furthers the purposes of the Fair Housing Act. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD’s recipients, including PHAs, to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination. Through various statutes, regulations, and executive orders, PHAs must take various actions in accordance and in conjunction with their Fair Housing Act obligation to affirmatively further fair housing. For example, under regulations implementing the United States Housing Act of 1937 (the Act), HUD recipients must, among other requirements, certify that they will affirmatively further fair housing. In addition, under HUD’s Affirmatively Furthering Fair Housing (AFFH) rule promulgated July 16, 2015, PHAs must periodically conduct an Assessment

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<sup>9</sup> See 24 C.F.R. § 5.105.

<sup>10</sup> See, e.g., 24 C.F.R. §§ 880.601, 881.601 and 983.8 for civil rights related regulations applicable to PBV and PBRA transactions.

<sup>11</sup> See 42 U.S.C. §§ 3601 *et seq.*, and HUD regulations in 24 C.F.R. part 100

<sup>12</sup> 42 U.S.C. § 3608(d) and (e).

<sup>13</sup> See 42 U.S.C. §§ 2000d *et seq.*, and HUD regulations in 24 C.F.R. part 1.

<sup>14</sup> See 29 U.S.C. §§ 701 *et seq.*, and HUD regulations in 24 C.F.R. part 8.

<sup>15</sup> See 24 C.F.R. part 1 and part 100 subpart G.

of Fair Housing (AFH) as set out by the rule, either individually or in collaboration with other program participants.<sup>16</sup> Under the AFFH rule, in order to develop a successful affirmatively furthering fair housing strategy, the PHA must assess the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. PHAs must ensure that their activities in connection with a RAD conversion are consistent with their AFH, including any applicable joint or regional AFH in which they are a joint participant, and with any applicable Analysis of Impediments to Fair Housing Choice (AI), Fair Housing Equity Assessment, PHA 5-Year Plan, PHA Annual Plan, Moving to Work (MTW) Plan, or related planning documents and other regulatory and programmatic requirements implementing the obligation to affirmatively further fair housing to which they are a party.<sup>17</sup>

- Nondiscriminatory Site Selection:** HUD’s site and neighborhood standards require that the proposed site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provision of Title VI of the Civil Rights Act, the Fair Housing Act, Executive Order 11063, and Department regulations implementing these authorities. The site must meet the Section 504 site selection requirements in 24 C.F.R. § 8.4(b)(5). Additional provisions appear in 24 C.F.R. § 983.57(b) of the PBV rules and, for PBRA, in Appendix III of the RAD Notice. HUD’s Title VI regulation specifically prohibits site selection that has the “purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination” on the basis of race, color, or national origin.<sup>18</sup> The Title VI regulations also impose an obligation on the part of an applicant or recipient of HUD financial assistance to take actions to overcome the effect of prior discrimination or conditions that limit participation by persons of a particular race, color, or national origin.<sup>19</sup> In addition, HUD’s Section 504 regulation prohibits recipients from selecting sites the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefit of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>20</sup> ADA regulations likewise prohibit site selections that have the purpose or effect of excluding individuals with disabilities (including members of the public with disabilities), denying them benefits, or subjecting them to discrimination.<sup>21</sup> Finally, the Fair Housing Act prohibits discriminatory site selection, including perpetuation of segregation in transfers of assistance and new construction.
- Meaningful Access for Persons with Limited English Proficiency (LEP):** The PHA or Project Owner is required to take reasonable steps to ensure (a) they provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English; (b) any person with LEP who will be temporarily relocated or

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<sup>16</sup> 24 C.F.R. § 5.150 *et seq.*

<sup>17</sup> See 24 C.F.R. § 5.150 *et seq.* and 24 C.F.R. §§ 91.225, 91.325, or 91.425.

<sup>18</sup> See 24 C.F.R. § 1.4(b)(3).

<sup>19</sup> See 24 C.F.R. § 1.4(b)(6).

<sup>20</sup> See 24 C.F.R. § 8.4(b)(5).

<sup>21</sup> See 28 C.F.R. § 35.130(b)(4); 28 C.F.R. § 36.301.

permanently displaced has meaningful access to any public meetings regarding the project; and (c) they provide meaningful access to LEP persons to any information provided to residents including, but not limited to, any relocation notices. Generally, the PHA or Project Owner will be responsible for providing oral interpreters at meetings, including ensuring their competence, and covering any associated translation and interpretation costs.<sup>22</sup>

- **Effective Communication for Persons with Disabilities:** Communications and materials must be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (24 C.F.R. § 8.6) and with 49 C.F.R. § 24.5, and as applicable, the Americans with Disabilities Act. This includes ensuring that, unless such actions would result in undue financial and administrative burdens or fundamental alterations, notices and resident meetings are provided in appropriate alternative formats as needed, e.g., Braille, audio, large type, accessible electronic communications, assistive listening devices, and sign language interpreters. Even in cases where the proposed actions may result in undue financial and administrative burdens or fundamental alterations, certain actions must still be taken. Specifically, appropriate auxiliary aids and services that would not result in such undue burdens or fundamental alterations must still be provided to ensure effective communication.
- **Accessible Meeting Facilities for Persons with Disabilities:** Pursuant to regulations implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as applicable, all programs and activities must be held in accessible locations unless doing so would result in an undue financial and administrative burden on the PHA and/or Project Owner, in which case the PHA or Project Owner must take any action that would not result in such undue burden but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity, e.g., briefings at an alternate accessible site or in-home briefing.<sup>23</sup> Individuals with disabilities must receive services in the most integrated setting appropriate to their needs. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible.<sup>24</sup>

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<sup>22</sup> For more information about LEP obligations, see HUD's Limited English Proficiency (LEP) Frequently Asked Questions guidance at

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq#q26](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q26).

<sup>23</sup> In selecting locations for consultation with residents, the PHA and/or Project Owner shall be guided by the goal of maximizing participation in an integrated setting so that residents with disabilities and residents without disabilities may hear and consider each other's views. Priority shall be given to using on-site accessible locations (including, e.g., TV rooms or informal gathering places), even if doing so may require multiple sessions with smaller groups of residents. In addition, Title III of the Americans with Disabilities Act requires private entities that operate places of public accommodation, including social service establishments, leasing offices of private housing developments, and certain private housing providers, to comply with certain physical accessibility requirements which are similar to the requirements under Section 504 and Title II.

<sup>24</sup> See 28 C.F.R. part 35, Appendix B.

- **Accessibility for Persons with Disabilities Throughout the Planning and Implementation Process:** A number of accessibility requirements, including but not limited to site selection, apply to all RAD conversions, as they do to the PHA's activities regardless of the PHA's participation in RAD.<sup>25</sup> PHAs and Project Owners should also be aware that state or local laws, regulations, and codes may contain greater accessibility requirements. This Notice provides, in Appendix I, Part 2, an overview of accessibility requirements under existing law. The information in Appendix I, Part 2 is intended to assist with the PHA's or Project Owner's compliance with accessibility requirements. PHAs and Project Owners must review Appendix I, Part 2 early-on in planning for the RAD transaction. PHAs and Project Owners may determine that it is most efficient to address accessibility matters early in the project planning. In addition, PHAs and Project Owners must evaluate, throughout the transaction and based on the facts of their situation, which requirements are applicable in which situations to ensure they appropriately address accessibility requirements. PHAs and Project Owners are responsible for ensuring that the architectural drawings and construction comply with the PHA's and Project Owner's obligations and all Federal civil rights requirements, including accessibility requirements under the Fair Housing Act, Section 504, and the ADA.

Accessibility requirements also apply during all stages of a RAD transaction, including during relocation. Existing information (e.g., resident characteristics forms, including identification of the need for accessible unit features; records of approved reasonable accommodations; and records of the presence of accessible unit features) and the residents themselves should be consulted throughout the process of developing and implementing a RAD conversion. Related activities include, but are not limited to:

- Identifying and maintaining existing and pending reasonable accommodations, including the need for larger units to accommodate live-in aides or special equipment;
- Determining what direct services may be needed as a reasonable accommodation (e.g., packing, moving, identification of temporary housing);
- Identifying accessible unit features and assuring that temporary or permanent replacement housing contains comparable features;
- Budgeting appropriately to ensure that reasonable accommodations are addressed.

For more information about compliance with accessibility requirements, the PHA or Project Owner should refer to appropriate notices concerning civil rights requirements and may contact HUD's Office of Fair Housing and Equal Opportunity in either the Washington, D.C. or applicable field offices for more specific guidance. For additional, non-exhaustive guidance on providing relocation assistance to persons with disabilities, see Exhibit 3-1 in HUD Handbook 1378.

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<sup>25</sup> For more detailed information on these laws and their requirements, see PIH Notice 2010-26, issued July 26, 2010 (available at <http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>). While this notice has an expiration date in 2011, because the notice summarizes and discusses regulatory requirements, the information in the notice provides helpful guidance.

- Reasonable Accommodations in Rules, Policies, Practices and Services:** Under the Fair Housing Act, the PHA or Project Owner must make reasonable accommodations in rules, policies, practices, and services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.<sup>26</sup> Under Section 504, the PHA or Project Owner must also make reasonable accommodations to residents with disabilities, which may include providing and paying for structural modifications to dwelling units and public or common use areas. Titles II and III of the ADA provide similar requirements. Common examples of reasonable accommodations that may occur during relocation are permitting an individual with a disability to relocate near public transportation, providing a unit larger than otherwise permitted for a live-in aide, and making exceptions to no-animal rules for assistance and service animals. Accommodations generally need not be made where providing such an accommodation would be an undue financial and administrative burden or a fundamental alteration of the nature of the service. However, reasonable accommodations must be made to the extent the accommodation does not impose an undue financial and administrative burden or a fundamental alteration of the nature of the service. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. Furthermore, PHAs and Project Owners may be required to provide particular reasonable accommodations during relocation, such as assistance moving household items.<sup>27</sup>
- Physical Changes to Dwelling Units, Public and Common Use Areas and Other Facilities for Accessibility:** Under the Fair Housing Act, the PHA or Project Owner may be required to permit reasonable modifications. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. When relocating an individual with a disability who has such modifications in their dwelling unit or public and common use areas because of the individual's disability, regardless of who made them, the PHA or Project Owner has an obligation to provide and pay for such modification in the new dwelling. When considering requests by individuals with disabilities for structural changes to units or public and common use areas, PHAs and Project Owners should take particular note that they may be required to make and pay for such structural modifications as reasonable

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<sup>26</sup> For additional information regarding reasonable accommodations under the Fair Housing Act, *see* the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004), at <http://www.hud.gov/offices/fheo/library/hud DOJstatement.pdf>.

<sup>27</sup> *See* 49 C.F.R. part 24, Appendix A, § 24.2(a)(8)(vii), which states that under the URA, "Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs."



accommodations under Section 504 and because of similar requirements under the ADA even though the Fair Housing Act may only require the owner to allow such changes to be made and paid for by the individual with a disability. Before determining that they are not required to make or pay for structural changes, PHAs and Project Owners are encouraged to consider carefully their obligations under each applicable statute.

## **SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions**

The generally applicable fair housing and other civil rights requirements described above, and in Appendix I, apply throughout the planning and implementation of a RAD transaction and the PHA is responsible for ensuring compliance with these requirements. As key requirements may be misunderstood, the RAD program has established specific additional procedures to assist RAD participants to ensure they comply with the applicable requirements. Specifically, the RAD Notice established a civil rights eligibility review and criteria for front-end civil rights reviews.

This Section elaborates on these requirements from the RAD Notice. The front-end review procedures described below establish procedures and criteria for the supplemental front-end review and technical assistance, criteria which are specific to the RAD program. Criteria for this supplemental front-end review are informed by, but not the same as, fair housing or civil rights rules and policies generally.

This Section is organized to loosely follow the stages of a RAD conversion transaction, beginning with RAD eligibility and continuing through site selection, transfer of assistance, unit design requirements and marketing. In addition, this Section describes the timing and procedures for submitting data and documents to HUD so that HUD may complete its front-end review. The submission procedures are also designed to serve as a tool for PHAs to identify issues of potential concern at appropriate stages of the RAD conversion and as a tool for HUD to identify potential needs for technical assistance.

### **5.1. RAD Eligibility Review**

To be eligible for RAD, the PHA must meet all eligibility requirements set forth in Section 1.3 of the RAD Notice, including the civil rights threshold requirements found at Section 1.3.G of the RAD Notice. A PHA must not have a charge, cause determination, lawsuit, or letter of findings, referenced in Section 1.3.G of the RAD Notice, against the PHA itself, its transferees, proposed development partners, or sub-recipients that has not been resolved, or is not in the process of being resolved, to HUD's satisfaction. This determination shall be made prior to issuance of the CHAP.

The CHAP may be revoked by HUD if HUD determines that the terms of the conversion would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement. HUD may terminate a CHAP or RCC if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or is inconsistent with, would hinder, or would delay satisfaction of a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.



HUD may terminate an approval to proceed with a RAD conversion if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

## **5.2. PHA's Proposed Site Selection and Certification**

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2).<sup>28</sup> Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.<sup>29</sup> PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

It is the PHA's responsibility to ensure that the site selection complies with all applicable site selection requirements, including the requirements of this Notice and the RAD Notice. Pursuant to the RAD Notice, the PHA must certify with the submission of its Annual Plan, Significant Amendment to its Annual Plan, or MTW Plan that it complies with the applicable site selection requirements and must maintain records of its analysis and the data relied upon in making its determination of compliance. The PHA must also determine and subsequently state in the certification that the site is "suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto."<sup>30</sup> Although this Notice provides detail regarding certain civil rights-related site and neighborhood standards, PHAs must certify compliance with all applicable site and neighborhood standards.<sup>31</sup>

The PHA must also certify that, in conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA. The site and neighborhood standards for PBV and PBRA require the site to be "suitable from the standpoint of facilitating and furthering full compliance with" the Fair Housing Act and require the site to meet the Section 504 site selection

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<sup>28</sup> See the provisions of Section 1.6.A.4 of the RAD Notice.

<sup>29</sup> 42 U.S.C. § 1437f(bb).

<sup>30</sup> For RAD conversions to PBRA, the RAD Notice uses the term "the site and neighborhood is suitable," rather than "the site is suitable." See Appendix III of the RAD Notice, paragraph (a).

<sup>31</sup> See 24 C.F.R. § 983.57 and the RAD Notice at Section 1.4(A)(7)

requirements described in 24 C.F.R. § 8.4(b)(5).<sup>32</sup> The Fair Housing Act, as implemented at 24 C.F.R. § 100.205, requires “covered multifamily dwellings” built for first occupancy after March 13, 1991, to contain accessible design features. HUD’s Section 504 regulations at 24 C.F.R. § 8.4(b)(5) require that, in determining the site or location of a federally assisted facility, an applicant for assistance or recipient may not make selections the purpose or effect of which would: (i) exclude qualified individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from HUD, or (ii) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities. Title II of the ADA contains a similar requirement that a public entity, such as the PHA, may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.<sup>33</sup> Factors relevant to a site review under these standards may include, among others:

- Site features, such as inaccessible slopes in routes, lack of accessible sidewalks, curb ramps, accessible parking spaces, and placement of dumpsters or other physical features that would impede access to and movement within the site;
- Building features, such as inaccessible building entrances, other methods of ingress and egress, public and common use areas (e.g., the rental office, parking areas, mail areas, trash areas, community rooms, shared use toilet rooms, laundry facilities and walkways inside and outside that connect these public and common use areas to units), and barriers to access by members of the public; and
- Lack of accessible transit or para-transit and accessible public sidewalks and accessible transportation stops.

When such conditions are present at the site and would exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination, or would defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to individuals with disabilities, the site must not be selected unless the proposal includes remediation of the barriers to achieve compliance with accessibility requirements (including identification and remediation of any nonconforming design and construction conditions in “covered multifamily dwellings” under the Fair Housing Act). Remediation of the barriers may include, for example, physical accessibility improvements to the site, arrangements for access to accessible supportive services, or reasonable accommodations for current or prospective residents with disabilities, including members of the public. The Financing Plan submitted to HUD must describe and document resources sufficient to pay for the remediation of accessibility barriers.<sup>34</sup>

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<sup>32</sup> See 24 C.F.R. § 983.57(b)(2) (PBV conversions); *see also*, Appendix III (a) of the RAD Notice (PBRA conversions).

<sup>33</sup> See 28 C.F.R. § 35.130(b)(4).

<sup>34</sup> In conducting its review prior to certification, and in preparing for the certification, PHAs and Project Owners may find it useful to consult with their local or regional FHEO office, the United States Access Board, local or state

While all PHAs must certify their compliance with applicable site selection requirements as described in this Section, some RAD transactions will also be subject to a front-end review of the site selection. For transactions involving activities that present site selection issues of greater complexity, as described in Sections 5.3 through 5.5 below, front-end review will allow HUD's Office of Fair Housing and Equal Opportunity (FHEO) to assist the PHA to consider relevant laws and regulations while completing its site selection review and certification.

### **5.3. RAD Front-End Civil Rights Transaction Review**

Fair Housing Act and other civil rights issues may arise throughout a RAD transaction. Under the Fair Housing Act, an assessment of site suitability includes an analysis of the impact that the siting of the project would have on patterns of segregation for protected classes. The Fair Housing Act is of particular importance when a RAD proposal concerns site selection for new construction or reconfiguration of housing on the original public housing site – for example, the unit size distribution (e.g., conversion of larger bedroom size units to one-bedroom units, which may have an adverse impact on housing opportunities for families with children) or a reduction in the number or distribution of accessible units (which may have an adverse impact on housing opportunities for persons with disabilities). RAD conversions involving new construction must also comply with the Fair Housing Act's accessibility requirements.

Compliance with all applicable fair housing and civil rights requirements is the responsibility of both the PHA and the Project Owner. However, to assist with compliance, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will conduct a front-end civil rights review of project proposals containing activities identified as particularly at risk of violating applicable fair housing and civil rights laws. The activities that must be submitted for front-end civil rights review are listed in Section 5.3(A), below.

#### *A) Activities Subject to Front-End Civil Rights Review*

All RAD conversions that include one or more of the activities listed below (Sections 5.3(A)(1) through 5.3(A)(9)) are subject to a front-end review for compliance with certain civil rights and fair housing requirements. The specific items that HUD will review in the front-end review will depend on which activities are involved in the specific transaction. A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion:

- (1) Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration. Front-end review of this activity shall be pursuant to Section 5.4(B), below and, in addition, the PHA shall

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architectural access board or other accessibility authority for information on accessibility standards. Other sources of information on accessibility requirements may include protection and advocacy organizations or independent living centers. In addition, the non-HUD resources may provide advice on how to assess accessibility needs and formulate physical accessibility strategies.

certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.

- (2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.
- (3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.
- (4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.
- (5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.
- (6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).
- (7) Conversions of assistance involving new construction or substantial alteration,<sup>35</sup> as those terms are defined in Section 504 of the Rehabilitation Act of 1973. Front-end review of this activity shall be pursuant to Section 5.7(B).
- (8) Conversions of assistance involving a Converting Project subject to a Voluntary Compliance Agreement or Conciliation Agreement with HUD or a Consent Decree or Settlement Agreement with the U.S. Department of Justice or HUD, or where the PHA is subject to such an agreement affecting its entire housing portfolio or otherwise related to the Converting Project. Front-end review of this activity shall be pursuant to Section 5.7(C).

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<sup>35</sup> Section 504 defines substantial alteration of a housing project as alterations where a housing project has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility. *See* 24 C.F.R. § 8.23 (a).

- (9) Conversions of assistance where HUD has identified potential fair housing and civil rights concerns or a history of such concerns. Front-end review of this activity shall be pursuant to Section 5.7(C).

PHAs should note that a proposed RAD conversion may trigger front-end review regarding more than one of the activities listed in subsections (1) through (9) of this Section. For example, depending on the details of the proposal, a new construction on-site project could require review under subsections (1), (3), (4), (5), (6), and (7), or could require review under only subsections (1) and (7).

As part of HUD's review of these elements of the RAD conversion plans, HUD may require that PHAs that are carrying out portfolio or multi-phased conversions provide information on their conversion plans for other projects or subsequent phases to ensure that the overall plans for RAD conversion are consistent with civil rights and fair housing.

*B) Fair Housing, Civil Rights, and Relocation Checklist*

In connection with HUD's front-end fair housing and civil rights and relocation reviews described in this Section 5 and in Section 6, HUD is requiring submission of a Fair Housing, Civil Rights, and Relocation Checklist (the "Checklist"). The Checklist will facilitate the PHAs' and Project Owners' submission of necessary information to complete these reviews.<sup>36</sup> HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

The Checklist will outline the minimum information or documentation which HUD will need in order to review each part of the Checklist. After HUD's initial review of any portion of the Checklist, HUD may determine that the data provided in the Checklist is insufficient for HUD to complete its review, in which case HUD may require the PHA or Project Owner to provide supplemental information. The PHA should submit each part as early as possible once the information covered in the applicable part is known. All information specified in the applicable

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<sup>36</sup> The Checklist is available at [www.hud.gov/rad](http://www.hud.gov/rad). As of the publication of this Notice, references to the Checklist refer to the existing FHEO Accessibility and Relocation Plan Checklist under OMB Approval 2577-0276. The PHA shall use the existing Checklist to provide information related to demonstrating compliance with fair housing, other civil rights, and relocation requirements (including accessibility requirements) and, as necessary, may require additional materials for HUD to complete its review, which the PHA may provide in such form as the PHA determines appropriate. Also at [www.hud.gov/rad](http://www.hud.gov/rad), HUD has provided a listing of information that, depending on the circumstances, HUD may require to complete different components of its front-end review. The Checklist is being revised to fully capture the submission requirements described in this Notice. The revised Checklist will be subject to Paperwork Reduction Act approval and will be posted at the website listed above when available for use.

part of the Checklist must be submitted to HUD for HUD to begin its civil rights review – partial submissions of any applicable part of the Checklist will not be accepted.<sup>37</sup>

*C) Timing of Front-End Review Submissions*

PHAs and Project Owners are encouraged to submit applicable portions of the Checklist and information associated with a particular activity subject to front-end review as early as possible in the development of their plans. The PHA must ensure that HUD has approved all applicable parts of the Checklist prior to submission of the Financing Plan. Upon request from the PHA, HUD may, at HUD's sole discretion, permit submission of the Financing Plan prior to receipt of approval of the applicable parts of the Checklist and conditioned upon subsequent receipt of such approvals, in which event the PHA and Project Owner may proceed at their own risk.

Early approval of the site of the Covered Project is critical for RAD transaction proposals subject to front-end civil rights review involving site selection standards, specifically new construction in areas of minority concentration (see Section 5.3(A)(1)) and transfers of assistance (see Section 5.3(A)(2)). The PHA must conduct its own assessment of the site during the early stages of planning its RAD transaction. The guidance in this Notice and the Checklist are tools intended to assist the PHA in conducting its own assessment of the site.

The PHA must provide HUD with the Checklist and backup information sufficient for HUD to review the site with respect to the applicable standards. The site selection information should be provided to HUD no later than ninety (90) days following the issuance of the CHAP or, if the CHAP has already been issued as of the publication of this Notice, within ninety (90) days following publication of this Notice. In the event of a change in plans for the Converting Project that would require a front-end review of the site selection standards, the PHA must provide the Checklist and backup documentation within sixty (60) days of the change in plans. PHAs are strongly encouraged to provide front-end review submissions and secure HUD approval prior to applying for LIHTCs or taking action the reversal of which (in the event of non-approval of the site) would be detrimental to the PHA or the Project Owner. PHAs are also encouraged to contact FHEO for technical assistance prior to submission of these materials.

All PHAs shall submit a certification consistent with the requirements of Section 5.2, above. This certification may be prepared specifically in connection with the Checklist or as part of the PHA Annual Plan or Significant Amendment. However, HUD will not consider a submission complete for front-end civil rights review without this certification. All RAD conversions must submit the PHA certification described in Section 5.2 no later than at the time of submission of the Financing Plan.

*D) Completion of HUD's Front-End Review*

HUD will not approve a RAD conversion if HUD determines that the conversion would operate to discriminate in violation of applicable fair housing and civil rights laws. HUD will not approve proposals that have the purpose, intent, or effect of discriminating on the basis of

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<sup>37</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

protected class (*i.e.*, race, color, national origin, religion, sex, disability, and familial status). If HUD does not approve a proposed activity based on a front-end review, then it will provide a written description of concerns or deficiencies. The PHA may resubmit the front-end review materials with a changed proposal and/or with additional information addressing HUD's concerns and any deficiencies in the proposal or the submission.

In some circumstances, a special condition to the transaction's RCC will be necessary to ensure that a RAD transaction conforms to fair housing and civil rights requirements. Special conditions to the RCC reflect the conditions necessary in order to complete the RAD conversion. For example, if there is an outstanding remedial agreement or order requiring particular development activities or operating policies to correct a violation of a fair housing or other civil rights requirement, the RCC generally will condition participation in RAD upon agreement by the PHA or the Project Owner, as applicable, to comply with the provisions of such agreements or orders after conversion.

#### **5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction**

##### *A) Conditions Triggering Review*

If the proposed project is located in an area of minority concentration, the new site may be approved only if it falls under a permitted exception and meets the other site selection requirements described in Section 5.2. Under the PBV and PBRA site and neighborhood standards, HUD may approve new construction in an area of minority concentration, consistent with the regulatory requirements cited above, only if:

- a. Sufficient, comparable housing opportunities for minority families in the income range to be served by the proposed project exist outside areas of minority concentration; or
- b. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.<sup>38</sup>

As described in the RAD Notice and in Section 5.3(A) of this Notice, above, HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. This Notice specifies that for conversions of assistance involving new construction where there are indications that the site may be located in an area of minority concentration per the criteria in subsections (i), (ii), or (iii), below (whether the construction is located on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether the site is in an area of minority concentration and, if so, whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA shall submit for HUD front-end review the PHA's findings, together with backup documentation, regarding site selection when the site meets any of the following criteria:

- i. The PHA self-identifies the area of the site as an area of minority concentration,

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<sup>38</sup> 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

- ii. The census tract of the site meets the extent of minority concentration described in Section 5.4(B)(1), below, or
- iii. An area comprised of the census tract of the site together with all adjacent census tracts, analyzed as a whole, meets the extent of minority concentration described in Section 5.4(B)(1), below.

If any of these three criteria is applicable, HUD will conduct a review to determine whether the site is in an area of minority concentration and, if applicable, whether the proposed site fits one of the exceptions permitting new construction in an area of minority concentration described in this Section 5.4. A proposed RAD transaction which does not meet one of these triggers must still be evaluated by the PHA and the PHA must certify compliance with the site selection requirements as described in Section 5.2, above.

A PHA seeking to undertake new construction must receive written approval from HUD of any site selection subject to front-end review prior to entering into any construction contract for that new construction.

#### *B) Analysis of Areas of Minority Concentration*

This Section sets forth the methodology that HUD will use in the analysis of the extent of minority concentration, the area of the site, and the housing market area for purposes of the RAD front-end civil rights review. As noted below, this analysis is fact specific and PHAs may submit documentation to inform HUD's analysis in cases where there is strong evidence that an alternative methodology would be more appropriate.

- (1) For purposes of RAD, a site is considered to be in an area of minority concentration when either (i) the percentage of persons of a particular racial or ethnic minority within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market area as a whole or (ii) the total percentage of minority persons within the area of the site is at least 20 points higher than the total percentage of minorities in the housing market area as a whole.<sup>39</sup>
- (2) For purposes of RAD, the analysis of an area of minority concentration will use census tracts to approximate the "area" of the site but the analysis may consider alternate proposed geographies instead of the census tract in instances where there is strong evidence that such geography is more appropriate. Strong evidence that an alternative geography is more appropriate includes: (i) that the site is close to the edge of the census tract, (ii) that the population of the census tract is heavily influenced by the size of the Converting Project, or (iii) that the local community

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<sup>39</sup> The percentage of minorities shall be calculated by subtracting the percentage of White Non-Hispanic persons in the relevant area from 100%. The analysis shall be based on the most recently available decennial census data found at [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1&src=pt](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&src=pt). However, if such data is more than five years old, and if either the PHA or HUD requests the use of more recent data based on such party's awareness of significant and material shifts in the demographics of the relevant area in the intervening years, the analysis shall be based on the most recent American Communities Survey data.



understanding of the immediate neighborhood dictates a different boundary. Local community understanding of the immediate neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways), among other factors.<sup>40</sup> HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

- (3) For purposes of the RAD analysis under this Section 5.4, a "housing market area" is the geographic region from which it is likely that residents of housing at the proposed site would be drawn for a given multifamily housing project. A housing market area generally corresponds to, as applicable: (i) the Metropolitan Statistical Area (MetroSA); (ii) the Micropolitan Statistical Area (MicroSA); or (iii) if the site is in neither a MetroSA nor a MicroSA, either (x) the county or statistically equivalent area, or (y) the PHA's service area, whichever is larger.<sup>41</sup> The analysis may consider a larger or smaller housing market area in instances where there is strong evidence that such housing market area is more appropriate. Strong evidence that an alternative housing market area is more appropriate may include factors such as regional employment centers and commuting patterns serving such employment centers. A PHA seeking to use an alternative housing market area must consult with HUD and establish to HUD's satisfaction that the methodology for identifying and documenting the alternative housing market area is warranted and sound.

### *C) The Sufficient Comparable Opportunities Exception*

As required by the RAD Notice and noted in Section 5.4(A), one of the exceptions under which the site and neighborhood standards permit new construction in areas of minority concentration is if sufficient, comparable housing opportunities for low-income minority families exist outside areas of minority concentration. This section clarifies HUD's procedures for assessing comparable housing opportunities and evaluating how the proposed new construction will impact the balance of housing choices within and outside areas of minority concentration. It also includes a list of the information PHAs should submit to inform HUD's assessment of relevant factors, and key considerations guiding HUD's analysis of each factor.

Under the governing PBV and PBRA requirements, units are considered comparable opportunities if they are the same household type (e.g., elderly, disabled, family, large family), tenure type (owner, renter), require approximately the same total tenant payment toward rent,

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<sup>40</sup> For further explanation, see, e.g., *King v. Harris*, 464 F.Supp.827, 839-41 (E.D.N.Y. 1979).

<sup>41</sup> Items (i) and (ii) are consistent with a Core Based Statistical Area as defined by the Office of Management and Budget. For reference, a Core Based Statistical Area consists of the county or counties or equivalent entities associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties associated with the core.

serve the same income group, are located in the same housing market area, and are in standard condition.<sup>42</sup>

It is important to note that the sufficient comparable housing opportunities exception “does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality’s population.”<sup>43</sup>

HUD will assess “the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice.”<sup>44</sup> Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

- “A significant number of assisted housing units are available outside areas of minority concentration.”<sup>45</sup> While HUD must consider all factors relevant to housing choice, 30% or more of deeply subsidized housing units for very low-income persons would be a significant number. To facilitate HUD’s consideration of this factor, a PHA should provide the number, occupancy type, and location of all comparable assisted units.<sup>46</sup>
- “There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.”<sup>47</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and location of assisted housing projects constructed or rehabilitated in the PHA’s jurisdiction in the past 10 years and the demographic characteristics of the residents of each of these projects;
- “There are racially integrated neighborhoods in the locality.”<sup>48</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and census tracts where these racially integrated neighborhoods are located. In general, HUD will consider a neighborhood racially integrated if the neighborhood does not have a high concentration of persons of a particular race or ethnicity when compared to the housing market area in which the neighborhood is located.

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<sup>42</sup> See 24 C.F.R. § 983.57(e)(3)(iv) and Appendix III of the RAD Notice, paragraph (e)(1)(A).

<sup>43</sup> 24 C.F.R. § 983.57(e)(3)(iii); see also Appendix III of the RAD Notice, paragraph (e)(1).

<sup>44</sup> 24 C.F.R. § 983.57(e)(3)(v); see also Appendix III of the RAD Notice, paragraph (e)(1)(B).

<sup>45</sup> 24 C.F.R. § 983.57(e)(3)(v)(A) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(i).

<sup>46</sup> Note that this factor is in reference to comparable assisted units that may or may not be in the PHA’s portfolio. The presumption stated at the end of this Section (i.e., that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA’s portfolio, including PBV developments using the PHA’s subsidy, are outside areas of minority concentration) is focused on units within the PHA’s portfolio.

<sup>47</sup> 24 C.F.R. § 983.57(e)(3)(v)(B) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(ii).

<sup>48</sup> 24 C.F.R. § 983.57(e)(3)(v)(C) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(iii).

- “Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.”<sup>49</sup> Such programs may include measures such as increasing payment standards in excess of 110% of FMR or the use of Small Area FMRs, including in setting exception rents, or reservation of a percentage of HCVs dedicated to support choice mobility selections or implementation of proven mobility counseling and supports for residents, provided the PHA provides sufficient evidence that it will continue such measures. To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable program(s); the entity responsible for implementing the program(s) (e.g., city, county, state government); and any information demonstrating that the program(s) has been successful or predictably will achieve success in assisting persons who wish to move to non-concentrated areas.
- “Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.”<sup>50</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable activity(s); the entity responsible for implementing the activity(s) (e.g., city, county, state government); and any information demonstrating that the activity(s) has been successful in expanding choice for minority families outside of areas of minority concentration;
- “A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs” (e.g., the Housing Choice Voucher programs).<sup>51</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the number of minority households receiving Housing Choice Vouchers; the number of minority households using HCVs in non-minority areas; and the non-minority census tracts where the HCVs are being used. While each local situation is distinct and HUD must consider all factors relevant to housing choice, 30% or more of new leases signed by minority heads of household using HCVs located in non-minority areas over a period greater than three years prior to the date of HUD’s analysis would be a significant proportion.
- “Comparable housing opportunities have been made available outside areas of minority concentration through other programs.”<sup>52</sup> To facilitate HUD’s consideration of this factor, a PHA should describe the opportunities that have been made available, the location of those opportunities, and the number of minority families that have benefitted from the program in recent years. Such programs could include choice mobility strategies, acquisition strategies to acquire and add to the PHA’s portfolio existing apartments in high opportunity areas and transfers of assistance to high opportunity areas.

HUD may consider evidence based on a reliable housing market analysis in evaluating the foregoing factors, along with other factors relevant to housing choice. In the event HUD

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<sup>49</sup> 24 C.F.R. § 983.57(e)(3)(v)(D); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(iv).

<sup>50</sup> 24 C.F.R. § 983.57(e)(3)(v)(E); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(v).

<sup>51</sup> 24 C.F.R. § 983.57(e)(3)(v)(F); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(vi).

<sup>52</sup> 24 C.F.R. § 983.57(e)(3)(v)(G) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(vii).

determines such an analysis would assist in this evaluation, HUD will consult with appropriate parties to establish or accept an appropriate methodology for such an analysis to address HUD's civil rights concerns and to ensure appropriate independence between the analyst and the PHA or Project Owner commissioning and paying for the study.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration.<sup>53</sup> The PHA's portfolio includes all public housing, PBV and PBRA hard units (including those developed under HOPE VI or Choice Neighborhoods) controlled by the PHA and its instrumentalities or funded using PHA-controlled subsidy. Upon adequate documentation of this presumption, the PHA need not provide additional documentation for HUD's front-end review of the sufficient comparable opportunities exception. This presumption may be rebutted by information to the contrary, including information regarding the preceding factors. In assessing whether sufficient comparable opportunities exist when the presumption does not apply, HUD will consider the factors listed above.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if a set of RAD conversions from a single public housing property, individually or in a combination of transactions, will result in the creation of as many similarly-affordable housing units outside areas of minority concentration as are constructed on the original public housing site. To evaluate the creation of similarly-affordable units, HUD will compare (i) the number of affordable units that will be redeveloped on site, to (ii) the number of similarly-affordable housing units that will be created through new construction, imposition of new long-term affordability restrictions or transfer of RAD assistance to one or more sites outside areas of minority concentration.<sup>54</sup> Similarly-affordable shall mean RAD units compared to RAD units and LIHTC/non-RAD units compared to LIHTC/non-RAD units. The newly created similarly-affordable units must be owned, controlled, sponsored, under common ownership, control or sponsorship, or financially supported by the PHA or by an entity with a managing ownership interest in the Project Owner. When a PHA seeks to claim this exception, HUD prefers that the transaction creating the similarly-affordable units on the site outside areas of minority concentration close (with an immediate or delayed HAP effective date, if applicable) prior to the closing of the RAD conversion in the area of minority concentration. However, if the PHA determines that such a sequence is not reasonably possible, unless otherwise approved by HUD the PHA must provide evidence to HUD that the transfer of assistance to a site outside areas of

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<sup>53</sup> When determining the percentage of units outside of areas of minority concentration, the PHA must include the number of units planned at the proposed site in its calculations. While not required, PHAs or Project Owners may assist HUD in consideration of this presumption by submitting to HUD a map produced by the Affirmatively Furthering Fair Housing Data and Mapping Tool ("AFFH-T"), as may be available on the HUD website from time to time, showing the location of publicly assisted housing.

<sup>54</sup> For example, if the PHA proposes to build 25 RAD units, 20 non-RAD LIHTC units and 15 unrestricted units on-site, such a plan could be acceptable if paired with creation of 15 RAD units at one site and 10 RAD units plus 20 non-RAD LIHTC units at a second site. The 15 unrestricted units in the minority concentrated area are not part of the analysis as they are not affordable units.

minority concentration is highly likely to occur and the PHA must contractually agree with HUD to create such units. Evidence that the transfer is highly likely to occur must include:

- The project name and property address of the site of the similarly-affordable units to be created,
- The census tract and data to confirm that it is not in an area of minority concentration,
- Evidence of site control,
- Evidence of zoning to permit construction of the similarly-affordable units if the affordable units are to be created through new construction,
- A reasonable and feasible sources and uses statement for the transaction, and
- Evidence of financing commitments exceeding 90% of the necessary sources to complete the transaction. Evidence of financing commitments must include an LIHTC allocation if the use of LIHTCs is projected.

*D) The Overriding Housing Needs Exception*

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD<sup>55</sup> outline two examples of circumstances, consistent with fair housing and other civil rights objectives, that would permit the application of the overriding housing needs exception: (1) when the site is “an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood;” or (2) when the site is “located in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”).”<sup>56</sup>

(1) Establishing that a Site is an Integral Part of an Overall Local Strategy for the Preservation or Restoration of the Immediate Neighborhood

To establish that a site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, a PHA must document that the locality has a demonstrated commitment to revitalization that includes or is in addition to the RAD conversion, as demonstrated by the following:

- i. The site is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
- ii. The Covered Project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

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<sup>55</sup> See 24 C.F.R. § 983.57(e)(2) for PBV transactions and paragraph (e) of Appendix III of the RAD Notice for PBRA transactions.

<sup>56</sup> 24 C.F.R. § 983.57(e)(3)(vi); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(viii)(2). In demonstrating an overriding housing need, the “neighborhood” is determined in each situation based on the overall facts and circumstances and cannot be mechanically determined. The “immediate neighborhood” is generally a smaller geographic area than the “neighborhood.”

In determining whether such an official, currently operational and realistically achievable plan for the improvement or revitalization of the area exists, HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been enacted, adopted, or ratified by a municipal, county, or state legislative body;
- There has been progress to implement the plan, or the strategy as a whole.<sup>57</sup>
- The plan or strategy as a whole, or the elements applicable to the Covered Project, are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are incorporated in current public, quasi-public agency or major institutional work plans;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the preservation or restoration of a geography larger than the Converting Project and any associated public housing site;
- A jurisdiction has published solicitations or incentives for development projects in the improvement or revitalization area;
- The plan is incorporated in the applicable jurisdiction's Consolidated Plan or other comprehensive community development plan;
- A jurisdiction has explicitly designated the geographic area for improvement or revitalization (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has retained a construction firm to break ground on the improvement or revitalization; and/or
- An implementing agency has secured financing, such as the issuance of bonds or final approval for tax increment financing.

(2) Establishing that the Site is Located in a “Revitalizing Area”

Evidence that the site is located in a revitalizing area experiencing significant private investment that is demonstrably improving the economic character of the area is also an example of a site which meets an overriding housing need. HUD will consider all relevant factors in making a determination that the site is located in a “revitalizing area” but in particular will consider whether:

- i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining census tract poverty rates, low or declining violent crime rates or evidence of high or increased educational opportunity, high or increasing median

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<sup>57</sup> Indicators of progress should be appropriate to the amount of time since the plan or strategy was developed and there must be a reasonable, supportable expectation that the plan will continue to be implemented. For example, if a plan was launched 3-4 years prior and the initial steps of the plan required implementation of an initiative (such as real estate development) which has a long pre-development planning period, HUD may consider whether there has been activity to seek land development approvals or to develop construction drawings or to secure funding commitments or other activities providing evidence that one or more material elements of the plan or strategy are actually being implemented.

- household income, high or increasing homeownership rates and/or high or increased employment; and
- ii. There is high private and public investment in retail, commercial, or housing development that has occurred or will imminently occur in the area which may include, among other considerations:
    - Evidence of new or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood;
    - Evidence of private and public investment or housing development that has occurred or will imminently occur in the area;
    - Evidence of economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising more sharply in the neighborhood than in the jurisdiction overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children.

### (3) Circumstances in Which an Overriding Housing Needs Exception Does Not Apply

A PHA cannot establish that a site meets the overriding housing needs exception if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.<sup>58</sup> For example, the overriding housing needs exception may not be applied if the reason that the project cannot be sited outside of an area of minority concentration is due to community opposition to the project based on the actual or perceived protected characteristics of the residents or prospective residents of the project. In addition, a recipient may not exclusively rely on this exception as a means of siting projects without creating housing opportunities outside of areas of minority concentration or without preserving existing housing outside of areas of minority concentration.

## **5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance**

### *A) Applicable Standards*

Transfers of assistance are subject to the site selection standards for existing or rehabilitated housing set forth in 24 C.F.R. § 983.57(a)-(d), with the exception of 24 C.F.R. § 983.57(b)(1) and (c)(2), for PBV conversions and Appendix III of the RAD Notice for PBRA conversions. All transfers of assistance to a new site(s) are subject to front-end review by HUD, as required by the RAD Notice and noted in Section 5.3(A)(2) of this Notice. Conversions involving a transfer of assistance may also involve one or more of the other activities which trigger front-end review as described in Section 5.3(A). In transfers of assistance involving any of these activities, HUD

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<sup>58</sup> 24 C.F.R. § 983.57(e)(3)(vi) and Appendix III of the RAD Notice, paragraph (e)(2). The PBRA site and neighborhood standards use the phrase “on the basis of race, color, creed, sex or national origin.” See Appendix III of the RAD Notice.

will conduct a front-end review based on the requirements applicable to each activity. A PHA must submit documentation for the front-end civil rights review of each specific activity as required by the relevant sections of this Notice.

*B) Analysis of Transfers of Assistance*

Through the front-end review of transfers of assistance by FHEO, HUD seeks to assist the PHA in avoiding discrimination on the basis of race, color, national origin, religion, sex, disability or familial status. The front-end review of transfers of assistance will apply the site selection standards for existing/rehabilitated housing.<sup>59</sup> This review shall consider:

- (1) The accessibility of the proposed site for persons with disabilities;
- (2) The ability of the RAD conversion to remediate accessibility concerns;
- (3) Whether the transfer of assistance would result in assisted units being located in an area where the total percentage of minority persons is significantly higher than the total percentage of minority persons in the area of the original public housing site or in an area where the percentage of persons of a particular racial or ethnic minority is significantly higher than the percentage of that minority group in the area of the original public housing site.<sup>60</sup> For purposes of this analysis, HUD will examine the minority concentration of:
  - (a) the census tract of the original public housing site compared to the census tract of the proposed site; and
  - (b) an area comprised of the census tract of the original public housing site together with all adjacent census tracts compared to an area comprised of the census tract of the proposed site together with all adjacent census tracts.
- (4) Whether the site selection has the purpose or effect of:
  - (a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the RAD program or the applicable rental assistance program;
  - (b) Excluding qualified individuals with disabilities from or denying them the benefit of the RAD program or the applicable rental assistance program, or otherwise subjecting them to discrimination;
  - (c) Defeating or substantially impairing the accomplishment of the objectives of the RAD program or the applicable rental assistance program with respect to qualified individuals with disabilities; and

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<sup>59</sup> 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, paragraphs (a) through (d). The site selection standards for existing/rehabilitated housing do not apply the minority concentration test used for new construction found at 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

<sup>60</sup> While this review is not explicitly called out in 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, it is derived from HUD's and the PHA's obligations to comply with civil rights laws and regulations, including those referenced in 24 C.F.R. § 983.57(b)(2) and Appendix III of the RAD Notice.



- (d) Excluding individuals with disabilities (including members of the public with disabilities), denying them benefits or subjecting them to discrimination.

Under the RAD Notice, there are other standards for review of a transfer of assistance which are not examined as part of the front-end civil rights review but are examined as part of the RAD Financing Plan review (e.g., criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937 regarding neighborhoods with highly concentrated poverty). Identification of considerations for the front-end review do not preclude review by HUD of all standards referenced in the RAD Notice.

## **5.6. Front-End Civil Rights Review for RAD Transactions Involving Reduction in Number of Units, Changes in Bedroom Distribution of Units and Changes in Occupancy Requirements**

The RAD Notice allows PHAs to reduce the number of units, change the bedroom distribution of units, or change the occupancy of projects as part of their RAD conversion.<sup>61</sup> However, the RAD Notice also provides that such changes (including de minimis changes) must undergo a front-end civil rights review and receive approval from HUD prior to submission of the Financing Plan. The Checklist will require data for review along with an explanation, backed by sufficient evidence, of how the PHA determined that the proposed change will not result in discrimination on the basis of race, color, national origin, religion, sex, disability, familial status, actual or perceived sexual orientation, gender identity or marital status.<sup>62</sup>

### *A) Review of Reductions in the Number of Units, Reductions or Increases in the Number of UFAS Accessible Units or Changes in Bedroom Distribution*

This Section describes the considerations relevant to a front-end review of reductions in units, changes in the number of UFAS accessible units or changes in bedroom distribution. Such changes must not be the result of an intentional effort to discriminate against members of a protected class. For example, reductions or changes, including reductions in UFAS accessible units or which would impede residents with disabilities from having live-in aides, that intended to exclude persons with disabilities would be unlawful discrimination because of a disability.

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<sup>61</sup> See Sections 1.4.A.4 and 1.4.A.10 of the RAD Notice.

<sup>62</sup> Reductions in the number of units, changes in the bedroom distribution of units, or changes in occupancy violate the Fair Housing Act (the Act) if they have a discriminatory effect on the basis of race, color, national origin, religion, sex, disability, or familial status. Unlawful housing discrimination may be established by a policy's or practice's discriminatory intent or by its discriminatory effect, even if not motivated by discriminatory intent, consistent with the standards outlined in 24 C.F.R. § 100.500. A policy or practice can have an unjustified discriminatory effect, even when the provider had no intent to discriminate. Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. In addition, the policy or practice violates the Act if the housing developer or provider intentionally discriminates, including for example, by reducing the number of bedrooms with the intent of limiting families with children. Furthermore, the policy or practice may also violate the Act where it creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. In addition, any changes must conform with the Equal Access rule requirement that determinations of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the FHA shall be made in accordance with program eligibility requirements, and the housing must be made available, without regard to actual or perceived sexual orientation, gender identity or marital status. 24 C.F.R. § 5.105(a)(2).

Similarly, replacing larger units with smaller units so as to exclude families with children would be unlawful discrimination because of familial status.

Additionally, reductions in units or changes in bedroom distribution must not have an unjustified discriminatory effect on members of a protected class. For example, a reduction in units could have a discriminatory impact if it excludes members of a particular race or religion. Reductions or changes that have a disparate impact on a protected class are unlawful under the Fair Housing Act if they are not necessary to achieve a substantial, legitimate, nondiscriminatory interest of the developer or housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

The RAD Notice allows for a de minimis reduction in units at Converting Projects, which includes both a small number of units as well as the reduction of certain units that have been vacant for 24 months prior to application, that are being or will be used for social service delivery, or efficiencies that will be reconfigured to one-bedroom units.<sup>63</sup> In addition, a PHA converting multiple properties can consolidate the de minimis reductions derived from multiple properties at a small number of sites. The RAD Notice also allows for changes in bedroom distribution. Such de minimis reductions are still subject to front end civil rights review and applicable fair housing and civil rights laws.

HUD shall conduct a front-end civil rights review if the plan for a Converting Project results in:

- A reduction in the number of dwelling units in any of the following categories: (i) units with two bedrooms, (ii) units with three bedrooms or (iii) units with four or more bedrooms.
- A reduction in the number of UFAS accessible units;
- An increase in the number of UFAS accessible units for persons with mobility impairments beyond 10% of the units in the Covered Project or 1 unit, whichever is greater.
- An increase in the number of UFAS accessible units for persons with vision and hearing impairments beyond 4% of the units in the Covered Project or 1 unit, whichever is greater.

When a Converting Project is subject to a front-end civil rights review under this subsection, the PHA shall submit to HUD the relevant part of the Checklist together with a justification which must demonstrate that the changes are not the result of discriminatory intent and will not have a discriminatory effect on members of protected classes, particularly families with children and individuals with disabilities. Relevant data for this analysis of the proposed change at the project may include the PHA's overall affordable housing stock, the demand for affordable housing in the market as evidenced by information such as the overall jurisdiction and regional demographic data available from the AFFH Data and Mapping Tool (e.g., both basic demographic and disproportionate housing needs data), the PHA's waiting list or a reliable market study of households seeking assisted housing, compared to the relative proportions of

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<sup>63</sup> See Section 1.4.A.4 of the RAD Notice.

units serving any particular household type in the proposed project, the PHA's total housing stock or all assisted housing in the area.

For any increase in UFAS units subject to front-end review, HUD will assess indicators of local need (see Section 5.7(B), below) and whether the change would operate to concentrate individuals with disabilities in a particular property or to exclude individuals with certain types of disabilities from a particular property.

*B) Review of Changes in Occupancy Type*

RAD conversions that result in the implementation of an admissions preference (e.g., residency preferences or restrictions) at the Covered Project that would alter the occupancy of the property (e.g., family units converting to elderly units, elderly/disabled units converting to elderly only units) are subject to a front-end civil rights review by HUD pursuant to the RAD Notice and Section 5.3(A). A PHA must demonstrate that the proposed change in occupancy type is consistent with the demand for affordable housing in its jurisdiction as demonstrated by factors such as the demographics of its current occupancy, the demographics of its waiting list or a market study. Such preferences, restrictions, or geographic residency preferences must be reflected in a PBRA project's Affirmative Fair Housing Marketing Plan (AFHMP) or, for a PBV project, the PHA's Administrative Plan.

**5.7. Other Front-End Civil Rights Review for RAD Transactions**

*A) Conversions of Assistance in Which the Construction Schedule Indicates that Relocation is Likely to Exceed 12 Months.*

The front end civil rights review shall focus on whether the relocation will result in discrimination on the basis of race, color, national origin, religion, sex, disability, and familial status, based primarily, but not exclusively, on the data required in the Checklist.

*B) Conversions of Assistance Involving New Construction or Substantial Alteration, as those terms are defined by Section 504.*

While the PHA is responsible for compliance with all requirements described in Section 4, above and in this subsection, the front-end review will be conducted based on a review of the Checklist and shall include confirming the provision of any required accessible units and confirming the PHA is applying the appropriate accessibility standards. HUD will require the PHA to provide information regarding the provision of at least the minimum number of units accessible for persons with mobility impairments and units accessible for persons with hearing and vision impairments as required by applicable law (generally 5% of units accessible for persons with mobility impairments and an additional 2% of units accessible for persons with hearing and vision impairments). For purposes of establishing an upper threshold of accessible units below which RAD front-end review will not be required, HUD will accept that up to 10% of units accessible for persons with mobility impairments and up to 4% of units accessible for persons with hearing and vision impairments is consistent with local need, without further review, absent information to the contrary. HUD will consider a PHA's request for higher percentages based, to HUD's satisfaction, on reliable indicators of local need, such as census data or other available current data. HUD is available to assist PHAs in determining appropriate indicators of local

need for units with accessible features. The RAD conversion scope of work submitted with the Financing Plan must reflect the construction or retrofitting of residential units and public and common use areas to comply with all applicable accessibility requirements.

*C) Remedial Agreements and Orders.*

Front-end review in situations where the Converting Project or PHA is subject to enforcement actions or binding voluntary compliance agreements, settlement agreements, conciliation agreements, or consent decrees or orders of the nature described in Sections 5.3(A)(8) and 5.3(A)(9) shall be conducted on a case-by-case basis as appropriate to the specific situation.

**5.8. Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance**

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.<sup>64</sup> Affirmative Fair Housing Marketing requirements are designed to achieve a condition in which individuals of similar income levels in the same housing market area have similar housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.<sup>65</sup> They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act that HUD administer its programs and activities in a manner to affirmatively further fair housing. These requirements mandate that PHAs or Project Owners identify groups that are least likely to apply for upcoming housing opportunities and to implement special marketing and outreach activities to ensure that these groups are aware of these opportunities.

The AFHMP must be submitted to HUD with the Financing Plan. A separate AFHMP is required for each distinct PBRA HAP contract. The PHA must submit an AFHMP even if the project has an existing waiting list and is not accepting new applicants. The PHA or Project Owner should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

When submitting an AFHMP for HUD approval, the PHA or Project Owner must ensure that the occupancy designation and any residency preferences are consistent with the PHA Plan or Significant Amendment to the PHA Plan, that such designation and preferences are consistent with the Checklist submitted to HUD and that the AFHMP includes affirmative marketing

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<sup>64</sup> The most recent version of the AFHMP is HUD Form 935.2A, OMB Approval Number 2529-0013. *See* 24 C.F.R. § 880.601(a)(2) and 24 C.F.R. § 200.615; *see also* Section 10.8 of the Multifamily Accelerated Processing (MAP) Guide. The PHA or its management agent should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

<sup>65</sup> *See* 24 C.F.R. § 200.610.

activities that are consistent with its occupancy designation and the populations identified as least likely to apply. Any subsequent changes to occupancy designation or residency preferences shall be proposed, submitted and reviewed in accordance with standard PBRA requirements. If a PHA or Project Owner plans to adopt any local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4).

The Multifamily Housing Office of Asset Management and Portfolio Oversight and the Office of Fair Housing and Equal Opportunity (“FHEO”) review the AFHMP. FHEO issues HUD’s official letter of approval or disapproval. Disapproval letters will specify the reason a plan was rejected and the revisions required. The PHA or Project Owner must make the required changes and resubmit a corrected plan to HUD for approval.

The PBRA contract becomes effective on the first day of a month, following closing. Approval of the AFHMP is not a condition to closing of the RAD conversion. When the project is preparing to accept applications, it must follow its approved AFHMP to ensure that groups least likely to apply are aware of the housing opportunities. The Project Owner is responsible for ensuring that the AFHMP is in place throughout the life of any FHA mortgage or PBRA contract. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Marketing or leasing includes the solicitation, distribution or acceptance of applications or development of a waiting list.

## **SECTION 6. RELOCATION REQUIREMENTS**

In some cases, as explained in this Section, the activities associated with the RAD transaction may require the relocation of residents. In the event of acquisition, demolition, construction or rehabilitation activities performed in connection with a RAD conversion, the PHA and/or Project Owner<sup>66</sup> should plan such activities to reasonably minimize any disruption to residents’ lives, to ensure that residents are not exposed to unsafe living conditions and to comply with applicable relocation, fair housing and civil rights requirements. As discussed in Section 6.1, below, a written relocation plan is required in some circumstances and strongly encouraged for any conversion resulting in resident moves or relocation. Further, the obligations due to relocating residents under RAD are broader than URA relocation assistance and payments and RAD specifies requirements which are more protective of residents than standard URA requirements, including additional notices (see Section 6.6) and a right to return (see Section 6.2). This Notice requires that certain information be provided to all households, beginning prior to submission of the RAD application.

Any resident who moves as a direct result of acquisition, rehabilitation or demolition for an activity or series of activities associated with a RAD conversion may, depending on the circumstances and length of time of the relocation, be eligible for relocation assistance and payments under the URA. Additionally, Section 104(d) relocation and one-for-one replacement

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<sup>66</sup> Under the URA, the term “displacing agency” refers to the agency or person that carries out a program or project which will cause a resident to become a displaced person. Projects vary and, for any specific task described in this Notice, the displacing agency may be either the PHA or the Project Owner, as determined by the allocation of roles and responsibilities between the PHA and Project Owner.

housing requirements may also apply when CDBG- or HOME-funds are used in connection with a RAD conversion. The applicability of the URA or Section 104(d) to RAD conversions is fact-specific, which must be determined in accordance with the applicable URA and Section 104(d) regulations.<sup>67</sup>

Eligibility for specific protections under this Notice applies to any person residing in a Converting Project who is legally on the public housing lease, has submitted an application to be added to an existing lease, or is otherwise in lawful occupancy at the time of the issuance of the CHAP and at any time thereafter until conversion of assistance under RAD. All such residents of a Converting Project have a right to return and are eligible for relocation protections and assistance as provided by this Notice. The eligibility criteria set forth in this paragraph apply to the protections under this Notice regardless of whether residents or household members meet the statutory and regulatory requirements for eligibility under URA.<sup>68</sup>

## **6.1. Planning**

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a Converting Project, PHAs must undertake a planning process in conformance with the URA statutory and regulatory requirements in order to minimize the adverse impact of relocation (*see* 49 § C.F.R. 24.205). PHAs must also ensure that their relocation planning is conducted in compliance with applicable fair housing and civil rights requirements.

The PHA shall prepare a written relocation plan if the RAD conversion involves permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year. While a written relocation plan is not required for temporary relocation lasting one year or less, HUD strongly encourages PHAs, in consultation with any applicable Project Owners, to prepare a written relocation plan for all RAD conversions to establish their relocation process clearly and in sufficient detail to permit consistent implementation of the relocation process and accurate communication to the residents. Appendix II contains recommended elements of a relocation plan.

During the planning stages of a RAD transaction and based on the results of this planning process, a PHA must submit applicable portions of the Checklist described in Section 5.3(B) to HUD, together with any required backup documentation, as early as possible once the information covered in the applicable part is known.<sup>69</sup> All parts of the Checklist must be submitted to HUD prior to submission of the Financing Plan. The Checklist will allow HUD to assist the PHA to comply, and to evaluate the PHA's compliance, with relocation requirements, including civil rights requirements related to relocation.

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<sup>67</sup> 42 U.S.C. § 4601 *et seq.*, 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

<sup>68</sup> A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 C.F.R. 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378. See Section 6.5 of this Notice for discussion of the date of "initiation of negotiations."

<sup>69</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

The following presents a general sequencing of relocation planning activities within the RAD conversion process for informational and planning purposes only. Specific requirements are set forth in the provisions of this Notice.

Stage	Activities
1. Prior to submission of RAD application	<ul style="list-style-type: none"> <li>• Determine potential need for relocation in connection with proposed conversion plans.</li> <li>• Meet with residents to discuss proposed conversion plans, communicate right to return, and solicit feedback.</li> <li>• Provide the <i>RAD Information Notice</i> (RIN) to residents as described in Section 6.6(A) of this Notice.</li> </ul>
2. After submission of RAD application	<ul style="list-style-type: none"> <li>• Assess the need for relocation planning in connection with proposed conversion plans. Determine if technical assistance would be beneficial to ensuring compliance with relocation requirements.</li> <li>• Survey residents to inform relocation planning and relocation process.</li> <li>• Develop a relocation plan (see Appendix II for recommended content).</li> <li>• Prepare Significant Amendment to PHA Plan and engage with the Resident Advisory Board, residents and the public regarding Plan amendment.<sup>70</sup></li> </ul>
3. Following issuance of the CHAP, or earlier if warranted	<ul style="list-style-type: none"> <li>• Provide the <i>General Information Notice</i> (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.</li> </ul>
4. While preparing Financing Plan	<ul style="list-style-type: none"> <li>• Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager.</li> <li>• Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities.</li> <li>• Identify relocation housing options .</li> <li>• Budget for relocation expenses and for compliance with accessibility requirements.</li> <li>• Submit the Checklist and, where applicable, the relocation plan.</li> <li>• If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA).</li> <li>• If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as</li> </ul>

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<sup>70</sup> Alternatively, the PHA may submit a new PHA Five-Year or Annual Plan, especially if it is on schedule to do so. Under any scenario, the PHA must consult with the Resident Advisory Board and undertake the community participation process.

Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	<ul style="list-style-type: none"> <li>• Meet with residents to describe approved conversion plans and discuss required relocation.</li> <li>• The effective date of the RCC marks the date of “Initiation of Negotiations” (ION), as defined in the URA (49 § C.F.R. 24.2(a)(15)).</li> <li>• If no NOIA was provided while preparing the Financing Plan, provide residents with appropriate relocation notices as described in Section 6.6(C) through 6.6(E) of this Notice.</li> <li>• Resident relocation may begin following the effective date of the RCC, subject to applicable notice requirements.</li> </ul>
6. Post-Closing	<ul style="list-style-type: none"> <li>• Ongoing implementation of relocation</li> <li>• Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice</li> <li>• Implementation of the residents’ right to return</li> </ul>

## 6.2. Resident Right to Return

Any public housing or Section 8 assisted resident that may need to be relocated temporarily to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is complete.<sup>71</sup> Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a project’s conversion of assistance. The Project Owner satisfies the RAD right to return to a Covered Project if the Project Owner offers the resident household either: a) a unit in the Covered Project in which the household is not under-housed; or b) a unit in the Covered Project which provides the same major features as the resident’s unit in the Converting Project prior to the implementation of the RAD conversion. In the case of a transfer of assistance to a new site, residents of the Converting Project have the right to reside in an assisted unit meeting the requirements set forth in this paragraph at the Covered Project (the new site) once the Covered Project is ready for occupancy in accordance with applicable PBV or PBRA requirements.

If proposed plans for a Converting Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. Examples of project plans that may preclude a resident from returning to the Covered Project include, but are not limited to:

- Changes in bedroom distribution which decrease the size of units such that the resident would be under-housed;<sup>72</sup>

<sup>71</sup> The right to return is not a right to any specific unit in the Covered Project. Tenancies other than public housing or Section 8 assisted residents (such as commercial tenants) do not hold a right to return and are subject to standard relocation requirements applicable to such tenants under the URA.

<sup>72</sup> See the RAD Notice for a description of the procedures that must be undertaken if a resident is over-housed.



- Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible;<sup>73</sup> and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.<sup>74</sup>

If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.

If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the PHA or Project Owner may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the PHA or Project Owner seeks to have the resident exercise the right of return at a future phase, the PHA or Project Owner would need to secure the resident's consent to such plan as an alternative housing option pursuant to Section 6.10, below.

In implementing the right of return, the Project Owner shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act,

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<sup>73</sup> In these cases, a PHA may elect to exclude some units from the applicable financing program, for example, claiming LIHTC for a subset of the units and not claiming tax credits in connection with the units occupied by households over the LIHTC maximum eligibility of 60% of AMI.

<sup>74</sup> Refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act (March 5, 2008), at [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf) for additional detail regarding applicable standards for reasonable accommodations and accessibility features which must be provided. If the resident has paid for installation of accessibility features in the resident's prior unit, the PHA or Project Owner shall pay for the installation of comparable features in the new unit. Violations of law may also result in other sanctions.

Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

### **6.3. Admissions and Continued Occupancy Requirements**

Resident households may not be denied relocation housing or the right to return based on rescreening, income eligibility, or income targeting. PHAs may only offer housing options with screening, income eligibility or income targeting requirements if the impacted residents meet the admission and occupancy policies applicable to such housing. However, whether or not in a temporary relocation situation, the household remains subject to the applicable program policies regarding continued occupancy of an assisted unit by an incumbent resident of the unit.

### **6.4. Types of Moves and Relocation**

Any time project plans require a resident to move from their current unit, the resident is eligible for assistance as described in this Notice. Assistance may vary depending on the options provided to residents, whether the relocation is temporary or permanent and, if applicable, the length of time the resident is in temporary accommodations.<sup>75</sup> In all circumstances, the move or relocation must be in compliance with applicable requirements of this Notice and consistent with applicable fair housing and civil rights requirements. Each type of move is discussed below.

#### *A) Moves within the same building or complex of buildings<sup>76</sup>*

Temporary or permanent moves within the same building or complex of buildings may be appropriate given the extent of work to be completed to permit phasing of rehabilitation or construction. Moves within the same building or complex of buildings are not considered relocation under RAD and a tenant generally does not become displaced under the URA. Whether permanent (i.e., the tenant will move to and remain in an alternative unit) or temporary (i.e., the tenant will move to another unit and return to their original unit), the PHA or Project Owner must reimburse residents for all reasonable out-of-pocket expenses incurred in connection with any move and all other terms and conditions of the move(s) must be reasonable.<sup>77</sup> The final move must be to a unit which satisfies the right to return requirements specified in Section 6.2 of this Notice.

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<sup>75</sup> PHAs should note that the definitions of “permanent” vary between the URA and RAD. For example, “permanent displacement” under the URA includes moves from the original building or complex of buildings lasting more than one year. The RAD Notice, meanwhile, considers “permanent relocation” to be separation from the RAD-assisted unit upon completion of the conversion and any associated rehabilitation and construction. The duration of a temporary move may exceed one year. In the case of a transfer of assistance, it is not permanent relocation under RAD when the resident must move from the original complex of buildings to the destination site in order to retain occupancy of the RAD-assisted unit.

<sup>76</sup> An example of relocation within the same building or complex of buildings would be if one floor of a multi-story building is vacant, and the PHA is moving residents from another floor to the vacant units.

<sup>77</sup> Failure to reimburse residents for moving or other out-of-pocket expenses and any other terms and conditions of the move which may be unreasonable may result in the resident becoming a displaced person under the URA if the resident subsequently moves from the property.

*B) Temporary relocation lasting one year or less*

If a resident is required to relocate temporarily, to a unit not in the same building or complex of buildings, for a period not expected to exceed one year in connection with the RAD conversion, the resident's temporarily occupied housing must be decent, safe, and sanitary and the resident must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses include, but are not limited to, moving expenses, increased housing costs (e.g., rent and utilities), meals if the temporary housing lacks cooking facilities (e.g., during a short hotel stay, whether or not on an emergency basis) and other applicable expenses.<sup>78</sup>

*C) Temporary relocation initially expected to last one year or less, but which extends beyond one year*

In the event that a resident has been temporarily relocated, to a unit not in the same building or complex of buildings, for a period which was anticipated to last one year or less but the temporary relocation in fact exceeds one year, the resident qualifies as a "displaced person" under the URA and as a result immediately becomes eligible for all permanent relocation assistance and payments as a "displaced person" under the URA, including notice pursuant to Section 6.6(E). This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

In such event, the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate with the offered URA assistance or to choose to remain temporarily relocated based on updated information from the PHA or Project Owner about when they can return to the completed RAD unit. The PHA or Project Owner must present this opportunity to the resident when the temporary relocation extends beyond one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration. In presenting such opportunity, the PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*D) Temporary relocation anticipated to last more than one year*

When the PHA anticipates that the temporary relocation, to a unit not in the same building or complex of buildings, will last more than one year, but the resident is retaining the resident's right to return to the Covered Project, the resident is considered temporarily relocated under RAD and is eligible to receive applicable temporary relocation assistance and payments. Under the URA, the resident becomes eligible to receive applicable relocation assistance and payments as a "displaced person" when the temporary relocation period exceeds one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration, at

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<sup>78</sup> HUD Handbook 1378, Chapter 2, Section 2-7 governs activities subject to URA requirements and informs, but is not binding upon, any RAD activities not governed by the URA. PHAs may also refer to HUD Form 40030.

which time the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate or to remain temporarily relocated, as described in Section 6.4(C), above.

In order to allow residents to make the election earlier than required under the URA (thereby avoiding a year in temporary relocation housing prior to electing voluntary permanent relocation), if the PHA or Project Owner anticipates that temporary relocation will last more than one year, the PHA or Project Owner shall provide the resident with an initial option to (a) be temporarily relocated, retain the right to return to the Covered Project when a unit becomes available and receive assistance, including temporary housing and reimbursement for all reasonable out-of-pocket expenses associated with the temporary relocation, or (b) accept RAD voluntary permanent relocation assistance and payments equivalent to what a “displaced person” would receive under the URA. The PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident’s right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*E) Permanent moves in connection with a transfer of assistance*

In cases solely involving a transfer of assistance to a new site, resident relocation from the Converting Project to the Covered Project is not, by itself, generally considered involuntary permanent relocation under RAD. However, the URA and/or Section 104(d) is likely to apply in most cases. In cases of a transfer of assistance to a new site where it has also been determined that the URA and/or Section 104(d) apply to the transfer of assistance, residents may be eligible for all permanent relocation assistance and payments for eligible displaced persons under the URA and/or Section 104(d). If the URA applies to a move of this type, the PHA or Project Owner must make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a). However, provided the transfer of assistance unit meets the URA definition of a comparable replacement dwelling pursuant to 49 C.F.R. § 24.2(a)(6), that unit could in fact represent the most comparable replacement dwelling as determined by the agency for purposes of calculating a replacement housing payment, if any, under 49 C.F.R. § 24.402.

Whether or not the URA and/or Section 104(d) apply, under RAD the residents are entitled to relocation assistance and payments, including counseling in preparation for the relocation, written notices of the relocation (including a 90-day RAD Notice of Relocation), and reimbursement for all reasonable out-of-pocket expenses, including moving expenses, incurred in connection with the move. It should be noted that the RAD relocation assistance and payments provided to transferring residents in this paragraph differ from those required under the URA and/or Section 104(d) as described above. Where both frameworks apply, the residents must receive the more extensive protections offered under either framework.

If HUD determines that the distance from the Converting Project to the site of the Covered Project is significant and the resident could not reasonably be required to move to the new site, then HUD will require the PHA to adjust project plans to accommodate the resident in an assisted unit (e.g., a public housing unit, some other project-based Section 8 unit or a market unit

with a housing choice voucher) within a reasonable distance of the site of the Converting Project. HUD will evaluate whether this requirement applies on a case by case basis, considering whether the distance would impose a significant burden on residents' access to existing employment, transportation options, schooling or other critical services. Accommodating the resident may also be satisfied by the resident's consent to an alternative housing option pursuant to Section 6.10. The requirement set forth in this paragraph is in addition to all protections, including, for example, the offer of comparable replacement dwellings, which are required in all instances where a transfer of assistance is subject to the URA and/or Section 104(d).

*F) Voluntary permanent relocation*

A resident may elect to relinquish their right of return and consent to voluntary permanent relocation pursuant to an alternative housing option offered and accepted according to the procedures described in Section 6.10, which Section specifies protections to ensure the resident's decision is fully informed. By selecting voluntary permanent relocation, the resident is electing to receive RAD permanent relocation assistance and payments which are equivalent to the relocation payments and assistance required to be provided to a "displaced person" pursuant to the regulations implementing the URA.

## **6.5. Initiation of Negotiations (ION) Date**

Eligibility for URA relocation assistance is effective on the date of initiation of negotiations (ION) (49 C.F.R. § 24.2(a)(15)). For Converting Projects, the ION date is the effective date of the RCC. The ION date is also typically the date when PHAs can begin to issue RAD Notices of Relocation (except in the case of acquisitions when the PHA can issue a Notice of Intent to Acquire and RAD Notices of Relocation prior to the ION date). Any person who is in lawful occupancy on the ION date is presumed to be entitled to relocation payments and other assistance.

PHAs and Project Owners should note that prior to the ION date, a resident may be eligible as a displaced person for permanent relocation assistance and payments under the URA if HUD determines, after analyzing the facts, that the resident's move was a direct result of the project. However, resident moves taken contrary to specific instructions from the PHA or Project Owner (for example, contrary to instructions not to move if contained in a General Information Notice) are generally not eligible as a displaced person under the URA.

## **6.6. Resident Relocation Notification (Notices)**

PHAs and Project Owners are encouraged to communicate regularly with the residents regarding project plans and, if applicable, the resulting plans for relocation. When residents may be relocated for any time period (including, without limitation, a move in connection with a transfer of assistance), written notice must be provided to the resident heads of households, including the notices listed below as applicable.<sup>79</sup> PHAs and Project Owners are also encouraged to provide

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<sup>79</sup> The notices required under Sections 6.6(B) through 6.6(E) must be delivered in accordance with URA resident notification requirements, including the requirement that the notice be personally served or delivered by certified or registered first class mail return receipt requested. All notices must be delivered to each household (i.e., posting in

additional relocation notices and updates for the residents' benefit as appropriate for the specific situation.

To ensure that all residents understand their rights and responsibilities and the assistance available to them, consistent with URA requirements at 49 C.F.R. § 24.5 and civil rights requirements, PHAs and Project Owners must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services, such as interpreters and alternative format materials. Similarly, PHAs and Project Owners are required to take reasonable steps to ensure meaningful access for LEP persons in written and oral materials. Each notice shall indicate the name and telephone number of a person to contact with questions or for other needed help and shall include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable, pursuant to 24 C.F.R. §8.6(a)(2).

The purpose of these notifications is to ensure that residents are informed of their potential rights and, if they are to be relocated, of the relocation assistance available to them. Two initial notices launch this effort and provide critical information regarding residents' rights. The first, the RAD Information Notice, is to be provided at the very beginning of the RAD conversion planning process in order to ensure residents understand their rights, to provide basic program information and to facilitate residents' engagement with the PHA regarding project plans. The GIN, meanwhile, provides information specifically related to protections the URA provides to impacted residents. Subsequent notices provide more detailed information regarding relocation activities specific to the household, including tailored information regarding eligibility and timelines for relocation.

PHAs should note that a resident move undertaken as a direct result of the project may be eligible to receive relocation assistance and payments under the URA even though the PHA has not yet issued notices to them. Sample notices which may be used as-is or modified to fit the peculiarities of each situation are provided on the RAD website at [www.hud.gov/rad](http://www.hud.gov/rad).

#### *A) RAD Information Notice*

The RAD Information Notice is to be provided to residents at the very beginning of the RAD conversion planning process in order to convey general written information on potential project plans and residents' basic rights under RAD, and to facilitate residents' engagement with the PHA regarding the proposed RAD conversion. The PHA shall provide a RAD Information Notice to all residents of a Converting Project prior to the first of the two meetings with residents required by the RAD Notice, Section 1.8.2, and before submitting a RAD Application. This RAD Information Notice shall be provided without regard to whether the PHA anticipates any relocation of residents in connection with the RAD conversion. The RAD Information Notice must do the following:

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common areas is insufficient) and methods of delivery (e.g., certified mail, U.S. mail, or hand delivery) must be documented in the PHA's or Project Owner's files.

- Provide a general description of the conversion transaction (e.g., the Converting Project, whether the PHA anticipates any new construction or transfer of assistance, whether the PHA anticipates partnering with a developer or other entity to implement the transaction);
- Inform the resident that the early conceptual plans are likely to change as the PHA gathers more information, including, among other items, resident opinions, analysis of the capital needs of the property and financing options;
- Inform the resident that the household has a right to remain in the unit or, if any relocation is required, a right to return to an assisted unit in the Covered Project (which may be at the new site in the case of a transfer of assistance);
- Inform the resident that they will not be subject to any rescreening as a result of the conversion;
- Inform the resident that the household cannot be required to move permanently without the resident's consent, except in the case of a transfer of assistance when the resident may be required to move a reasonable distance, as determined by HUD, in order to follow the assisted unit;
- Inform the resident that if any relocation is involved in the transaction, the resident is entitled to relocation protections under the requirements of the RAD program and, in some circumstances, the requirements of the URA, which protections may include advance written notice of any move, advisory services, payment(s) and other assistance as applicable to the situation;
- Inform the resident that any resident-initiated move from the Converting Project could put any future relocation payment(s) and assistance at risk and instruct the resident not to move from the Converting Project; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

*B) General Information Notice (49 C.F.R. § 24.203(a))*

The purpose of the General Information Notice (GIN) is to provide information about URA protections to individuals who may be displaced as a result of federally-assisted projects involving acquisition, rehabilitation or demolition. A GIN provides a general description of the project, the activities planned, and the relocation assistance that may become available.

A GIN shall be provided to any person scheduled to be displaced *as soon as feasible* based on the facts of the situation. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, “as soon as feasible” may be simultaneous with issuance of the RAD Information Notice. For any RAD conversion involving acquisition, rehabilitation or demolition, “as soon as feasible” shall be no later than 30 days following the issuance of the CHAP. In instances where acquisition, rehabilitation or demolition is not anticipated at the time of the CHAP but project plans change to include such activities, pursuant to this Notice the PHA shall provide the GIN as soon as feasible following the change in project plans.

For RAD, the GIN must do at least the following:

- Inform the resident that he or she may be displaced for the project and generally describe the relocation payment(s) for which the resident may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced resident successfully relocate;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will not be required to move without 90 days advance written notice;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
- Inform the resident that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see 49 C.F.R. § 24.208(h) for additional information);
- Describe the resident's right to appeal the PHA's determination as to a resident's eligibility for URA assistance; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

Because of the potential confusion caused by evolving policy directions in the RAD program regarding delivery of the GIN, for actions taken prior to the issuance of this Notice, HUD will consider the facts and circumstances of each conversion, with emphasis on the underlying URA requirements, in monitoring and enforcing a PHA's compliance with this requirement.

*C) Notice of Intent to Acquire (49 C.F.R. § 24.203(d))*

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA).<sup>80</sup> The NOIA may be provided no earlier than 90 days prior to the PHA's reasonable estimate of the date of submission of a complete Financing Plan. While eligibility for URA relocation assistance is generally effective on the effective date of the RCC (the ION date), a prior issuance of a NOIA establishes a resident's eligibility for relocation assistance and payments on the date of issuance of the NOIA and prior to the ION date.

*D) RAD Notice of Relocation*

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide written notice of such relocation by means of a RAD Notice of Relocation. The RAD Notice of

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<sup>80</sup> Acquisition includes a new ownership entity's purchase of the Covered Project from the PHA, such as a purchase by a single purpose entity, an affiliate or a low-income housing tax credit ownership entity.



Relocation may not be issued until: 1) the effective date of the RCC (the ION date) if the conversion does not involve acquisition; or 2) the earlier of the issuance of the Notice of Intent to Acquire (see Section 6.6(C)) or the effective date of the RCC (the ION date) if the conversion involves acquisition. Prior to issuance of the RAD Notice of Relocation, PHAs and Project Owners should meet with each resident household to provide preliminary relocation advisory services and to determine their needs and preferences.<sup>81</sup>

A RAD Notice of Relocation is not required for residents who will not be relocated. As a best practice, PHAs or Project Owners should notify residents that they are not being relocated once that determination has been made if they were previously informed by the GIN and/or by other methods that relocation was a possibility.<sup>82</sup>

A RAD Notice of Relocation shall provide either: 1) 30-days' notice to residents who will be relocated for twelve months or less; or 2) 90-days' notice to residents who will be relocated for more than twelve months.<sup>83</sup> The RAD Notice of Relocation must conform to the following requirements:

- (1) The notice must state the anticipated duration of the resident's relocation.
- (2) The notice must specify which entity (the PHA or the Project Owner) is primarily responsible for management of the resident's relocation and for compliance with the relocation obligations during different periods of time (i.e., before vs. after Closing).
- (3) For residents who will be relocated for twelve months or less:
  - The PHA or Project Owner must provide this notice a minimum of 30 days prior to relocation.<sup>84</sup> PHAs or Project Owners may deem it appropriate to provide longer notice periods for persons who will be temporarily relocated

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<sup>81</sup> PHAs and Project Owners should note the URA relocation advisory services requirement for personal interviews. See Section 6.7 of this Notice. In sequencing the RAD Notice of Relocation, PHAs and Project Owners wishing to offer alternative housing options pursuant to Section 6.10 should also note the additional complexity in the timeline of notices. Pursuant to Section 6.10(D), the resident can consent to an alternative housing option only after issuance of the NOIA or the effective date of the RCC and 30 days after presentation of the alternative housing options. In some cases, for example, when the resident would not otherwise be relocated for over twelve months, the RAD Notice of Relocation must include both the information described in Section 6.6(D)(3) and the information in Section 6.6(D)(4). The PHA or Project Owner should consider discussing the alternative housing options prior to issuing the RAD Notice of Relocation so that the RAD Notice of Relocation can be tailored to the resident's situation.

<sup>82</sup> The RAD program does not require a "notice of non-displacement," which HUD relocation policy generally uses for this purpose.

<sup>83</sup> The 90-day notice is required for residents relocated for more than twelve months, whether or not they intend to return to the Covered Project and whether or not they are eligible for assistance and payments as a displaced person under URA. Recipients of the 90-day notice would include those residents who have voluntarily accepted a permanent relocation option as well as those residents who are relocated within the same building or complex of buildings.

<sup>84</sup> Note that residents may elect to move to the relocation housing before the 30 days have elapsed. However, a PHA may not require a resident to move prior to this time.

for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.

- The notice must explain that the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move (including, but not limited to, increased housing costs and moving costs).
- The notice must explain the reasonable terms and conditions under which the resident may exercise the right to return to lease and occupy a unit in the Covered Project.

(4) For residents who will be relocated for more than twelve months, including for residents who may wish to voluntarily accept a permanent relocation option:

- The PHA or Project Owner must provide this notice a minimum of 90 days prior to relocation of residents.<sup>85</sup>
- The notice must offer the choice to be temporarily relocated, thereby preserving the resident's right to return, or the choice to be voluntarily permanently relocated pursuant to the procedures set forth in Section 6.10, together with guidance that the resident has at least thirty (30) days to consider the choice.
- For residents who voluntarily elect to be permanently relocated, the 90-day notice period may only begin once the PHA or Project Owner has made available at least one comparable replacement dwelling consistent with 49 C.F.R. § 24.204(a).<sup>86</sup>
- The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
- The notice must comply with all requirements for a URA Notice of Relocation Eligibility as described in 49 C.F.R. § 24.203(b).

(5) The notice must inform the resident that the relocation will be completed consistent with fair housing and civil rights requirements, and it must provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

For short-term relocations, the RAD Notice of Relocation may also contain the information required in the Notice of Return to the Covered Project (see Section 6.6(F)).

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<sup>85</sup> Note that residents may elect to move to the relocation housing before the 90 days have elapsed. However, a PHA may not compel a resident to move prior to this time.

<sup>86</sup> PHAs should note that URA regulations also require, where possible, that three or more comparable replacement dwellings be made available before a resident is required to move from his or her unit.

*E) URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))*

After a resident has been temporarily relocated for one year, notwithstanding a prior issuance of a RAD Notice of Relocation, the PHA or Project Owner must provide an additional notice: the notice of relocation eligibility in accordance with URA requirements (“URA Notice of Relocation Eligibility”). The URA Notice of Relocation Eligibility is not required if the resident has already accepted permanent relocation assistance.<sup>87</sup>

The URA Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 C.F.R. part 24 and shall:

- Provide current information as to when it is anticipated that the resident will be able to return to the Covered Project.
- Give the resident the choice to remain temporarily relocated based upon the updated information or to accept permanent URA relocation assistance at that time instead of exercising the right to return at a later time.

If the resident chooses to accept permanent URA relocation assistance and this choice requires the resident to move out of their temporary relocation housing, the URA requires that the PHA or Project Owner make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a), which comparability analysis is in reference to the resident’s original unit. The URA further requires that the resident receive 90 days’ advance written notice of the earliest date they will be required to move pursuant to 49 C.F.R. § 24.203(c).

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<sup>87</sup> To illustrate, consider the following examples.

- Example 1: The household is expected to be relocated for 11 months. The resident would receive a RAD Notice of Relocation offering only temporary relocation. Construction delays result in the extension of the relocation such that, in fact, it exceeds 12 months. When the temporary relocation exceeds 12 months, the resident must receive a URA Notice of Relocation Eligibility offering a choice between continuation in temporary relocation status and permanent relocation.
- Example 2: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects temporary relocation, the URA Notice of Relocation Eligibility is required as an additional notice following twelve months in temporary relocation status.
- Example 3: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects permanent relocation, the URA Notice of Relocation Eligibility is not required.
- Example 4: The household can be accommodated with temporary relocation of 3 months, but has been offered and seeks to accept permanent relocation pursuant to an alternative housing option. This resident would receive a RAD Notice of Relocation under Section 6.6(D)(4) offering a choice between temporary relocation status (the default option) and permanent relocation (the alternative housing option), instead of the RAD Notice of Relocation under Section 6.6(D)(3) which would be expected absent a permanent relocation option. The URA Notice of Relocation Eligibility is not required in either case because a temporary relocation exceeding 12 months was never anticipated nor experienced.

#### *F) Notification of Return to the Covered Project*

With respect to all temporary relocations, the PHA or Project Owner must notify the resident in writing reasonably in advance of the resident's expected return to the Covered Project, informing the resident of:

- The entity (the PHA or the Project Owner) with primary responsibility for managing the resident's relocation;
- The address of the resident's assigned unit in the Covered Project and, if different from the resident's original unit, information regarding the size and amenities of the unit;
- The date of the resident's return to the Covered Project or, if the precise date is not available, a reasonable estimate of the date which shall be supplemented with reasonable additional notice providing the precise date;
- That the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the return relocation; and
- The resident's options and the implications of those options if the resident determines that he or she does not want to return to the Covered Project and wants to decline the right of return.<sup>88</sup>

Reasonable advance notice shall be 15% of the duration of the resident's temporary relocation or 90 days, whichever is less. For short-term relocations, the PHA or Project Owner may include this information within the RAD Notice of Relocation.

#### **6.7. Relocation Advisory Services**

Throughout the relocation planning process, the PHA and Project Owner should be in communication with the residents regarding the evolving plans for relocation. Notwithstanding this best practice, certain relocation advisory services, described below, are required by the URA.

The URA regulations require the PHA or Project Owner to carry out a relocation assistance advisory program that includes specific services determined to be appropriate to residential or nonresidential displacements. The specific advisory services to be provided, as determined to be appropriate, are outlined at 49 C.F.R. § 24.205(c). For residential displacement under the URA, a personal interview is required for each displaced resident household to determine the relocation needs and preferences of each resident to be displaced. The resident household shall be provided an explanation of the relocation payments and other assistance for which the resident may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. Advisory counseling must also inform residents of their fair housing rights and be carried out in

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<sup>88</sup> If the resident declines to return to the Covered Project upon completion of the period of temporary relocation, the resident shall be considered to have voluntarily moved out of the property, without the benefit of further relocation assistance. For example, a PHA or Project Owner may have rented a market-rate apartment as a temporary relocation resource for a six-month period. In such a situation, the resident may decline to return to the Covered Project and choose to remain in the market-rate apartment at the expiration of the six-month period, but shall not be eligible for any further relocation assistance and payments (including rent differential payments) under this Notice, the URA or Section 104(d), if applicable, in connection with the resident's decision to remain in the temporary housing and not return to the Covered Project.

a manner that satisfies the requirements of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063 (49 C.F.R. § 24.205(c)(1)).<sup>89</sup> Such advisory services under the URA may include counseling to ensure that residents affected by the project understand their rights and responsibilities and the assistance available to them (49 C.F.R. § 24.205(c)). In addition, the PHA or Project Owner should inform residents that if they believe they have experienced unlawful discrimination, they may contact HUD at 1-800-669-9777 (Voice) or 1-800-927-9275 (TDD) or at <http://www.hud.gov>.

## **6.8. Initiation of Relocation**

PHAs and Project Owners **may not initiate any involuntary physical relocation until both the RCC is in effect and the applicable RAD Notice of Relocation period has expired** (i.e., after either 30 or 90 days' notice as applicable depending on nature of the relocation, as described above). This prohibition applies to all types of RAD transactions, regardless of whether the RAD Notice of Relocation is provided after issuance of a NOIA (for conversions involving acquisition) or following the effective date of the RCC (for all other conversions). PHAs are advised to account for the required 30-day or 90-day written notice periods in their planning process, to ensure that notices which satisfy all applicable requirements are issued prior to taking any action to initiate relocation.

**Neither involuntary nor voluntary relocation for the project shall take place prior to the effective date of the RCC**, unless moves are authorized under Section 7, below ("Applicability of HCV and Public Housing Requirements") or unless HUD provides explicit approval which will only be provided in extraordinary circumstances. The PHA must wait until the RAD Notice of Relocation period has expired before it may initiate any involuntary relocation. However, a resident may request to move voluntarily, and the PHA may honor a resident's request to move, before the applicable 30-day or 90-day period has elapsed, provided that the PHA may not take any action to encourage or coerce a resident to make such a request. If a resident has elected an alternative housing option, PHAs are advised to ensure that any consent to voluntary permanent relocation does not expire prior to the date of the relocation, as described in Section 6.10.

HUD may use administrative data to identify and investigate projects where relocation may be occurring prior to RCC.

## **6.9. Records and Documentation; Resident Log**

HUD may request from the PHA or Project Owner written records and documentation in order to evidence the PHA's and/or Project Owner's compliance, as applicable, with this Notice and the URA.<sup>90</sup> HUD may request to review some or all of such records in the event of compliance

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<sup>89</sup> For example, under fair housing and civil rights laws, the PHA and Project Owner may be required to inform residents about and provide reasonable accommodations for individuals with disabilities, such as search assistance; take appropriate steps to ensure effective communication with individuals with disabilities, such as through the provision of auxiliary aids and services, such as interpreters and alternate format documents; provide advisory counseling services in accessible locations and in an accessible manner for individuals with disabilities; and take reasonable steps to ensure meaningful access for LEP persons. See Section 4 of this Notice for more information on these requirements.

<sup>90</sup> Chapter 6 of HUD Handbook 1378 includes guidance on URA recordkeeping requirements.

concerns, in the event a project is identified for additional review based on administrative data, in the event of audits for purposes of monitoring the RAD program as a whole, upon selection of a random sample of projects and/or at other times at HUD's sole discretion. The records shall include resident files for all households relocated in connection with RAD and a resident log as described in this Section.

As part of such written record, the PHA or Project Owner must maintain data sufficient to deliver to HUD a resident log of every household that resides at the Converting Project at the time of the first required resident meeting on the proposed conversion pursuant to Section 1.8 of the RAD Notice (the "First Resident Meeting") and of every household that moves into the Converting Project after the First Resident Meeting and before the conversion of assistance under RAD. If any relocation is required, the log shall track resident status through completion of rehabilitation and construction, including re-occupancy after relocation. The resident log must include, but need not be limited to, the following information:

- Name of head of household
- PHA's resident identification number and/or the last four digits of the head-of-household's Social Security Number
- The head of household's race and ethnicity as reported on the HUD Form 50058 or the HUD Form 50058 MTW (the "Form 50058"). For purposes of the resident log, all references to the Form 50058 shall be to the form most recently prepared at the time of the First Resident Meeting or, for residents who moved in after the First Resident Meeting, the form most prepared at the time of the resident's initial occupancy.
- A Yes/No indication if there is any household member reported as having a disability on the Form 50058.
- A Yes/No indication if there is any household member reported as under the age of 18 on the effective date of action of the Form 50058;
- The household's relevant unit address, unit size and household size at the following times:
  - The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
  - The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
  - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
  - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
  - Date of the RAD Information Notice

- Date of the GIN
- Date of the CHAP
- Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- Date of most recent consent to voluntary permanent relocation<sup>91</sup>
- Date of relocation away from the Converting Project or Covered Project
- Dates of any intermediate relocation moves
- Date of return to the Covered Project or to the household's post-closing permanent address.<sup>92</sup>
- The following information for each resident household, as applicable:
  - The type of move (e.g., the types identified in Section 6.4, above)
  - The form of any temporary relocation housing (e.g., hotel, assisted housing, market-rate housing)
  - The address and unit size of any temporary relocation housing
  - Whether alternative housing options were offered consistent with Section 6.10, below
  - Any material terms of any selected alternative housing options
  - The type and amount of any payments for
    - Moving expenses to residents and to third parties
    - Residents' out-of-pocket expenses
    - Rent differential payments or other payments for temporary or permanent rental assistance, together with the rent and utilities (if applicable) that were the basis for the calculations
    - Any other relocation-related compensation or assistance

## **6.10. Alternative Housing Options**

Under the RAD Notice, “involuntary permanent relocation” is prohibited and each resident must be able to exercise his or her right of return to the Covered Project. A PHA or Project Owner is permitted to offer a resident alternative housing options when a resident is considering his or her future housing plans, provided that at all times prior to the resident's decision, the PHA and Project Owner preserve the resident's ability to exercise his or her right of return to the Covered Project.

### *A) Requirements for Any Offer of Alternative Housing Options*

All residents who are similarly situated must be given the same offer of alternative housing options. If the PHA or Project Owner seeks to limit the number of households that accept the

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<sup>91</sup> The most recent consent must be within 180 days of the actual relocation date, as discussed in Section 6.10(D).

<sup>92</sup> In the case of voluntary permanent relocation, the date of “return” may be the same as the date of relocation away from the Converting Project.

offer of alternative housing options, the PHA or Project Owner shall determine a fair and reasonable method for selection among similarly situated residents.<sup>93</sup>

In connection with any offer and acceptance of alternative housing options, the PHA or Project Owner must ensure that the residents' decisions are: 1) fully informed; 2) voluntary; and 3) carefully documented. Any alternative housing option must include, at a minimum, all relocation assistance and payments required under this Notice, the URA and Section 104(d), as applicable, and may include other elements. Funds administered by HUD may not be used to pay any monetary elements not required under this Notice, the URA or Section 104(d).

Acceptance of an alternative housing option is considered voluntary permanent relocation and the accompanying RAD relocation assistance and payments for which the resident may be eligible must be administered in accordance with all requirements for an eligible displaced person under the URA and its implementing regulations and, where applicable, Section 104(d) and its implementing regulations.

PHAs may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA or Section 104(d). The PHA must provide a written notice of URA or Section 104(d) relocation assistance and payments for which the resident may be eligible so that the resident may make an informed housing choice. The resident must be provided at least thirty (30) days to consider the offer of voluntary permanent relocation and the resident's acceptance of the PHA's offer of voluntary permanent relocation must be in writing signed by the head of the household for that unit.

#### *B) Assisted Housing Options as Alternatives*

Alternative housing option packages may include a variety of housing options and PHAs and Project Owners shall take particular care to ensure program compliance with the regulations applicable to the alternative housing options. Examples of alternative housing options may include:

- Transfers to public housing
- Admission to other affordable housing properties subject to the program rules applicable to such properties
- Housing Choice Vouchers (HCVs) subject to standard HCV program administration requirements. PHAs must operate their HCV programs, including any HCVs offered as an alternative housing option, in accordance with their approved policies as documented in their Section 8 Administrative Plan and HUD regulations at 24 C.F.R. part 982. Any offer of an HCV as an alternative housing option must be made consistent with the

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<sup>93</sup> For example, if the RAD conversion is financed by LIHTC and a few residents would not meet LIHTC program requirements, the PHA and Project Owner may want to offer these household alternative voluntary permanent relocation options. However, they must offer the same alternative housing options to all such households. As a second example, if the PHA and Project Owner seek to create two on-site vacancies of a particular unit size in order to facilitate temporary relocation on-site, the PHA may offer an alternative housing option of a housing choice voucher to all residents of applicably sized units (assuming that to do so is consistent with the PHA's voucher administration policies), and conduct a lottery to select the two households which will receive the vouchers.



PHA's admission preferences and other applicable policies and procedures set forth in the Section 8 Administrative Plan.

- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner

*C) Monetary Elements Associated With Alternative Housing Options*

A PHA or a Project Owner may include a monetary element in an alternative housing option package, provided that:

- Any monetary element associated with the alternative housing option shall be completely distinct from and in addition to any required RAD, URA or Section 104(d) relocation payments and benefits for which the resident is eligible ("Required Relocation Payments").
- No funds administered by HUD may be used to pay for any monetary element associated with the alternative housing option other than Required Relocation Payments.
- Any monetary element associated with the alternative housing option other than Required Relocation Payments must be the same amount offered to all similarly situated households.<sup>94</sup>
- Any alternative housing option package must comply fully with the disclosure and agreement provisions of this Notice.

*D) Disclosure and Agreement to Alternative Housing Options*

In providing an offer of alternative housing options to a resident, the PHA or Project Owner must inform the resident in writing of: a) his or her right to return;<sup>95</sup> b) his or her right to comment on and/or object to plans which would preclude the resident from returning to the Covered Project; c) the requirement that if the resident objects to such plans, the PHA or Project Owner must alter the project plans to accommodate the resident in the Covered Project; and d) a description of both the housing option(s) and benefits associated with the right of return and the alternative housing options and benefits being offered. In the description of the available housing options and benefits, the PHA or Project Owner shall include a description of any temporary housing options associated exercising the right of return and a description of any permanent alternative housing options as well as a reasonable estimate of the financial implications of all temporary and permanent options on the resident long-term.

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<sup>94</sup> Monetary payments other than Required Relocation Payments are considered "temporary, nonrecurring or sporadic income" pursuant to 24 C.F.R. § 5.609(c)(9) and consequently are excluded from income for purposes of eligibility and assistance calculations under certain HUD programs. Residents should be reminded that monetary payments other than URA relocation payments may be taxable under the Internal Revenue Code, that monetary payments, including required relocation payments, may affect residents' eligibility for other assistance programs and that the resident should seek knowledgeable guidance on these matters, including guidance on the taxation of monetary payments under state law.

<sup>95</sup> In the case of a transfer of assistance to a new site a significant distance from the Converting Project as described in Section 6.4(E), the resident shall be informed of the resident's right to return to the Covered Project at the new site and of the resident's right to an assisted unit within a reasonable distance of the site of the Converting Project, as described in Section 6.4(E).

The written notification may request written consent from the resident to exercise the alternative housing option and receive permanent relocation assistance and payments pursuant to RAD, the URA and/or Section 104(d), as applicable, in addition to any benefits associated with the alternative housing option. As part of any voluntary consent, the resident head of household must acknowledge in writing that acceptance of such assistance terminates the resident's right to return to the Covered Project. In order to ensure that the resident has sufficient time to seek advice and consider the alternative housing options, any consent to an alternative housing option executed within 30 days of the written presentation of the options shall be invalid.

Any offer of alternative housing options must be made in writing and the acceptance of the alternative must be voluntary and in writing. The offer of an alternative housing option must contain the following elements:

- The resident is informed of his or her right to return to the Covered Project and that neither the PHA nor the Project Owner can compel the resident to relinquish his or her right to return. The offer of alternative housing options must clearly state that acceptance of any alternative would relinquish the resident's right to return to the Covered Project.
- The offer of an alternative housing option must be accompanied by identification of comparable housing units which the resident may use to understand the nature of housing options available to them and the rent and estimated utility costs associated with such housing options. This information must also be accompanied by a reasonable estimate of any replacement housing payment or "gap payment" for which the resident may be eligible.
- The offer of an alternative housing option must be accompanied by information regarding moving payments and assistance that would be available if the resident exercises the right of return and if the resident accepts the alternative housing option.
- Residents must be offered advisory assistance to consider their options.
- To be fully informed, the offer must outline the implications and benefits of each alternative housing option being made available (i.e., of accepting each alternative housing option as compared to exercising his or her right to return) as well as a reasonable estimate of when the resident's relocation might occur. Implications and benefits include payment amounts, differences in rent calculations, differences in program rules, housing location, and potential long-term implications such as household housing expenses multiple years in the future.
- To be fully voluntary, the resident must have at least thirty (30) days following delivery of the written offer to consider their options. LEP persons must be provided a written translation of the offer and oral interpretation of any meetings or counseling in the appropriate language. In addition, PHAs must comply with their obligation to ensure effective communication with persons with disabilities.
- The resident cannot be asked to make a decision which will be implemented at a distant future time. Consequently, the resident may not provide written consent to an alternative housing option (and consequently, consent to voluntary permanent relocation) until after

the earlier of issuance of the NOIA or the effective date of the RCC.<sup>96</sup> If a resident signs a written consent to accept an alternative housing option, that written consent is valid for 180 days. If relocation (after the applicable notice periods) has not occurred within this 180 day period, then the PHA or Project Owner must secure a new consent to accept an alternative housing option. New relocation notices are generally not required.

- The acceptance must be in writing signed by the resident head of household, including a certification of facts to document that the household is relinquishing its right to return and that the decision and the acceptance of the alternative housing option was fully informed and voluntary.
- Residents accepting alternative housing options to relinquish their right to return will be considered to have voluntarily and permanently relocated. Such residents are to be provided applicable RAD, URA and/or Section 104(d) relocation assistance and payments.

The information included with the offer of alternative housing options is to aid the resident in making decisions regarding the desirability of the alternative housing options and neither satisfies nor replaces the relocation notices and information required to be provided to residents pursuant to this Notice, the URA or Section 104(d).

While HUD does not require PHAs to submit documentation of alternative housing options offered to residents or the residents' elections, PHAs must keep auditable written records of such consultation and decisions. HUD may request this documentation at any time, including as part of a review of the Checklist or if relocation concerns arise.

### **6.11. Lump Sum Payments**

PHAs and Project Owners should note that certain relocation payments to displaced residential tenants may be subject to 42 USC § 3537c ("Prohibition of Lump-Sum Payments") and must be disbursed in installments. The PHA or Project Owner may determine the frequency of the disbursements which must be made in installments. Handbook 1378, Chapter 3-7(D) provides guidance on the manner and frequency of disbursing payments subject to this requirement.

Any monetary element beyond Required Relocation Payments which may be associated with an alternative housing option described in Section 6.10, above, is not relocation assistance and is therefore not subject to the requirements regarding lump sum payments.

## **SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS**

### **7.1. HCV Waiting List Administration Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may place themselves on the PHA's waiting list for HCVs independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs should continue to

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<sup>96</sup> The PHA and Project Owner should note that securing resident consent to an alternative housing option may delay the issuance of the RAD Notice of Relocation. The RAD Notice of Relocation must be specific to whether the resident will be temporarily or permanently relocated.

administer their HCV waiting list in accordance with their Section 8 Administrative Plans. Residents who rise to the top of the HCV waiting list independent of any preference for relocating RAD residents or other RAD provisions and accept an HCV are not considered to be relocated as a result of the RAD conversion. Standard administration of the PHA's HCV waiting list is not considered relocation.

## **7.2. HCV Waiting List Administration Related to the RAD Transaction**

From time to time, a PHA may wish to use HCV resources as a relocation option in connection with a RAD transaction. In order to do so, a PHA must modify its Section 8 Administrative Plan to provide a preference for relocating RAD residents and the PHA is subject to Section 6.8 of this Notice relating to initiation of relocation. Further, if a PHA provides a preference for relocating RAD residents, the PHA must be explicit regarding the nature of the HCV as a relocation resource. If the PHA anticipates using the HCV as a temporary relocation resource, the PHA must recognize that it cannot rescind an HCV once issued to the resident (i.e., the family would have to voluntarily relinquish their voucher and may choose to remain in the HCV program indefinitely). The PHA must also provide a preference for admission to the Covered Project in order to satisfy the right to return. Alternatively, if the PHA anticipates using the HCV as a voluntary permanent relocation resources, the PHA must comply with the alternative housing options provisions of Section 6.10.<sup>97</sup>

## **7.3. Public Housing Transfers Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may request a transfer to another public housing property independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs must continue to administer their admissions and occupancy procedures as adopted. Any prohibitions in this Notice on implementing relocation do not apply to residents requesting public housing transfers, moves pursuant to the Violence Against Women Act (VAWA)<sup>98</sup> or reasonable accommodation moves. Standard administration of the PHA's admissions and occupancy policy is not considered relocation.<sup>99</sup> Transfers not undertaken for the RAD project are not subject to URA. However, it is recommended that the PHA document the transfer carefully, including an acknowledgement by the resident that the transfer is not undertaken for the RAD project, is not

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<sup>97</sup> PHAs and Project Owners should note that while in most cases, there is no rent differential between the tenant paid rent in a public housing unit and in an HCV, there are some situations (such as flat rent households) where a difference does exist. Rental assistance payments under the URA are required if there is a difference between these two amounts.

<sup>98</sup> Title IV, section 40001-40703.

<sup>99</sup> Standard administration of the PHA's admissions and occupancy policy is permitted. However, HUD is sensitive to concerns that discussion of the planned RAD conversion and construction activities may cause residents to perceive a pressure to transfer without the counseling and moving assistance which would be available were the household to wait until relocation. If relocation at the Converting Project is planned, PHAs are strongly advised to document any such transfers carefully and to provide any households moving under standard admissions and occupancy policies with additional notices referencing the assistance and payments which would be available if the household were to remain in place until the relocation plan is implemented.

subject to URA requirements and that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA.

#### **7.4. Resident Initiated Public Housing Transfers Related to the RAD Transaction**

Pursuant to Section 1.8 of the RAD Notice, households in the Converting Project who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA. Such move shall be implemented as a transfer and shall be prioritized equivalent to a “demolition, disposition, revitalization or rehabilitation transfer” as described in Section 11.2 of the applicable Public Housing Occupancy Guidebook. Transfers for this purpose do not require any modification to the PHA’s admissions and occupancy policy and may occur at any time pursuant to the PHA’s admissions and occupancy policy. Transfers for this purpose, while initiated by the resident, are the result of the PHA-initiated RAD transaction and the PHA must bear the reasonable costs of transfer. The reasonable cost of the transfer includes not just the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid services such as telephone and cable television. The PHA must also document that the resident’s transfer request is fully informed and fully voluntary, which documentation must include an acknowledgement by the resident that the transfer is not undertaken at the request of the PHA or under pressure from the PHA, that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA and that the resident is withdrawing from participation in the RAD program and consequently losing rights, including the right to return, which accrue to residents participating in the RAD program. A public housing resident who voluntarily seeks a public housing transfer is generally not considered to be displaced under the URA or Section 104(d), where applicable.

#### **7.5. Public Housing as a Temporary Relocation Resource**

PHAs and Project Owners may wish to mitigate the relocation budget associated with the RAD conversion by using units within the PHA’s portfolio as relocation resources. In light of its mission to serve as many low-income households as possible, including its need to accommodate emergency transfers (such as moves pursuant to VAWA), the PHA should minimize the use of the public housing units not converting under RAD for temporary relocation of RAD impacted residents. HUD has a strong preference that the PHA use the units within the PHA’s Converting Projects as a temporary relocation resource prior to using units in the remainder of the PHA’s public housing portfolio. PHAs may elect not to lease units within the Converting Projects or, if necessary, the remainder of its portfolio, for this purpose only to the extent reasonably necessary to facilitate construction or rehabilitation.

Upon the effective date of the HAP contract (usually also the effective date of the RAD conversion), each resident of a Covered Project becomes a participant in the Section 8 program and is no longer part of the public housing program. A PHA may use public housing as a temporary relocation resource if approved by HUD, which approval shall depend on the proposed structure. PHAs wishing to use public housing units as a temporary relocation resource must consult with HUD’s Office of Public and Indian Housing (PIH) prior to the formal request for HUD approval. It is unlikely that HUD would approve a request to use public housing units

as a relocation resource for a period exceeding one year after the effective date of the HAP contract.

If HUD grants approval, HUD shall provide alternative requirements regarding PIH Information Center (PIC) documentation of the occupancy of these temporary relocation resources. PHAs must follow any guidance or instructions regarding treatment of the public housing units in HUD's data systems as may be provided from time to time.

PHAs and Project Owners should note that, absent written approval, if a resident seeks to occupy a public housing unit after the effective date of the HAP contract, the resident would need to be readmitted to public housing in a manner consistent with the waitlist and admissions policies and must exit the Section 8 program.

#### **7.6. Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction**

Public housing program requirements related to continued occupancy and termination, including rules on grievances and related hearings, remain in effect until the effective date of a new PBV or PBRA HAP contract. If a resident is evicted in accordance with applicable state and local law and the eviction is not undertaken for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA (49 C.F.R. § 24.206). If a resident voluntarily ends his or her participation in the public housing program, in the absence of evidence that the end of participation was induced by the PHA for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA.

#### **7.7. Right-Sizing**

Public housing, PBV and PBRA requirements mandate that, upon the availability of a unit which is appropriate for the household size, the PHA or Project Owner must transfer a household that is under- or over-housed into the unit appropriate to the household's size. However, accommodating all residents pursuant to the right of return has primacy over right-sizing requirements and may, in some cases, require temporarily over-housing households. In such circumstances, the PHA or Project Owner shall subsequently transfer the household to an appropriate size unit when available, as is required by the applicable program regulation. Such actions shall be governed by the applicable program regulation and shall not be considered relocation under this Notice.

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Lourdes Castro-Ramirez  
Principal Deputy Assistant Secretary for  
Public and Indian Housing

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Edward L. Golding  
Principal Deputy Assistant Secretary for  
Housing

**APPENDIX I: Applicable Legal Authorities**

**APPENDIX II: Recommended Relocation Plan Contents**

## **APPENDIX I: Applicable Legal Authorities**

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### **Part 1**

This Appendix to the Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. This Appendix is not exhaustive of applicable legal authorities, which authorities may also include other Federal statutes, regulations and Executive Orders, and civil rights provisions related to other programs (including funding programs) associated with the RAD transaction.

#### **Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended)**

The Fair Housing Act, 42 U.S.C. § 3601 et seq., and its implementing regulations, 24 C.F.R. part 100, prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, or familial status. The Fair Housing Act applies to for-sale and rental housing, whether the housing is privately or publicly funded, including housing supported by tax credits. Single family homes, condominiums, apartment buildings, time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and other types of housing are all covered by the Fair Housing Act.

Among its substantive provisions, the Fair Housing Act requires “covered multifamily dwellings,” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas are subject to the Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to the Act’s design and construction requirements.<sup>100</sup> In addition, the Fair Housing Act requires that housing providers make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas, and that housing providers permit reasonable modifications of existing premises for persons with disabilities.

The Fair Housing Act also requires HUD to administer HUD programs and activities in a manner that affirmatively furthers fair housing (42 U.S.C. § 3608(e)(5)). HUD’s affirmatively furthering fair housing (“AFFH”) rule in 24 C.F.R. §§ 5.150-5.180 will apply to PHAs (except for qualified PHAs) for the PHA’s fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5. The affirmatively furthering fair housing regulations will apply to qualified PHAs, for the PHA’s fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5.<sup>101</sup>

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<sup>100</sup> See 42 U.S.C. § 3604(f)(3)(c) and 24 C.F.R. § 100.205.

<sup>101</sup> For purposes of the AFFH rule, “[a]ffirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing under the AFFH rule means taking meaningful actions that, taken together, address



Additional detail and discussion of the interplay between the Fair Housing Act, Section 504, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

#### United States Housing Act of 1937 (1937 Act)

The United States Housing Act of 1937 (1937 Act) (42 U.S.C. § 1437c-1(d)(15)) requires PHAs to submit a 5-year plan and an Annual Plan. Pursuant to HUD regulations, the Annual Plan includes a certification by the PHA that the PHA will affirmatively further fair housing.

#### Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and HUD's implementing regulation (24 C.F.R. part 1) prohibit recipients of Federal financial assistance from discriminating, excluding from participation, or denying benefits to, any person on the basis of race, color, or national origin. In addition, Title VI regulations prohibit HUD recipients of Federal financial assistance from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin (24 C.F.R. § 1.4(b)(2)(i)). When determining the site or location of housing, recipients may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, or national origin (24 C.F.R. § 1.4(b)(3)). An applicant or recipient of HUD financial assistance also has an obligation to take reasonable action to remove or overcome the consequences of prior discriminatory practices regardless of whether the recipient engaged in discriminatory conduct (24 C.F.R. § 1.4(b)(6)).

Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English – i.e., individuals who have limited English proficiency (LEP). This includes oral and written communications during relocation and throughout a RAD transaction. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings. Otherwise, LEP persons may be denied participation in, and the benefit of, the recipients' program or activity. On January 22, 2007, HUD issued "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (LEP Guidance), available at: [http://www.lep.gov/guidance/HUD\\_guidance\\_Jan07.pdf](http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf).<sup>102</sup>

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significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws." 24 C.F.R. § 5.150. Meaningful actions means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity. See 24 C.F.R. § 5.152.

<sup>102</sup> See also Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, which requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to

## Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides: “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance.”<sup>103</sup>

Among other things, HUD’s regulations implementing Section 504 (in 24 C.F.R. part 8) prohibit recipients of Federal financial assistance, in determining the site or location of a facility receiving such assistance, from making site selections the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefits of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>104</sup> These prohibitions apply to both determining the site of permanent facilities and a site for relocation of residents.

Furthermore, HUD’s implementing regulations prohibit discrimination, the denial of benefits, or the exclusion of participation of individuals with disabilities from the programs or activities of recipients of federal financial assistance because a recipient’s facilities are inaccessible. Such recipients must provide qualified individuals with disabilities with program access, which may require modification of architectural features of facilities in RAD transactions for individuals with disabilities to have access to the program. Certain architectural specifications apply to facilities that are altered or newly constructed with HUD financial assistance, such as facilities where assistance is transferred and facilities used as temporary or permanent relocation sites for residents of a project undergoing a RAD conversion. If alterations are made to a housing facility, the alterations to dwelling units in the facility are required, to the maximum extent feasible (i.e., if doing so would not impose undue financial and administrative burdens on the operation of the project), to be made readily accessible to and usable by individuals with disabilities. If alterations taken to a development that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility (except when it requires removal of structural load-bearing members), or if the facility is newly constructed, then a minimum of 5% of the total dwelling units, or at least one unit in a development, whichever is greater, must be made accessible for persons with mobility impairments. An additional 2% of the units, but not less than one unit, in a development must be accessible for persons with hearing and vision impairments.

In addition, regulations implementing Section 504 require recipients to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Section 504 also includes effective communication requirements, such as

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their programs and activities for LEP persons. E.O. 13166 directs all Federal agencies, including HUD, to issue guidance to help recipients of Federal financial assistance in providing such meaningful access to their programs.

<sup>103</sup> 29 U.S.C. § 794. HUD’s Section 504 regulation that applies to recipients of Federal financial assistance, including PHAs and Project Owners, is located at 24 C.F.R. part 8.

<sup>104</sup> 24 C.F.R. § 8.4(b)(5).

providing interpreters and alternate format documents (e.g., Braille, large print, accessible electronic communications) for persons with disabilities.

Additional detail and discussion of the interplay between Section 504, the Fair Housing Act, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Titles II and III of the Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing developed or operated by state and local governments, which includes a PHA. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. For example, Title III applies to rental offices, sales offices, homeless shelters, hotels and motels, and commercial spaces associated with housing, such as daycare centers, social service offices, and sales and retail establishments. Titles II or III also will generally apply to community spaces and facilities, such as neighborhood networks, to computer centers (including the computers in the centers), and to transportation services and conveyances provided by PHAs and Project Owners.

Additional detail and discussion of the interplay between Titles II and III of the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Section 109

Section 109 of the Housing and Community Development Act of 1974 (HCDA of 1974), Title I, prohibits discrimination on the basis of race, color, national origin, disability, age, religion, and sex in Community Development Block Grant (CDBG) programs and activities. Section 109 applies to RAD projects that receive CDBG or other assistance under Title I of the HCDA of 1974.

In addition to its responsibility for enforcing other Federal statutes prohibiting discrimination in housing, HUD has a statutory obligation under Section 109 to ensure that individuals are not subjected to discrimination on the basis of race, color, national origin, disability, age, religion, or sex by recipients of CDBG funds. Section 109 charges HUD with enforcing the right of individuals to live in CDBG-funded housing and participate covered programs and activities free from such discrimination. However, this additional statutory authority only applies to programs authorized under Title I of the HCDA of 1974, such as CDBG and programs, such as Section 108 loan guarantees and the Historically Black Colleges and Universities program.

### Equal Access to HUD-assisted or HUD-insured Housing

HUD requires its housing programs to be open to all eligible individuals and families regardless of sexual orientation, gender identity or marital status. HUD recipients and subrecipients must comply with 24 C.F.R. § 5.105(a)(2) when determining eligibility for housing assisted with HUD

funds or subject to an FHA-insured mortgage, and when making such housing available. This includes making eligibility determinations and making housing available regardless of actual or perceived sexual orientation, gender identity, or marital status, and prohibiting inquiries about sexual orientation or gender identity for the purpose of making eligibility determinations or making housing available. Applicants are encouraged to become familiar with these requirements, HUD's definitions of sexual orientation and gender identity at 24 C.F.R. § 5.100, clarifications to HUD's definition of family at 24 C.F.R. § 5.403, and other regulatory changes made through HUD's Equal Access Rule, published in the Federal Register at 77 FR 5662 (Feb. 3, 2012).

### Section 3: Economic Opportunities for Low- and Very Low-income Persons.

Certain HUD programs require recipients of assistance to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. § 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 C.F.R. part 135. The regulations at 24 C.F.R. part 135 implementing Section 3 ensure, to the greatest extent feasible, that training, employment, contracting and other economic opportunities be directed to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons where proposed project is located. Recipients of funds covered by Section 3 must comply with 24 C.F.R. part 135, particularly subpart B-Economic Opportunities for Section 3 residents and Section 3 Business Concerns, and Subpart E-Reporting and Recordkeeping. HUD encourages recipients to search the national Section 3 Business Registry to find local businesses that prioritize hiring Section 3 residents.

### Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition.<sup>105</sup> The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

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<sup>105</sup> For additional guidance, see HUD Handbook 1378 Tenant Assistance, Relocation, and Real Property Acquisition), available at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation/policyandguidance/handbook1378](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378).

## Section 104(d) of the Housing and Community Development Act of 1974

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 USC § 5304(d), (Section 104(d)), is a Federal law that applies when a lower-income dwelling is demolished or converted (as conversion is defined in accordance with 24 C.F.R. § 42.305) to a use other than lower-income housing in connection with a Community Development Block Grant Program (CDBG) or HOME Investment Partnerships Program (HOME) funded activity. Under Section 104(d), a lower-income person is considered displaced and, therefore eligible for Section 104(d) relocation assistance if the person permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with a CDBG or HOME funded activity. The Section 104(d) one-for-one replacement housing requirements may apply with respect to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income dwelling units in connection with CDBG or HOME funded activity. Section 104(d) implementing regulations can be found at 24 C.F.R. part 42, Subpart C. Additional HUD policy and guidance for Section 104(d) is available in HUD Handbook 1378, Chapter 7.

## **Part 2 – Accessibility Requirements**

Federal accessibility requirements apply to all RAD projects – whether they include new construction, alterations, or existing facilities. Applicable laws include, but are not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, and Titles II or III of the Americans with Disabilities Act (ADA). A PHA or Project Owner must comply with each law that applies to its project and with the requirement that provides the most accessibility when two or more laws apply. All three laws include new construction requirements. Substantial alterations, additions, rehabilitation and existing facilities must be in compliance with applicable requirements of Section 504 and the ADA.<sup>106</sup> All three laws may also require reasonable accommodations or modifications.

### Accessibility Requirements for New Construction

The Fair Housing Act requires all “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas must meet the Fair Housing Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas must meet the Fair Housing Act’s design and construction requirements. The Fair Housing Act requires that all covered multifamily dwellings be designed and constructed so that public and common use areas are readily accessible to and usable by persons with disabilities; all doors are sufficiently wide to allow passage by persons using wheelchairs; all units contain accessible routes into and through the dwelling unit; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements are installed in bathroom walls to allow later installation

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<sup>106</sup>See 24 C.F.R. § 100.205 (Fair Housing Act) and 24 C.F.R. §§ 8.22 and 8.23 (Section 504). See also 28 C.F.R. § 35.151(b) and 28 C.F.R. part 36 (ADA Titles II and III regulations, respectively).

of grab bars; and kitchens and bathrooms are usable such that a person in a wheelchair can maneuver about the space.<sup>107</sup> These design and construction requirements apply whether the housing is privately or publicly funded, including housing supported by tax credits.<sup>108</sup>

New construction of a multifamily housing project containing five or more dwelling units is also subject to physical accessibility requirements under Section 504. Under Section 504, a “project” includes all residential and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application for Federal financial assistance, or are treated as a whole for processing purposes, whether or not they are located on a single site.<sup>109</sup> The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS).<sup>110</sup> HUD recipients may also use the 2010 ADA Standards for Accessible Design under title II of the ADA, except for certain specific identified provisions, as detailed in HUD’s Notice on “Instructions for use of alternative accessibility standard,” published in the Federal Register on May 23, 2014 (“Deeming Notice”). This option exists until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard. Refer to HUD’s Deeming Notice for more information.

Section 504 also requires that a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with mobility impairments. An additional 2% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with vision and hearing impairments.<sup>111</sup> HUD may prescribe a higher percentage or number of units upon request by any affected recipient or by any State or local government or agency based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data, or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without disabilities.<sup>112</sup>

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing programs, including housing developed or operated by state and local governments, which includes PHAs. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations, including rental offices, and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. All newly constructed or altered facilities, including facilities altered to

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<sup>107</sup> See 24 C.F.R. § 100.205.

<sup>108</sup> For more information about the design and construction provisions of the Fair Housing Act, see [www.fairhousingfirst.org](http://www.fairhousingfirst.org). See also the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013), available at: [www.hud.gov/offices/fheo/library/hudjointstatement.pdf](http://www.hud.gov/offices/fheo/library/hudjointstatement.pdf).

<sup>109</sup> See 24 C.F.R. § 8.3.

<sup>110</sup> The UFAS are available at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>). See also 24 C.F.R. § 8.32.

<sup>111</sup> See 24 C.F.R. § 8.22.

<sup>112</sup> See HUD regulation at 24 C.F.R. § 8.22(c).

comply with program access and readily achievable barrier removal obligations that exist under Titles II or III of the ADA, must comply with the U.S. Department of Justice's ADA architectural accessibility standards as described in the following U.S. Department of Justice Technical Assistance document ADA Requirements, Effective Date/Compliance Date (Feb. 2011), [http://www.ada.gov/revised\\_effective\\_dates-2010.htm](http://www.ada.gov/revised_effective_dates-2010.htm).

### Accessibility Requirements for Alterations

If a building was constructed for first occupancy after March 13, 1991, the building must be in compliance with, and all alterations must maintain the building's accessible features so that the building continues to meet, the Fair Housing Act's accessibility requirements. In addition, without regard to the date of construction for first occupancy, certain alterations may be required under the Fair Housing Act if requested by a resident as a reasonable accommodation or modification or otherwise required to remediate accessibility deficiencies in the design and construction of the building.

Under HUD's Section 504 regulation, alterations include any structural change in a facility or a change to its permanent fixtures or equipment. If alterations are undertaken to a project that has fifteen or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, this qualifies as "substantial alterations," in which the new construction provisions of 24 C.F.R. § 8.22 apply.<sup>113</sup>

When alterations are made that do not qualify as substantial alterations, alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities.<sup>114</sup> If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5% of the dwelling units in a housing project are readily accessible to and usable by individuals with mobility impairments, no additional elements of dwelling units or entire dwelling units are required to be accessible under this provision. However, alterations to meet ongoing accessibility needs are always required, for example, in response to a reasonable accommodation request. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.<sup>115</sup>

All altered facilities covered by Titles II or III of the ADA must be altered in accordance with the U.S. Department of Justice's 2010 ADA Standards for Accessible Design and applicable ADA

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<sup>113</sup> See 24 C.F.R. § 8.23(a). The sole exception is that load bearing structural members are not required to be removed or altered.

<sup>114</sup> HUD may require a higher number or percentage of accessible units pursuant to 24 C.F.R. § 8.22(c) and 24 C.F.R. § 8.23(b)(2).

<sup>115</sup> 24 C.F.R. § 8.23(b).



regulations, unless subject to certain safe harbors identified in the 2010 ADA revised regulations for Titles II and III, as applicable.<sup>116</sup>

HUD will consider on a case-by-case basis a PHA's request to undertake limited new construction on the site of a Covered Project undergoing rehabilitation to comply with accessibility requirements on the site.

#### Additional Accessibility Requirements for Both New Construction and Alterations

Accessible units must be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible under the same program.<sup>117</sup> This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

PHAs are encouraged to use universal design principles, visitability principles and active design guidelines in planning new construction or retrofit work, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA and the Fair Housing Act.

#### Program Accessibility Requirements

Under Section 504, recipients must operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Title II of the ADA also includes a program access requirement, while Title III of the ADA requires readily achievable barrier removal.<sup>118</sup> Further, Section 504, the Fair Housing Act, and the ADA require that reasonable accommodations/modifications be granted to address disability-related needs of individuals with disabilities.<sup>119</sup>

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<sup>116</sup> See <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>.

<sup>117</sup> See 24 C.F.R. §§ 8.26 and 8.27.

<sup>118</sup> See 28 C.F.R. § 35.150; 28 C.F.R. § 36.304.

<sup>119</sup> For more information on reasonable accommodations, see the HUD/DOJ Joint Statement on Reasonable Accommodations Under the Fair Housing Act at <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>. While this joint statement focuses on the Fair Housing Act, the principles discussed in the statement generally apply to requests for reasonable accommodation under Section 504, except, for purposes of Section 504, HUD recipients are required to provide and pay for structural modifications as a reasonable accommodation.



## **APPENDIX II: Recommended Relocation Plan Contents**

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While RAD mandates written relocation plans only for projects which involve permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year, HUD strongly encourages PHAs to document their relocation planning process and procedures in a written relocation plan. The following provides suggested content for required and recommended relocation plans. In the case of any discrepancy between this description of the recommended relocation plan contents and the provisions of the Notice to which this Appendix is attached or any applicable laws or regulations with respect to the URA or Section 104(d), the provisions of the Notice or applicable laws and regulations shall govern.

The basic elements of the relocation plan include:

- A general description of the project and project elements that may create relocation needs;
- Information on residents of the project and eligibility for relocation assistance and payments;
- Information regarding how the project will address the RAD right to return requirements and the project's re-occupancy policies;
- A detailed discussion of plans for temporary relocation assistance;
- A detailed discussion of any transfer of assistance;
- A detailed discussion of any offers of alternative housing options and plans for voluntary permanent relocation assistance;
- A detailed discussion of compliance with fair housing and civil rights requirements, including accessibility requirements;
- The relocation budget; and
- The appeals process.

The plan as a whole should discuss the specific steps to be taken to minimize the adverse impacts of relocation on the residents.

### **I. Project Summary**

The Relocation Plan should provide a general description of the property (e.g., year built, location, number of units, configuration, resident population served). The project summary should also identify the nature of the activities to be undertaken, including acquisition, demolition, rehabilitation, and construction activities and additional detail regarding the project scope (e.g., gut rehab, systems replacement, modest in-unit renovations, transfer of assistance). The project summary should also discuss how any construction activities are to be implemented (i.e., vacate the property entirely, vacate specific floors or buildings, rehabilitation with residents in place). The summary should also discuss the overall theory of relocation, for example, whether a few households will be relocated off-site and the vacant units will be used as temporary housing before other households move back to their original units (a "hoteling" approach), or whether the vacant units will be permanently occupied, with the residents vacating other units to be renovated (a "domino" approach).

The relocation plan should also identify the funding sources which may trigger relocation requirements, with particular attention to the potential presence of HOME or CDBG funds which may trigger Section 104(d) requirements.

## **II. Project Occupancy**

The Relocation Plan should provide information on occupancy of the property including the number of residents, their household type (family, elderly), any non-residential (commercial) occupants, and should identify how any routine needs (such as continuation of utilities such as telephone service) and civil rights compliance issues (for example, limited English proficiency, disabilities, reasonable accommodations and unit modifications that have been or may be necessary) shall be identified and addressed. The Relocation Plan may specify the community meetings, interviews and/or other processes that will be undertaken to assess the residents' needs.

The Relocation Plan should also address eligibility for relocation assistance and payments, applying the rules of the Notice to the particularities of the project.

## **III. Resident Return and Re-occupancy Policies**

The Plan should address how the project will honor the RAD right to return requirements and the “no re-screening upon conversion” policy. With respect to residents who will be temporarily relocated, the Plan should include the methodology that will be used to determine the sequence in which residents will re-occupy units at the project after rehabilitation, demolition, and/or construction is completed, and to determine how residents are matched with units if the residents are not able to return to their original unit. For example, if units will come online in stages, the plan should outline how the PHA or Project Owner will determine when each resident will return to the property.

## **IV. Temporary Relocation Assistance**

The plan should detail the temporary housing resources to be used, the anticipated duration of temporary relocations, notices to be provided and the temporary relocation assistance the PHA or Project Owner will provide for residents (Paragraph 2-7 of HUD Handbook 1378). Topics to be addressed in the Plan include:

- Temporary Housing Resources. The Plan should identify the nature and availability of the temporary housing resources the PHA or Project Owner anticipates using. On-site resources are generally preferred. However, in some cases, PHAs or Project Owners may need to use hotel rooms for short-term relocations, or market-rate apartments. If the PHA or Project Owner anticipates using other assisted housing resources (such as HCVs, public housing or other properties with regulatory restrictions), the PHA or Project Owner should take particular care to address regulatory issues.
- Allocation of Temporary Relocation Resources. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- Duration of Temporary Relocation. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those

residents (such as the issuance of a *Notice of Relocation* to the resident covering eligibility for URA relocation assistance, the offer of permanent relocation assistance and payments at URA levels and, if conditions warrant, the subsequent issuance of a *Notice of Eligibility*) as distinct from requirements that apply to residents who are not relocated for more than one year.

- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses. The PHA or Project Owner can choose to do one or more of the following:
    - Undertake the moves itself, using employees of the PHA or Project Owner or “force account labor”<sup>120</sup>
    - Use a contractor or moving company
    - Reimburse residents for all actual, reasonable and necessary moving expenses.
- Storage. The Plan should address whether storage of the resident’s personal property is necessary and the arrangements for such storage.
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Out-of-Pocket Expenses. The nature of out of pocket expenses vary based on the nature of the temporary relocation moves. For example, hotel stays or in-place renovation may trigger the need for reimbursement of meals while a kitchen is unavailable. The Plan should outline the anticipated out-of-pocket expenses and the PHA’s or Project Owner’s plans and budget with respect to these expenses.
- Leasing Arrangements. The Plan should address whether the resident will have a direct lease or other contractual relationship with the owner of the temporary relocation resource or whether the PHA or Project Owner will hold the lease and the resident will maintain a contractual relationship with the PHA or Project Owner.
- Utility Costs. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

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<sup>120</sup> Defined at 24 C.F.R. 905.108.

- Reasonable Accommodations. The plan should address whether residents with disabilities will require reasonable accommodations during temporary relocation and, if so, how the PHA or Project Owner anticipates ensuring the provision of reasonable accommodations and any associated expenses. Reasonable accommodations may include, among other items, the provision of transportation assistance, relocation to locations which are physically accessible and located near public transportation, and modifications to policies to allow individuals with disabilities to reside with a live-in aide.

## **V. Transfer of Assistance**

Relocation planning in the context of transfer of assistance is particularly complex. The PHA should address how RAD, URA and Section 104(d) requirements each apply, as the same activity may be treated differently under each regulatory framework. The Plan should specifically outline the PHA's procedures to ensure that the applicable requirements are applied to each situation appropriately. The Plan should also address whether relocation is required for any businesses or residents at the destination site. Finally, the Plan should address whether two moves – from the public housing site to an intermediate site and then to the transfer of assistance site – are necessary while the Covered Project is being constructed or rehabilitated.

## **VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance**

If the PHA or Project Owner seeks to offer alternative housing options, the Plan should identify those options and the manner in which they are presented to residents for decision. The plan should also outline the counseling the PHA or Project Owner will provide to assist the residents in determining what options may be available and the financial implications of those options, for example,

1. Discussion of whether units available in the market (either in the affordable market or the unrestricted market) will meet the financial and dwelling requirements of relocated residents;
2. The general area or location of unit(s);
3. Where applicable, the accessibility of such units for individuals with disabilities;
4. Criteria for receiving relocation assistance; and
5. Any other information that might benefit residents in their consideration of housing choices.

The Plan should identify how the PHA or Project Owner will work with any residents who have elected voluntary permanent relocation. The Plan should further include a description of the permanent relocation assistance the PHA or Project Owner will provide to such residents. Topics to be addressed in the Plan include:

- Replacement Housing. The Plan should address the availability of comparable replacement housing, the notices to be provided and the provisions to ensure that appropriate accessibility features are available in compliance with applicable laws and regulations.

- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses consistent with 49 C.F.R. § 24.301 or, at the resident's option, 49 C.F.R. § 24.302.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage. See 49 C.F.R. § 24.301(g)(4).
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Dislocation Allowance. The Plan should address when the resident is entitled to a dislocation allowance and the amount of such dislocation allowance, consistent with the URA Fixed Residential Moving Cost Schedule available at: [www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm).
- Appliances. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Security Deposits and Utility Costs. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d).<sup>121</sup>

## **VII. Relocation Budget**

Based on the results of the planning process, the PHA or Project Owner should create a relocation budget that includes the following six components:

- 1) The cost of administering the plan and providing assistance and counseling.
- 2) Reasonable moving expenses for a person with disabilities, which may include the cost of moving assistive equipment that is the personal property of the residents, the furnishings and personal belonging of a live-in aide, and/or other reasonable accommodations (HUD Handbook 1378, Paragraph 3-2).
- 3) The cost of the physical move of the residents' belongings. (It is suggested that the move costs be broken down by average cost per move type multiplied by the number of moves.) This physical move cost total should be based on the move scenarios anticipated or projected by the resident survey. The move costs should consider:

For temporary relocation moves:

- Number and cost of two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
- Number and cost of two-way moves to a unit not in the same building/complex

For permanent moves:

- Number and cost of one-time moves into another unit in the same building/complex.
  - Number and cost of one permanent move to a unit not within the same building/complex
  - Any required dislocation allowance
- 4) The estimated cost of projected increases in monthly housing costs and other expenses for temporary relocation (if applicable).
  - 5) The estimated cost of projected replacement housing payments (RHP) (42-month period for URA or 60-month period if Section 104(d) applies).
  - 6) Contingency costs estimated for carrying out the relocation process necessary to complete the proposed project.

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<sup>121</sup> See also, CPD Notice 2014-09 "Effective Date of Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) Changes to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) Payment Limits and Replacement Housing Payment Eligibility Criteria."

### **VIII. Written and Oral Communications with Individuals with Disabilities and LEP Persons and Use of Accessible Meeting Locations**

The Plan should identify how the PHA or Project Owner will take appropriate steps to ensure effective communication with residents and other individuals with disabilities involved in the relocation, such as through the provision of sign language and other interpreters and large print, Braille, accessible electronic, and other alternate format written communications. The Plan should identify the measures to be taken to ensure the most integrated meeting settings appropriate to individuals with disabilities. The Plan should identify how the PHA or Project Owner will ensure meaningful access for LEP persons, such as through written materials and oral communications provided in languages other than English.

### **IX. Appeal Process**

The Plan should specify the procedures to be followed if a resident disagrees with the PHA's or Project Owner's decision as to the resident's eligibility to receive relocation assistance, the amount of a relocation payment, or the adequacy of a comparable replacement dwelling offered to a resident. These procedures should include the process for filing a written appeal to the displacing agency and the specific appeal procedures to be followed consistent with 49 C.F.R. 24.10 (and 24 C.F.R. § 42.390 if Section 104(d) is involved).

### **X. Certification**

The Plan should contain a certification of compliance with this Notice (or H 2014-09/PIH 2014-17, if applicable), the URA, fair housing and civil rights requirements and, if applicable, Section 104(d).

### **Technical Assistance**

For detailed technical assistance regarding the contents or provisions of a written relocation plan, the PHA or Project Owner should direct questions to their RAD Transaction Manager or email [rad@hud.gov](mailto:rad@hud.gov).

## CERTIFICATIONS OF COMPLIANCE

### U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF PUBLIC AND INDIAN HOUSING

#### Certifications of Compliance with Regulations: Board Resolution to Accompany the Annual Moving to Work Plan

Acting on behalf of the Board of Commissioners of the Moving to Work Public Housing Agency (MTW PHA) listed below, as its Chair or other authorized MTW PHA official if there is no Board of Commissioners, I approve the submission of the Annual Moving to Work Plan for the MTW PHA Plan Year beginning (04/01/2021), hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

- (1) The MTW PHA published a notice that a hearing would be held, that the Plan and all information relevant to the public hearing was available for public inspection for at least 30 days, that there were no less than 15 days between the public hearing and the approval of the Plan by the Board of Commissioners, and that the MTW PHA conducted a public hearing to discuss the Plan and invited public comment.
- (2) The MTW PHA took into consideration public and resident comments (including those of its Resident Advisory Board or Boards) before approval of the Plan by the Board of Commissioners or Board of Directors in order to incorporate any public comments into the Annual MTW Plan.
- (3) The MTW PHA certifies that the Board of Directors has reviewed and approved the budget for the Capital Fund Program grants contained in the Capital Fund Program Annual Statement/Performance and Evaluation Report, form HUD-50075.1 (or successor form as required by HUD).
- (4) The MTW PHA will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
- (5) The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
- (6) The Plan contains a certification by the appropriate state or local officials that the Plan is consistent with the applicable Consolidated Plan.
- (7) The MTW PHA will affirmatively further fair housing by fulfilling the requirements set out in HUD regulations found at Title 24 of the Code of Federal Regulations, including regulations in place at the time of this certification, and any subsequently promulgated regulations governing the obligation to affirmatively further fair housing. The MTW PHA is always responsible for understanding and implementing the requirements of HUD regulations and policies, and has a continuing obligation to affirmatively further fair housing in compliance with the 1968 Fair Housing Act, the Housing and Community Development Act of 1974, The Cranston-Gonzalez National Affordable Housing Act, and the Quality Housing and Work Responsibility Act of 1998. (42 U.S.C. 3608, 5304(b)(2), 5306(d)(7)(B), 12705(b)(15), and 1437C-1(d)(16)). The MTW PHA will affirmatively further fair housing by fulfilling the requirements at 24 CFR 903.7(o) and 24 CFR 903.15, which means that it will take meaningful actions to further the goals identified in its Analysis of Impediments to Fair Housing Choice(AI),Assessment of Fair Housing (AFH), and/or other fair housing planning documents conducted in accordance with the requirements of 24 CFR Part 5, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o), and will address impediments to fair housing choice identified in its AI, AFH, and/or other fair housing planning documents associated with any applicable Consolidated or Annual Action Plan under 24 CFR Part 91.
- (8) The MTW PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975 and HUD's implementing regulations at 24 C.F.R. Part 146.
- (9) In accordance with 24 CFR 5.105(a)(2), HUD's Equal Access Rule, the MTW PHA will not make a determination of eligibility for housing based on sexual orientation, gender identity, or marital status.
- (10) The MTW PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
- (11) The MTW PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 75.

form **HUD 50900: Certifications of Compliance (3/2021)**



- (12) The MTW PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F.
- (13) The MTW PHA will comply with requirements with regard to compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms if required by this Part, and with restrictions on payments to influence Federal Transactions, in accordance with the Byrd Amendment and implementing regulations at 49 CFR Part 24.
- (14) The MTW PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
- (15) The MTW PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
- (16) The MTW PHA will provide HUD or the responsible entity any documentation needed to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58. Regardless of who acts as the responsible entity, the MTW PHA will maintain documentation that verifies compliance with environmental requirements pursuant to 24 Part 58 and 24 CFR Part 50 and will make this documentation available to HUD upon its request.
- (17) With respect to public housing and applicable local, non-traditional development the MTW PHA will comply with Davis-Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
- (18) The MTW PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
- (19) The MTW PHA will comply with the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35.
- (20) The MTW PHA will comply with the policies, guidelines, and requirements of 2 CFR Part 225 (Cost Principles for State, Local and Indian Tribal Governments) and 2 CFR Part 200.
- (21) The MTW PHA must fulfill its responsibilities to comply with and ensure enforcement of Housing Quality Standards, as defined in 24 CFR Part 982 or as approved by HUD, for any Housing Choice Voucher units under administration.
- (22) The MTW PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the Moving to Work Agreement and Statement of Authorizations and included in its Plan.
- (23) All attachments to the Plan have been and will continue to be available at all times and all locations that the Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the MTW PHA in its Plan and will continue to be made available at least at the primary business office of the MTW PHA.

**PHILADELPHIA HOUSING AUTHORITY****MTW PHA NAME****PA002****MTW PHA NUMBER/HA CODE**

*I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct.*

**WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).**

Lynette Brown-Sow

Chairperson

**NAME OF AUTHORIZED OFFICIAL****TITLE**


12/16/2021

**SIGNATURE****DATE**

**\* Must be signed by either the Chair or Secretary of the Board of the MTW PHA's legislative body. This certification cannot be signed by an employee unless authorized by the MTW PHA Board to do so. If this document is not signed by the Chair or Secretary, documentation such as the by-laws or authorizing board resolution must accompany this certification.**

# NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD PHILADELPHIA HOUSING AUTHORITY

The Philadelphia Housing Authority (PHA) is requesting public comments and conducting a public hearing on the proposed Moving to Work Annual Plan for Fiscal Year 2023 (Annual Plan), which includes a Rental Assistance Demonstration (RAD) Program Significant Amendment, and a proposed Amendment to the Annual Plan for Fiscal Year 2022. PHA is a participant in the Moving to Work (MTW) Program pursuant to an MTW Agreement between PHA and the US Department of Housing and Urban Development (HUD). The Annual Plan for Fiscal Year 2023 describes PHA's MTW proposed policy initiatives and activities for the period April 1, 2022 to March 31, 2023. The Amendment to PHA's HUD approved Annual Plan for Fiscal Year 2022 incorporates a RAD Significant Amendment. PHA is also requesting public comments and conducting a public hearing on proposed changes to the Public Housing Admissions and Continued Occupancy Policy, and the Housing Choice Voucher Administrative Plan. These documents are available for public review on PHA's website at [www.pha.phila.gov](http://www.pha.phila.gov) under the "Latest News" section. Copies are also available at the Philadelphia Housing Authority headquarters at 2013 Ridge Avenue, Philadelphia, PA 19121 during normal business hours.

PHA residents, Housing Choice Voucher participants and the public may provide oral comments by attending the virtual public hearing described below and/or by submitting written comments during the comment period. A public hearing will be conducted at the following time and location:

**Monday, November 15, 2021 at 3:00 PM**

## **Join by web by link:**

<https://pha.webex.com/pha/j.php?MTID=m582c0f8e1d78c49d2505fd3230c5054b>

Join by web manually via WebEx:

Meeting number: 2330 499 8038/Password: 733730

## **Call in:**

1-415-655-0001 - Access code: 2320 499 8038

The public comment period begins on November 2, 2021 at 12 noon and ends on December 2, 2021 at 12 noon. Comments must be received by the end of the comment period.

Please send written comments to:

The Philadelphia Housing Authority  
Attention: Jennifer Ragen – Public Comments  
Office of the General Counsel  
2013 Ridge Avenue, Philadelphia, PA 19121  
or  
[Jennifer.Ragen@pha.phila.gov](mailto:Jennifer.Ragen@pha.phila.gov)

The public hearing is being held virtually. If you require assistance, a sign language interpreter or other accommodations, email [Tiffany.Pinkney@pha.phila.gov](mailto:Tiffany.Pinkney@pha.phila.gov). Please use the AT&T Relay Service for TTY.



*Moving to Work Annual Plan Fiscal Year 2022*

OPENING DOORS TO OPPORTUNITIES

**RESOLUTION NO. 12183**

**RESOLUTION AUTHORIZING THE PHILADELPHIA HOUSING AUTHORITY TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ITS MOVING TO WORK ("MTW") ANNUAL PLAN FOR FISCAL YEAR 2023, WHICH INCLUDES RENTAL ASSISTANCE DEMONSTRATION PROGRAM SIGNIFICANT AMENDMENTS, AND A SIGNIFICANT AMENDMENT TO THE FISCAL YEAR 2022 MTW PLAN**

**WHEREAS**, the U.S. Department of Housing and Urban Development ("HUD") administers a Moving to Work ("MTW") Demonstration Program that is designed to provide the opportunity for selected housing authorities to explore and demonstrate more efficient ways to provide and administer low-income housing; and

**WHEREAS**, pursuant to the Philadelphia Housing Authority ("PHA") Board of Commissioners Resolution No. 10618, dated December 21, 2000, PHA submitted to HUD an MTW Application Plan and Agreement; and

**WHEREAS**, since 2001, when HUD accepted PHA's application for participation in the MTW Demonstration Program and HUD and PHA subsequently executed a MTW Demonstration Agreement ("MTW Agreement"), PHA has continuously participated in the MTW Demonstration Program, with its current agreement extending to 2028; and

**WHEREAS**, as a participant in the MTW Demonstration Program, PHA is required to develop an MTW Annual Plan for each fiscal year during the term of the MTW Agreement, which outlines the PHA budget and MTW activities, and to submit the Annual Plan for approval by its Board at least seventy-five (75) days prior to the beginning of each fiscal year ("FY"), with FY 2023 beginning on April 1, 2022; and

**WHEREAS**, PHA has distributed to the Board both a Significant Amendment to the MTW Annual Plan for FY 2022, which is for conversion of one hundred eighty-eight (188) low-rise units at Harrison Plaza, and PHA's MTW Annual Plan for FY 2023 ("Plan"), a summary of which is attached hereto as Attachment "A," which includes: 1) Rental Assistance Demonstration Program Significant Amendments for two (2) developments, 2) amendment of a formerly approved Significant Amendment, and 3) a consolidated budget in accordance with the current MTW Agreement, as PHA is a block grant agency; and

**WHEREAS**, PHA has fulfilled the HUD requirement of providing opportunities for resident and public participation and comment on the FY 2023 Plan and the FY 2022 amendment, including scheduling at least one (1) public hearing and taking into consideration any comments received, by: 1) holding an introductory meeting with resident leadership and interested PHA residents on November 10, 2021; 2) holding a Public Hearing on November 15, 2021; 3) posting the draft Plan and amendment on PHA's website; 4) making copies of the draft Plan and amendment available at PHA's Headquarters; and 5) accepting and considering public comments over a period extending from November 2, 2021 to December 2, 2021;

**BE IT RESOLVED** that the Board of Commissioners hereby approves the MTW Annual Plan for FY 2023, including the Rental Assistance Demonstration Significant Amendments incorporated therein, and a Significant Amendment to the FY 2022 MTW Plan, in substantially the form distributed to the Board, and authorizes PHA's Chair and/or President & CEO or their authorized designee(s) to: 1) submit to HUD the FY 2023 Annual MTW Plan and the FY 2022 MTW Plan Amendment; 2) take all steps necessary to finalize and secure HUD approval and implement initiatives described in the Plan and Amendment, subject to receipt of adequate funding from HUD; 3) certify that the Public Hearing requirement has been met; and 4) execute the HUD Certifications of Compliance with MTW Plan Requirements and Related Regulations, in substantially the form attached hereto as Attachment "B."

I hereby certify that this was

APPROVED BY THE BOARD ON

12/16/2021

ATTORNEY FOR PHA

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