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This document provides answers to frequently asked questions regarding the repositioning of public housing utilizing a blend of Renal Assistance Demonstration (RAD) program authority, and Section 18 disposition authority provided through Section 3.A.3.c of [PIH Notice 2018-04 \(HA\)](#). Specifically, Section 3.A.3.c of the notice states:

“Comprehensive Rehabilitation or Replacement through Rental Assistance Demonstration (RAD). The PHA is converting at least 75 percent of the public housing units within a project (as project is defined by RAD) under RAD and meets the requirements of the RAD Final Implementation Notice REV-3, H-2017-3, and is replacing the units proposed for disposition (up to 25 percent of the public housing units within a project) with Section 8 project-based voucher (PBV) assistance in accordance with 24 CFR part 983. The aggregate number of replacement units (RAD and PBVs) must meet the RAD “substantial conversion of assistance” requirements. To qualify, the project-based Section 8 units (RAD and PBV) must be newly constructed or substantially rehabilitated (defined for purposes of this clause as hard construction costs, including general requirements, overhead and profit, and payment and performance bonds, in excess of 60% of the Housing Construction Costs as published by HUD for a given market area) without using 9% Low Income Housing Tax Credits.”

Please visit https://www.hud.gov/program_offices/public_indian_housing/repositioning for additional related guidance, such as guidance regarding the use of [Tenant Protection Vouchers](#), and use of [Section 18 Proceeds](#). Please contact your local PIH Field Office or email Repositioning@hud.gov if you have additional questions.

1. Question: What are the eligibility criteria for the RAD/Section 18 Blend provision¹?

The threshold criteria as follows:

- All units prosed for removal via Section 18 and RAD must comprise a project, as defined in the [RAD Notice \(PIH Notice 2019-23/H Notice 2019-09\)](#) and which equates to a single transaction or phase.
- Units must be either newly constructed or substantially rehabilitated without the use of 9% Low Income Housing Tax Credit (LIHTC).
- “Substantially rehabilitated” is defined as hard construction costs, including general requirements, overhead and profit, and payment and performance bonds, in excess of 60% of Housing Construction Costs as published by HUD for a given market area. (See Question 3 below.)
- Units must be replaced with project-based units. The aggregate number of “hard” units (RAD and PBVs), replacement units, must meet the RAD “substantial conversion of assistance” requirements (see below for more detail).

¹ The current RAD Notice is PIH Notice 2019-23/H Notice 2019-09. PHAs must meet the requirements of the current RAD Notice to be eligible for this blend.

If these criteria are met, HUD will approve the disposition of 25% of the project units under Section 18.

2. Question: How is the “project” defined for purposes of determining how many units are eligible for Section 18 disposition under this provision?

For purposes of calculating the number of eligible units that may be approved under Section 18, we consider the “converting project,” prior to consideration of the RAD/Section 18 blend, reflecting the public housing ACC units that would be removed from PIC through RAD. For example, assume that a PHA has 100 ACC units in a garden-style apartment complex and a CHAP for 99 units with one unit in the converting project being a manager’s units that will be excluded from the Housing Assistance Payment (HAP) Contract through RAD’s de minimis allowance. The denominator would then be 100 units, allowing 25 units to qualify for Section 18 (25% of 100). However, if on a 100 unit property only 60 units are converting under RAD because the PHA had separately secured Section 18 approval for 40 units (e.g., they met the obsolescence test) or if 40 of the units were not public housing ACC units (e.g., they are unassisted units in an existing public housing mixed-finance development), only 15 units would be eligible for Section 18 under the RAD/Section 18 blend (25% of 60).

Because of the many possible variations in project characteristics, HUD reserves the right to determine eligibility. Please check with your Transaction Manager.

3. Question: How is “substantial rehabilitation” defined and what can be included in the RAD scope of work to measure against Housing Construction Costs?

Substantial rehabilitation is defined in the RAD Notice as a RAD scope of work where the hard construction costs, including general requirements, overhead and profit, and payment and performance bonds, exceed 60% of the “Housing Construction Costs.” The scope of work is not limited by criteria HUD uses in determining physical obsolescence under Section 18². Housing Construction Costs for a given market area can be found at the HUD Special Application Center (SAC) website³. HUD has also developed a tool available on the RAD Resource Desk⁴ that PHAs can use to quickly assess whether the scope of work meets this threshold.

For purposes of calculating aggregate construction costs vis-à-vis the 60% threshold, HUD will consider the combined per unit construction costs of the overall project budget as identified in the RAD Financing Plan. The project may include a mixture of new construction and substantial rehabilitation and may include other units besides the converting units (e.g., through the development of new units). However, if the project includes units that have already been approved and will be removed from public housing inventory under the Section 18 physical obsolescence⁵

² Section 4.A.1 of PIH Notice 2018-04 (HA)

³ https://www.hud.gov/program_offices/public_indian_housing/centers/sac/demo_dispo/

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⁵ See footnote note 2

criteria, HUD will exclude the costs equal to the amounts necessary to equal the Section 18 obsolescence threshold when calculating eligibility for the blend.⁶

4. Question: Can a PHA contribute Public Housing funds (i.e. Capital Funds, Operating Funds, Program Income) into the RAD budget, even though the property will include non-RAD units?

Yes. However, the Public Housing funds contributed to the project relative to project costs must be proportionate to the number of Public Housing Units converted through RAD. HUD will verify ‘proportionality’ as part of the RAD Financing Plan review. If a PHA has additional questions regarding ‘proportionality’ please contact the Office of Recapitalization.

5. Question: Can the 75% of project units that will convert under RAD only convert to PBV – or can they also convert to Project Based Rental Assistance (PBRA)? And can the 25% of units that will be processed through Section 18 result in a PBRA contract?

The units converting under RAD may convert either to PBV or PBRA. The units processed under Section 18, which will result in the issuance of new voucher funding for the PHA, may only result in a PBV contract. Although processed as one “transaction,” there will be two HAP contracts at closing, a RAD HAP for the RAD units (PBRA or PBV) with rents set per standard RAD rules and a separate regular PBV contract for the units covering the units removed through Section 18 with rents set per standard PBV rules.

6. Question: How does the “substantial conversion of assistance” requirement apply when using the RAD/Section 18 provision?

HUD requires that the PHA will replace the units proposed for Section 18 disposition with PBV. The totality of replacement units (RAD units + regular PBV contract for the Section 18 units) must fall within the RAD de minimis allowance. For example, for a 100-unit property, excluding the exceptions for long-term vacant units, reconfigured apartments, or social service units, the de minimis unit total could not exceed 5 units or 5%. As a result, a PHA could take a 100-unit ACC project and:

- a. Replace 100 units, with 75 under RAD HAP contract and 25 under a regular PBV contract.
- b. Replace 95 units, with 70 under RAD HAP contract and 25 under a regular PBV contract, and 5 de minimis units.
- c. Replace 100 units, with 70 under RAD HAP contract and 30 under a regular PBV contract (including 5 de minimis units that are backfilled with regular PBVs funded from the PHA’s Housing Choice Voucher Budget Authority).

⁶ For example, if 40 units of a 100 unit project will be removed under the Section 18 physical obsolescence criteria, because the PHA demonstrated that the rehabilitation needs of those units exceed \$155,000 per unit (the applicable Section 18 threshold for the housing type in the given market area), then 40 units x \$155,000 per unit, or \$6,200,000, will be deducted from the hard costs (as identified in the RAD Financing Plan) and the remaining hard costs will be divided by 60 unit to calculate eligibility under the RAD/Section 18 blend.

7. Question: RAD and Section 18 normally have different relocation rules and requirements? Which rules and requirements will apply?

The RAD relocation requirements described in PIH/Housing Notice 2016-17 (the RAD Fair Housing, Civil Rights, and Relocation Notice) shall apply to residents of the Section 18 units, in lieu of the relocation requirements under 24 CFR part 970, in accordance with 84 Fed. Reg. 54630 (Oct. 10, 2019) and the RAD Notice. All of the RAD relocation requirements shall apply to residents of the Section 18 units, including, but not limited to, the resident notice and meeting requirements, the right to return, and relocation assistance and payments. The PHA may not provide different relocation rights and benefits to residents of the project based on whether they reside in a RAD unit or a Section 18 unit.

8. Question: Do all current residents have a right of return? Are households that will move into units that will be assisted by the PBV contract subject to rescreening in order to be eligible for occupancy in the PBV program?

All residents have a right of return to the property, as [PIH/Housing Notice 2016-17](#) applies in its entirety to RAD/Section 18 blends. Per Section 1.6.C.1 of the RAD Notice, current households, including those that will occupy non-RAD PBV units at the Covered Project, cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility or income targeting requirements of the PBV program. As a result, all residents have a right to return to the property.

9. Question: Will the residents that return to the non-RAD PBV units have the same resident rights as the residents in the RAD PBV units?

Yes. 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 relocation requirements described in PIH/Housing 2016-17 and the RAD resident protections outlined in Section 1.6.C of the RAD Notice., including:

- Prohibition against rescreening
- Right of return
- Resident rent “phase-in”
- Continued participation in ROSS, FSS, Jobs Plus, and EID
- Resident participation rights and funding in accordance with Attachment 1B of the RAD Notice
- Termination Notification
- Grievance procedures
- Choice-mobility

10. Question: Is the PHA eligible to receive Demolition Disposition Transition Funding (DDTF) for the units that will be removed through Section 18?

Yes, but only for those units transitioning under Section 18, not the RAD units and in accordance with 24 CFR part 905.

11. Question: Is the PHA eligible to receive Asset Repositioning Fee (ARF) for the units that will be removed through Section 18?

It depends. ARF is part of Operating Funds as described in 24 CFR 990.190(h). ARF eligibility shall be in accordance with 24 CFR part 990. PHAs are eligible for ARF for units with Section 18 approval for an entire building in a project. If units do not meet this criterion (i.e., because the RAD and Section 18 units are in the same building), the PHA is not eligible for ARF for the units removed under Section 18.

If the RAD/Section 18 action will remove the last of the PHA's public housing units from ACC, the PHA is eligible for ARF subject to the terms of 990.190(h) and would be eligible for its last building demolished or disposed of under Section 18. Once a PHA is determined to be eligible for ARF, the next requirement is that the PHA either accepts or rejects the ARF on the HUD-5837 and indicates its intended uses of ARF (e.g., close-out costs). If eligible, accepted and for eligible uses, the ARF payments will continue for the period described in 990.190(h) and until termination of the ACC.

12. Question: Will the RAD use agreement apply to the units approved under Section 18?

HUD will require a rider to the RAD Use Agreement that will apply to the PBV units that had been approved under Section 18 and that reflect certain statutory differences between RAD and non-RAD PBV (e.g., there is no provision for a transfer of assistance under non-RAD PBV).

13. Question: How will the rents for the units approved under Section 18 (subject to the PBV HAP Contract) be determined?

The PHA (or the independent entity, if the project qualifies as PHA-owned – see PIH Notice 2017-21 Attachments A and B) will establish the "initial rent to owner" for units approved under Section 18 at the beginning of the Housing Assistance Payment (HAP) contract term, per 24 CFR 983.301(a)(2).

The PHA may want to determine the appropriate rents prior to submission of the RAD Financing Plan to support both HUD's underwriting and to secure financing commitments from lenders/investors. Particularly where the project is not subject to competitive selection requirements (see [PIH Notice 2017-21](#) Attachment L) the PHA may author a conditional letter to support underwriting that states that if HUD approves the RAD conversion and the Section 18 blend and the site satisfies all requirements for the placement of a PBV HAP or AHAP contract; the PHA commits to placing a PBV contract on an identified number of units and at the appropriate rent level.

14. Question: How does a PHA sequence its RAD and Section 18 applications in order to use this provision? How will HUD process the application materials to ensure that the release of the Declaration of Trust, RAD conversion, and execution of the non-RAD PBV AHAP or HAP occur jointly?

See below for initial processing instructions, which HUD may amend or revise.

Step 1: PHA must submit a RAD application for the entire “project” that will encompass the transaction. The PHA would only make the request to utilize the Section 18 and RAD blending provision in its RAD Financing Plan, which would include documentation that HUD can use for both RAD and Section 18 processing as well as supplementary documentation needed to complete the Section 18 approval. The PHA will not need to submit a separate Section 18 application, through the Special Application Center (SAC). In addition to standard Financing Plan requirements, the Financing Plan should include:

- a. A detailed transaction summary in the Conversion Overview, which must describe the use of this provision and confirm that the units that will be removed through Section 18 Disposition will be sold or otherwise transferred (i.e. ground lease) to a third-party entity that is recognized as a separate independent entity under State law (which may include a non-profit affiliate controlled by the PHA).
- b. A cash flow pro forma that reflects the income and expenses of the total project, i.e., for the RAD and non-RAD units.
- c. Capital Funds sources that, on a pro-rata basis, do not exceed HUD’s published Total Development Costs (TDC), i.e., any Capital Fund contributions cannot exceed 75% of Total Development Costs (TDC) in a transaction with 75% of the units in RAD and 25% of the units as Section 18.
- d. A Capital Needs Assessment covering the whole property.
- e. A completed front-end civil rights reviews for the entire property.
- f. An Environmental Review for the whole project.
- g. A RAD Initial Year Funding Tool that is correctly sized to include only the RAD units.
- h. Utility allowance schedule reflecting the projected utility allowances following the completion of rehab or construction, which will be used to prepare the CHAP amendment.

The PHA would also submit certain materials needed for a complete Section 18 application that are not already required by RAD. Specifically, the Financing Plan should include:

- a. Site map(s) and spreadsheet designating which units, by address and unit type, will be removed through RAD and Section 18. The site map(s) should detail all land and improvements therein and the spreadsheet should designate which units, by address and unit type, will be removed through RAD and Section 18.
- b. Evidence of an Amended PHA Annual Plan, Significant Amendment, or MTW Annual Plan signifying that a portion of the project may be partially disposed of through Section 18 and replaced with Project-Based Vouchers.
- c. A local government support letter. The PHA should consult local government on the proposal to convert the project with up to 25% of the units under Section 18 and secure mayor’s letter of support—specifically addressing that 25% of the units that will be disposed of under Section 18.
- d. Evidence of consultation with any resident organization for the project and the Resident Advisory Board. Section 18 also requires PHAs to consult with affected residents, but PHAs can satisfy this as part of the RAD resident consultation, provided they discuss the Section 18 at that consultation. However, if a PHA receives written comments from residents or resident groups, the PHA must include those comments and its evaluation of the comments; and
- e. A Board resolution that approves the HA’s proposal to dispose of up to 25% of the units under Section 18.

Step 2: Upon receipt of the Financing Plan requesting the use of the RAD/Section 18 blend, HUD will revise the CHAP, amend the RAD PIC removal application, and create the Section 18 removal application. HUD will use the materials already submitted by the PHA to the RAD Resource Desk to

populate the Section 18 application. The SAC will alert the PHA if there are any missing items necessary for the Section 18 application. HUD will not approve the Financing Plan until the Section 18 application is complete.

Please note that the PHA does not need to make the offer of sale to resident organizations to satisfy the requirements for the Section 18 disposition application since the PHA will have a firm plan, as proposed in the Financing Plan, to replace the public housing units with low-income housing units (PBV units).

The Office of Recapitalization will subsequently issue the RCC, which will reference the transaction's use of the RAD/Section 18 blend and include a special condition that the non-RAD PBV HAP contract will be executed concurrent with the conversion. The SAC will then also issue the Section 18 approval letter, which will identify the number of units eligible for TPVs based on PIH's HCV funding Appropriations Act notices (or successor PIH notices regarding TPV allocations), which currently allow TPV awards for units occupied within 24 months of the SAC approval.

Step 3: The closing of the RAD conversion will occur simultaneously with the PHA entering into the PBV HAP (Form HUD 52530-B) or AHAP (HUD 52531-A and HUD 52531-B), as applicable. Accordingly, following the SAC approval, the PHA applies to its Public Housing Field Office for tenant protection vouchers (TPVs) 60-90 days before the vouchers are needed. The PHA must include HUD form-52515, a statement from the administering PHA, the leasing schedule, and SAC approval letter. The Public Housing Field Office will review the materials and (if approved), send a request to PIHConversionActions@hud.gov for processing by HUD's Financial Management Division (FMD).

The PHA must submit a draft of the PBV HAP contract (HUD 52530-B: PBV HAP Contract – Existing Housing) or AHAP (HUD 52531-A and HUD 52531-B) with the closing package. All of the land will be released from the DOT, and a RAD Use Agreement will generally be placed on the entire property, unless the non-RAD PBV units are on a distinct parcel of land. The PHA will dispose of the property to the entity undertaking redevelopment who will then proceed with the planned rehabilitation or demolition and new construction. Following the disposition, the SAC (not the local HUD Field Office) will remove the units approved under Section 18 from PIC at the same time as the units converting under RAD are removed.