

## SIGNIFICANT AMENDMENT: RENTAL ASSISTANCE DEMONSTRATION PROJECT BASED VOUCHER CONVERSIONS

HAMC's Board of Commissioners approved application to HUD to convert its public housing and portfolio under the RAD program to project-based assistance on December 11, 2013. HAMC is amending its Public Housing Authority (PHA) Annual and 5-Year Plan because HAMC's application to convert 461 public housing units -- the balance of its portfolio -- was accepted and issued Commitments to Enter into Housing Assistance Payment Contracts on March 27, 2015. As a result, HAMC will be converting its Public Housing to Project Based Vouchers (PBV) and Project Based Rental Assistance (PRBA) under the guidelines of PIH Notice 2012-32, REV-1 and any successor Notices.

This proposed amendment provides additional information as required by HUD concerning HAMC's RAD portfolio conversion plans and is specifically addressing the PBV conversion of the Public Housing units located at Rose Terrace Apartments and the houses in Maricopa Revitalization Partnership. It is HAMC's intention to incorporate this proposed amendment in its entirety into the 2016-2017 PHA Annual.

HAMC is adopting the resident rights, participation, waiting list, and grievance procedures listed in Section 1.6C and 1.6 D of PIH Notice 2012-32, REV-1 as it pertains to PBV, and Section 1.7B and 1.7C of PIH Notice 2012-32, REV-1.

The RAD conversion complies with all applicable site selection and neighborhood reviews standards and that all appropriate procedures have been followed. HAMC is compliant with all fair housing and civil rights requirements. HAMC 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.

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing HAMC with access to private sources of capital to repair and preserve its affordable housing assets. Upon conversion, HAMC's Capital Fund budget will be reduced by the pro rata share of Public Housing Developments converted as part of the Demonstration, and HAMC may also borrow funds to address capital needs. HAMC will also be contributing Operating Reserves and Capital Funds towards the conversion. Current and future Capital Fund Program Grants Budgets will be reduced as a result of RAD conversions. The Physical Needs Assessment for each development has addressed the known and future needs at each location.

HAMC does not have debt under an Energy Performance Contract (EPC) for these two property conversions.

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Following is specific information related to the Public Housing Developments selected for PBV conversion under RAD.

| <b>Development # 1</b>  |   |   |  |
|---|---|---|--|
| Name of PH Development:<br>Rose Terrace Apts.                                 | PIC Development ID:<br>AZ009000013  | Conversion Type:<br>PBV   | Transfer of Assistance (if yes, put the location if known and # units transferring): NO  |
| Total Units:<br><br>40  | Pre-RAD Unit Type (Family, Senior, etc.):<br><br>20 Senior, 20 Family   | Post-RAD Unit Type if different (i.e. Family, Senior, etc.)<br><br>20 Senior, 20 Family | Capital Fund allocation of Development (annual Cap Fund grant (2016) \$1,048,608, divided by total number of public housing units in PHA, multiplied by total number of units in project): \$50,841.60 |
| <b>Bedroom Type</b>   | <b>Number of Units Pre-Conversion</b>   | <b>Number of Units Post-Conversion</b>  | <b>Change in Number of Units and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.):</b>  |
| 1 Bedroom   | 20  | 20  | 0  |
| 2 Bedroom   | 7   | 7   | 0  |
| 3 Bedroom   | 9   | 9   | 0  |
| 4 Bedroom   | 3   | 3   | 0  |
| 5 Bedroom   | 1   | 1   | 0  |
| If performing a Transfer of Assistance, explain how transferring waiting list | n/a   |   |  |
| Identification and obligation status of public housing funds                  | RAD CHAP received March 27, 2015. Public housing reserves and capital funds will be used to rehab the project to specifications identified in the needs assessment.   |   |  |
| Evidence of consultation with residents                                       | Two meetings held in November 2013, and again on January 29, 2016   |   |  |
| Description of PHA's proposed future use of the development                   | Existing PH units are being converted to Project Based Vouchers. The third party needs assessment identified rehab scope to include repairing parking lot/driveways, exterior painting, roof repairs, replacing water heaters, exterior/exterior lighting, bathroom fixtures, vanities and tub surrounds. |   |  |
| Relocation Plan   | No residents will need to be relocated with this conversion.  |   |  |

Units located at 525 E. Harrison Drive, Avondale, AZ 85323

Unit #'s 101 - 120

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|   |   |   |  |
|---|---|---|--|
| <b>Development # 2</b>  |   |   |  |
| Name of PH Development:<br>Maricopa Revitalization Partnership, LLC           | PIC Development ID:<br>AZ009000014  | Conversion Type:<br>PBV   | Transfer of Assistance (if yes, put the location if known and # units transferring): NO  |
| Total Units:<br><br>13  | Pre-RAD Unit Type (Family, Senior, etc.):<br><br>Family   | Post-RAD Unit Type if different (i.e. Family, Senior, etc.)<br><br>Family | Capital Fund allocation of Development (annual Cap Fund grant (2016) \$1,048,608, divided by total number of public housing units in PHA, multiplied by total number of units in project): \$16,523.52 |
| <b>Bedroom Type</b>   | <b>Number of Units Pre-Conversion</b>   | <b>Number of Units Post-Conversion</b>                                    | <b>Change in Number of Units and Why (De Minimis Reduction, Transfer of Assistance, Unit Reconfigurations, etc.):</b>  |
| 2 Bedroom   | 5   | 5   | 0  |
| 3 Bedroom   | 8   | 8   | 0  |
| If performing a Transfer of Assistance, explain how transferring waiting list | n/a   |   |  |
| Identification and obligation status of public housing funds                  | RAD CHAP received March 27, 2015. Public housing reserves and capital funds will be used to rehab the project to specifications identified in the needs assessment.   |   |  |
| Evidence of consultation with residents                                       | Two meetings held in November 2013, and again on January 28, 2016   |   |  |
| Description of PHA's proposed future use of the development                   | Existing PH units are being converted to Project Based Vouchers. The third party needs assessment identified a rehab scope to include repairing driveways, duct and insulation sealing, HVAC replacements, kitchen countertops, refrigerators, light fixtures and fire extinguishers. |   |  |
| Relocation Plan   | No residents will need to be relocated with this conversion.  |   |  |

Single family homes located in Mesa, Arizona at the following addresses:

- |  |  |
|--|--|
| 2025 E Bramble, Mesa, 85204                | 8012 E 3 <sup>rd</sup> Ave., Mesa 85208    |
| 7432 E. Crescent, Mesa 85208               | 7438 E. Capri, Mesa 85208                  |
| 2427 E. Caballero, Mesa 85213              | 1746 S. 80 <sup>th</sup> Place, Mesa 85209 |
| 508 S. 74 <sup>th</sup> Place, Mesa 85208  | 7154 E. Arbor Ave, Mesa 85208              |
| 320 N. 100 <sup>th</sup> Place, Mesa 85207 | 239 N. 101 <sup>st</sup> Way, Mesa 85207   |
| 9839 E. Dodge Ave, Mesa 85207              | 7139 E. Azalea Ave., Mesa 85208            |
| 7922 E. Golf, Mesa 85209                   |  |

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### **PBV Resident Rights and Participation.**

**1. No Re-screening of Tenants upon Conversion.** Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. 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, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement.

**2. Right to Return.** There will be no relocation of residents required.

**3. Renewal of Lease.** Since publication of the PIH Notice 2012-32 Rev 1, the regulations under 24 CFR § 983.257(b)(3) have been amended requiring Project Owners to renew all leases upon lease expiration, unless cause exists. MTW agencies may not alter this requirement.

**4. Phase-in of Tenant Rent Increases.** If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, 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. 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 the owner must follow according to the phase-in period established. For purposes of this section "standard 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, 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 standard TTP

Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP

Year 3: Year 3 AR and all subsequent recertifications – Full standard TTP

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 standard TTP

Year 2: Year 2 AR and any IR prior to Year 3 AR – 40% of difference between most recently paid TTP and the standard TTP

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Year 3: Year 3 AR and any IR prior to Year 4 AR – 60% of difference between most recently paid TTP and the standard TTP

Year 4: Year 4 AR and any IR prior to Year 5 AR – 80% of difference between most recently paid TTP and the standard TTP

Year 5 AR and all subsequent re-certifications – Full standard TTP

*Please Note*: In either the three year phase-in or the five-year phase-in, once the standard 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 may not alter this requirement.

HAMC has elected to follow the Five Year Phase-in Plan.

**Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are current FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any remaining PH FSS funds, to serve those FSS participants who live in units converted by RAD. 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 FY15 Appropriations Act), 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 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, 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. Further, upon conversion to PBV, already escrowed funds 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.

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, which, by statute, can only serve public housing residents.

**Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with converted PBV assistance 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.

**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, as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

**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. 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

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require that PHAs provide adequate written notice of termination of the lease which shall not be less than:

- a. A reasonable period of time, but not to exceed 30 days:
  - i. If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - ii. In the event of any drug-related or violent criminal activity or any felony conviction;
- b. 14 days in the case of nonpayment of rent; and
- c. 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.

**Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional procedural rights to comply with section 6 of the Act. For issues related to tenancy and termination of assistance, PBV program rules require the Project Owner 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:

- a. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi),<sup>26</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.
  - i. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), 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).
  - ii. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- b. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or contract administrator.
- c. 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).
- d. 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 HCV Administrative Plan.

The above procedures can be found in the HAMC HCV Administrative Plan in **Section \_\_\_\_\_**.

**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 section 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 who at one time received the EID but are not receiving the EID exclusion at the time of conversion e.g., due to loss of employment; tenants that move into the property following conversion, etc.) is covered by this waiver.

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**Jobs Plus.** Not applicable to HAMC.

**When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may only select an occupied unit to be included under the PBV HAP contract if the unit's occupants are eligible for housing assistance payments (24 CFR §983.53(d)). 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 often result in a family's TTP equaling or exceeding the gross rent for the unit, for current residents (i.e. residents living in the public housing property prior to 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 than the Gross Rent. Further, HUD is establishing the alternative requirement that the rent to owner for the unit equal the family's TTP until such time that the family is eligible for a housing assistance payment. HUD is waiving as necessary to implement this alternative provision, 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>27</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. Assistance may subsequently be reinstated if the tenant becomes eligible for assistance. The PHA is required to process these individuals through the Form- 50058 submodule in PIC.

Following conversion, 24 CFR §983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not 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 alternative requirement that the PHA must reinstate the unit after the family has vacated the property; and, 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 this Notice.

**Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR 983.259 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 983.259 is waived. MTW agencies may not modify this requirement.

### **PBV: Other Miscellaneous Provisions**

#### **1. Access to Records, Including Requests for Information Related to Evaluation of**

**Demonstration.** PHAs must agree to 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. Additional Monitoring Requirement.** The PHA's Board must approve the operating budget for the Covered Project annually in accordance with HUD requirements.

#### **3. Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of**



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**1968 (Section 3).** This section has 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 will 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:

- i. Transferring an existing site-based waiting list to a new site-based waiting list. If the PHA is transferring the assistance to another neighborhood, the PHA must notify applicants on the wait-list of the transfer of assistance, and on how they can apply for residency at the new project site or other sites. Applicants on a project-specific waiting list for a project where the assistance is being transferred shall have priority on the newly formed waiting list for the new project site in accordance with the date and time of their application to the original project's waiting list.
- ii. Informing applicants on the site-based waiting list on how to apply for a PBV program-wide or HCV program-wide waiting list.

Informing applicants on a public housing community-wide waiting list on how to apply for a voucher-wide, PBV program-wide, or site-based waiting list. 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 converted 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. Applicants on the agency's public housing community-wide waiting list who wish to be placed onto the newly-established site-based waiting list must be done so in accordance with the date and time of their original application to the centralized public housing waiting list. 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).

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

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 converted project in accordance with 24 CFR §983.251(c).

**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.



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**6. Agreement Waiver.** This section has been moved to 1.6.(B)(7).

**7. Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of permanent debt during the HAP contract term, to ensure the financing is consistent with long-term preservation. (Current lenders and investors are also likely to require review and approval of refinancing of the primary permanent debt.)

**Administrative Fees for Public Housing Conversions during Transition Period.** For the remainder of the Calendar Year in which the HAP Contract is effective (i.e. "transition period"), RAD PBV projects will be funded with public housing funds. For example, if the project's assistance converts effective July 1, 2015, the public housing Annual Contributions Contract (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 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.

For fiscal years 2014 and 2015, PHAs operating HCV program received 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 Responsibility Act of 1998" and 24 CFR § 982.152(b). During the transition period mentioned in the preceding paragraph, these provisions are waived, and PHAs will not receive section 8 ongoing administrative fees for PBV RAD units.

After this transition period, 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.

**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 an 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) and 24 CFR part 983.261(c). Please

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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.

**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 covered under a General Depository Agreement (HUD-51999) 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 and as directed by HUD.

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### Required for Households converting from Public Housing to Project Based Voucher Rental Assistance

**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. In addition to the regulations at 24 CFR § 983.257, related to owner termination of tenancy and eviction, as modified by the waiver in Section 1.6(C)(3) above, the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall not be less than:

1. A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction;
2. 14 days in the case of nonpayment of rent; and
3. 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.** HUD is incorporating additional procedural rights to comply with the requirements of section 6 of the Act.

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

1. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as 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.
  - For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.
  - For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.
2. An informal hearing will not be required for class grievances or to disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement shall not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.
3. The PHA (as owner) give 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).
4. The PHA (as owner) provide opportunity for an informal hearing before an eviction.

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## HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN

### Chapter 22

#### RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

##### PART I: OVERVIEW OF THE RAD PROGRAM

##### 22.1 OVERVIEW AND HISTORY OF THE RAD PROGRAM

RAD is intended to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

The PHA or owner can select one of two major sub-programs under RAD:

- Project-based rental assistance (PBRA)
- Project-based vouchers (PBVs)

HUD's Office of Multifamily Housing Programs administers the PBRA component, whereas HUD's Office of Public and Indian Housing administers the PBV component.

This chapter will focus on public housing conversions to the PBV program. In order to distinguish between requirements, we will refer to the standard PBV program and the RAD PBV programs.

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### **22.2 RAD ADMINISTRATIVE PLAN POLICIES**

HAMC's administrative plan already establishes guidelines for staff to follow to determine eligibility and continued occupancy for HAMC's tenant-based HCV program. Selected parts of the administrative plan also apply to the standard and RAD PBV programs. On the whole, regulations for both the standard and RAD PBV programs generally closely follow the regulations for the tenant-based HCV program. While PBV regulations generally follow the tenant-based HCV voucher regulations, they are not identical. Further, RAD PBV rules further deviate from and waive specific standard PBV regulations. In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them and the RAD PBV program follow many of the same regulations as the standard PBV program, but not all of them.

Where applicable, the HCV policies in this document continue to govern the administration of the both the standard and RAD PBV programs. In cases where HCV requirements are to be followed, no changes are made to the administrative plan. This additional chapter is intended to address RAD PBV requirements only.

For a description of the PBV program, see HAMC's Administrative Plan, Chapter 21 Project-Based Vouchers.

### **22.3 APPLICABLE REGULATIONS**

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, approved January 17, 2014) and the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, approved December 6, 2014), collectively, the "RAD Statute." RAD requirements may be found in PIH-2012-32 (HA), REV-2, RAD Quick Reference Guide (10/14), The Welcome Guide for New Awardees: RAD 1st Component (3/15), and RAD FAQs.

### **22.4 EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

PHAs must comply with all applicable fair housing and civil rights laws, including, but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated.

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### 22.5 PBV PROJECT SELECTION

#### **Maximum Amount of PBV Assistance**

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which is set at 20 percent of the amount of budget authority allocated to a PHA under the Housing Choice Voucher program. To implement this provision, HUD is waiving section 8(o) (13) (B) of the 1937 Act as well as 24 CFR § 983.6.

#### **Cap on Number of PBV Units in each Project**

Fifty percent (50%) of the units in each project may receive PBV assistance. An assisted household cannot be involuntarily displaced as a result of this provision.

An owner may still project-base 100 percent of the units provided at least 50 percent of the units at the project qualify for the exceptions for elderly, disabled, or families receiving supportive services, or are within single-family properties.

Families living in units subject to a proposed RAD conversion must be given the option to receive supportive services. If such services are declined by the household, the unit shall remain under the HAP contract, the household shall not be terminated from the PBV program, and the decision to decline an offer to receive supportive services shall not represent a ground for lease termination. Once the initial household residing in the excepted unit under RAD vacates such unit, all PBV program requirements related to the required receipt of supportive services shall apply in accordance with 24 CFR §§ 983.56, 983.257(c), 983.261(a) and (d).

To implement these provisions, HUD is waiving section 8(o) (13) (D) of the Act, as well as related provisions of 24 CFR §§ 983.56, 983.257(c), 983.261(a) and (d) for initial occupancy in the RAD converted project.

#### **25 Percent per Project Cap [24 CFR 983.56]**

The limitation on the number of units receiving assistance is increased to 50 percent under RAD. An assisted household cannot be involuntarily displaced as a result of this provision.

#### **Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b)]**

An owner may still project-base 100 percent of the units provided at least 50 percent of the units at the project qualify for the exceptions for elderly, disabled, or families receiving supportive services, or are within single-family properties.

#### *Family Responsibility to Comply with Supportive Service Plans*

New families selected for occupancy and assistance in a PBV supportive housing unit will be required to enter into an individualized supportive service plan with the service provider. The supportive service plan is intended to help the family:

- Build family self-sufficiency;
- Maintain their housing; and
- To live independently and effectively in their community.

In PBV developments offering supportive services, at least one family member is to receive/participate in the available supportive services.



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- At the time of initial lease execution between the family and the owner, the family must sign a statement which includes all family obligations, including the requirement to participate in a supportive service plan.
- At the family's annual recertification, the PHA requires written documentation from the service provider indicating the family's continued compliance with the terms of the supportive services plans.
- At the PHA's sole discretion, the PHA may request quarterly documentation of service plan compliance for new participants, or more frequent periodic documentation for families who have not fully complied with their supportive service plan.

The family is eligible to receive assistance while the family is compliant with its supportive services plan. In addition, a family who has occupied a PBV unit and has been compliant with its supportive housing plan, and has successfully completed the supportive housing plan, is eligible to continue to receive PBV assistance so long as the

Under RAD, the requirement that a family must actually receive services to reside in a unit where families receive supportive services differs. Families living in units that will convert under RAD must be given the option to receive supportive services. If such services are declined by the household, the unit shall remain under the HAP contract, the household shall not be terminated from the PBV program, and the decision to decline an offer to receive supportive services shall not represent a ground for lease termination. Once the initial household residing in the excepted unit under RAD vacates such unit, all PBV program requirements related to the required receipt of supportive services shall apply.

### **Promoting Partially-Assisted Projects [24 CFR 983.56(c)]**

This section does not apply to the RAD PBV program.

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### **22.6 SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]**

In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the Covered Project(s) at Closing; the PHA may convey all program funds to the Covered Project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under public housing ACC, a contribution of Operating Funds to the Covered Project that exceeds the average amount the project has held in Operating Reserves over the past three years will trigger a subsidy layering review under 24 CFR § 4.13. Similarly, any contribution of Capital Funds, including RHF or DDTF, will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the Capital Funds or Operating Reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

### **22.7 OWNER PROPOSAL SELECTION PROCEDURES**

This section does not apply to the RAD PBV program. HUD waives the owner proposal selection procedures at 24 CFR 983.51. HUD selects the RAD properties through a competitive selection process.

### **22.8 SITE SELECTION STANDARDS**

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b) (1) and (c) (2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity, for existing housing sites. If units are transferred to a different housing site, then deconcentration rule applies.

HUD will conduct a front-end civil rights review of PBV RAD conversions that involve new construction that is located in an area of minority concentration (whether on the existing public housing site or on a new site) to determine whether it meets one of the conditions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

### **22.9 ENVIRONMENTAL REVIEW [24 CFR 983.58]**

The financing plan includes a requirement for an environmental review. See Attachment 1A of PIH 2012-32, REV-2.

## **PART II - RAD PBV OWNERSHIP AND CONTRACT TERMS**

### **22.10 LEGAL OWNERSHIP OF UNIT**

For RAD public housing conversions, ownership must be either of the following:

- A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property.
- A private entity, if the property has low income tax credits. The PHA must maintain control via a ground lease.

### **22.11 HAP CONTRACT REQUIREMENTS**

#### **Contract Information [24 CFR 983.203]**

The PBV RAD program uses the HAP contract for new construction or rehabilitated housing (HUD Form 52530A), as modified by the RAD rider (HUD Form 52621). The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The RAD rider must be attached to the PBV HAP Contract and effectuates the conversion of public housing to PBV under RAD PBV. The project must also have an initial RAD Use Agreement. All public housing RAD conversion properties financed with LIHTC are required to include an LIHTC rider.

#### **Execution of the HAP Contract [24 CFR 983.204]**

When the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. The HAP contract effective date is the date of the financial closing for the property, whether or not all units meet HQS.

#### **Term of HAP Contract [24 CFR 983.205]**

The initial term of the HAP Contract may not be for less than 15 years, and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o) (13) (F) of the Act (which established a maximum term of 15 years) as well as 24 CFR § 983.205(a) (which governs contract term).

#### **Agreement to Enter Into HAP (AHAP) – Waived**

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable. For public housing conversions, an AHAP is not required. Instead, a RAD conversion commitment (RCC) between HUD and the PHA governs the construction work. For requirements for RAD PBV conversions see Notice PIH 2012-32, REV-2.

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### 22.12 MANDATORY CONTRACT RENEWAL

By statute, upon contract expiration, the agency administering the vouchers shall offer, and the PHA shall accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR § 983.205(b), governing the PHA discretion to renew the Contract for term of up to 15 years, will not apply.

In the event that the HAP Contract is removed due to breach, non-compliance or insufficiency of Appropriations, for all units previously covered under the HAP Contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30% of 80% of median income for an appropriate size unit for the remainder of the term of the RAD Use Agreement.

### 22.13 INITIAL CONTRACT RENTS

Initial PBV contract rents are subject to the statutory and regulatory PBV requirements governing contract rents (see 24 CFR § 983.301). To this effect, initial contract rents cannot exceed the lower of (a) the reasonable rent (as defined under 24 CFR § 983.303; (b) an amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard), minus any utility allowance; or (c) the rent requested by the owner.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. This use, which HUD refers to as “bundled” rents, is permissible when a PHA submits applications for two or more projects. There is no limit to the number of projects that a PHA may bundle.

Notwithstanding the current funding level, the initial rents are set at the lower of:

- 110% of the fair market rent (FMR) or the PHA’s exception payment standard approved by HUD, or the alternate rent cap in a PHA’s MTW agreement
- Reasonable rent in comparison to the unassisted housing market
- An amount determined by current funding
  - Adjusted through rent bundling or reconfiguration of units

### 22.14 ADJUSTING CONTRACT RENTS

#### Rent Increase

Contract rents will be adjusted annually by HUD’s Operating Cost Adjustment Factor (“OCAF”) at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o) (13) (I) of the Act and 24 CFR § 983.301 and 983.302, concerning rent determinations, shall not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in private market, as determined by the Contract Administrator in accordance with 24 CFR § 983.303.

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Contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements;
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to § 983.55 (Prohibition of excess public assistance); or
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the Federal Register
- The reasonable rent

### **Rent Decrease**

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### **Notice of Rent Change**

Rent adjustments are made on the contract anniversary date for all PBV units. Adjusted rents may not exceed the lower of the reasonable rent, or the contract rent increased by the operating cost adjustment factor (OCAF), except if the rent increase would result in a rent below the initial rent. Rents must not fall below the initial contract rent.

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### **PHA-Owned Units [24 CFR 983.301(g)]**

For PHA-owned PBV units, the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD.

Contract rents will be adjusted annually by HUD's Operating Cost Adjustment Factor ("OCAF") at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o) (13) (I) of the Act and 24 CFR § 983.301 and 983.302, concerning rent determinations, shall not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in private market, as determined by the Contract Administrator in accordance with 24 CFR § 983.303. However, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP Contract.

#### HAMC Policy:

An owner's request for a rent increase must be submitted to the HAMC 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

## **22.15 AMENDMENTS TO THE HAP CONTRACT**

### **Substitution of Contract Units [24 CFR 983.207(a)]**

In certain mixed finance projects, the PHA may ask HUD permission to have assistance float among unoccupied units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities. For 504 accessible units, assistance may only float to another 504 accessible unit with the same bedroom size and features.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

The PHA may not reduce the number of assisted units without HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

### **Addition of Contract Units [24 CFR 983.207(b)]**

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

### **Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

The PHA may not reduce the number of assisted units without HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

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### **22.16 HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]**

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

### **22.17 UTILITY ALLOWANCES**

When contract rent amounts are set initially, the amount does not include a utility allowances. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, unless a waiver is requested and approved by HUD, the PHA must maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively. These utility allowances are effective for in-place families at recertification.

The PHA may request a waiver from the PIH Field Office, however, in order to establish site-specific utility allowance schedules. MTW agencies would instead secure approval through their MTW Plan. To be approved, the PHA must show good cause that the utility allowance schedule for their voucher program would either:

- Create an undue cost for families because the utility allowance provided under the voucher program is too low, or
- Discourage conservation and efficient use of HAP funds because the utility allowance provided under the voucher program would be excessive if applied to the Covered Project

The PHA must submit an analysis of utility rates for the community and consumption data of project residents in comparison to community consumption rates; and a proposed alternative methodology for calculating utility allowances on an ongoing basis.

When, as a result of a RAD conversion, the project will experience an improvement in energy and water efficiencies, PHAs can submit UA projections performed by a professional engineer, based on the project's plans and specifications that, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The projections must be submitted in the RAD UA Projections



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The HAMC will use the HCV utility allowance schedule for the RAD developments.

**22.18 HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

For a discussion of funding during the first year after the RAD conversion for units converting to PBV under RAD, see Notice PIH 2012-32, REV-2.

### **PART III - RESIDENTS RIGHTS AND PARTICIPANTS**

#### **22.19 PROHIBITED RE-SCREENING OF EXISTING TENANTS UPON CONVERSION**

Current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. 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, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. The HAMC will make their best effort to appropriately size households throughout the conversion. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

##### **Income Targeting [24 CFR 982.201]**

The income targeting requirement does not apply to existing residents at the time of conversion. Subsequent new admissions count towards the PHA's calculation.

##### **In-Place Families [24 CFR 983.251(b)]**

For the RAD PBV program, in-place families means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

#### **22.20 RELOCATION REQUIREMENTS [24 CFR 983.7]**

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2-5 of PIH Notice 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of PIH Notice 2014-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.

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### **22.21 RESIDENT RIGHT TO RETURN**

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or Owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. As part of the conversion process, the PHA must consider the best way to transition families who are already on the existing public housing waiting list to the new PBV waiting list. Considerations vary depending on whether the current public housing waiting list is system-wide or site-based and on what type of waiting list the PHA will adopt once units are converted. While special consideration must be given when initially establishing the RAD PBV waiting list, once the waiting list is established, requirements are the same in RAD PBV as in the regular PBV program.

### **22.22 RENEWAL OF LEASE**

The PHA must renew all leases upon lease expiration, unless good cause exists. Consequently, 24 CFR § 983.257(b) (3) will not apply. This provision must be incorporated by the PBV owner into the tenant lease or tenancy addendum, as appropriate.

The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD. An example of language that may be included can be found in Attachment-1E of PIH 2012-32, REV-2.

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with — and must be signed on or before — the effective date of the RAD PBV HAP contract.

#### **Tenancy Addendum [HUD 52530-C]**

The PBV owner and the family representative must sign the HUD form 52530-C Tenancy Addendum which is an attachment to the lease and outlines required lease provisions of the PBV program.

#### **PBV Statement of Family Responsibility [HUD 52578-B]**

A family representative must sign the HUD form 52578-B Statement of Family Responsibility and comply with obligations described therein, including participation in any required services.

### **22.23 SECURITY DEPOSIT [24 CFR 982.313 (a) and (b)]**

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply.

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### 22.24 REEXAMINATIONS

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing 50058, including the next annual reexamination date.

### 22.25 PHASE-IN OF TENANT RENT INCREASES

If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 years. To implement this provision, HUD is waiving section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) only to the extent necessary to allow for the phase-in of tenant rent increases.

#### HAMC Policy

The HAMC will implement a three year phase-in for families whose rent increases by more than the greater of 10 percent or \$25 as a result of the conversion as follows::

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP and the standard TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) - 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full standard TTP

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### **22.26 FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]**

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, the family will pay with owner an amount equal to their TTP. The family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard 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.

Following conversion, the standard PBV regulations apply to any new families referred to the project. See Chapter 17 of HAMC's Administrative Plan **Part VII: Occupancy**.

### **22.27 PUBLIC HOUSING FSS AND ROSS PARTICIPANTS**

Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the FY 2013 PH FSS NOFA, to serve those FSS participants who live in units converted by RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

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 public housing ROSS-SC grants.

### **22.28 RESIDENT PARTICIPATION AND FUNDING**

Residents of covered projects converting assistance to PBVs 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.

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### 22.29 RESIDENTS PROCEDURAL RIGHTS

In addition to the regulations at 24 CFR § 983.257, related to owner termination of tenancy and eviction the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall not be less than:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction;
- 14 days in the case of nonpayment of rent; and
- 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.

### 22.30 INFORMAL REVIEWS AND HEARINGS

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner.

In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), 31 an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as 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.

- For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or to disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement shall not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The PHA (as owner) give 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).

The PHA (as owner) provide opportunity for an informal hearing before an eviction

#### **Notice to the Family [24 CFR 982.555(c)]**

For decisions related to the termination of the family's assistance, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the

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decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

Residents must be provided with notice of the specific grounds of the Project Owner's proposed adverse action, as well as their right to an informal hearing with the Project Owner.

### **Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c), FR Notice 11/24/08]**

Under RAD, the requirement that a family must actually receive services to reside in a unit where families receive supportive services differs. Families living in units that will convert under RAD must be given the option to receive supportive services. If such services are declined by the household, the unit shall remain under the HAP contract, the household shall not be terminated from the PBV program, and the decision to decline an offer to receive supportive services shall not represent a ground for lease termination. Once the initial household residing in the excepted unit under RAD vacates such unit, all PBV program requirements related to the required receipt of supportive services shall apply.

### **22.31 EARNED INCOME DISREGARD**

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 to only 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 section 5.617(b) limiting EID to only disabled persons is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment); tenants that move into the property following conversion, etc.) is covered by this waiver.



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### **22.32 CHOICE MOBILITY VOUCHERS**

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 available.

#### HAMC Policy

The HAMC will not apply a turnover cap of available Housing Choice Vouchers for RAD PBV families who wish to exercise mobility. The HAMC will maintain a combined waiting list for all PBV and RAD PBV families wishing to exercise mobility after one year of tenancy.

## **PART IV - HOUSING QUALITY STANDARD INSPECTIONS**

### **22.33 ANNUAL/BIENNIAL INSPECTIONS [24 CFR 983.103(d); FR Notice 6/25/14]**

Housing Quality Standards (HQS) apply to the standard and RAD PBV program.

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

#### HAMC Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

### **22.34 INITIAL HQS INSPECTION [24 CFR 982.401(a)]**

The RAD PBV program follows the same inspection requirements as the standard PBV program with the exception that RAD PBV units must meet HQS no later than the date of completion of initial repairs as indicated in the RAD Conversion Commitment (RCC).

All turnover units must be inspected prior to leasing to an eligible family from the HAMC waiting list. Please see chapter 17 of HAMC's Administrative Plan at Section 17-VIII.D. INSPECTING UNITS for timing of initial inspections in the standard and RAD PBV programs

### **22.35 PHA-OWNED UNITS [24 CFR 983.51(e) and 983.59]**

For units converting to RAD PBV, housing quality standards inspections must be conducted by an independent entity approved by HUD.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

### **22.36 SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM (SEMAP) INDICATORS [24 CFR 985.3 and form HUD-52648]**

All SEMAP indicators apply to both the standard and RAD PBV programs with the exception of SEMAP Indicator 12: Annual HQS Inspections. PBV HQS inspection requirements only call for a random sample of 20 percent of the units in each project to be inspected annually.

## **PART V - APPLICATIONS, WAITING LIST AND BRIEFINGS**

### **22.37 APPLICATIONS**

Projects will take applications according to HAMC's Administrative Plan, **Chapter 17 Project-Based Vouchers**.

### **22.38 ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

Projects will organize the waiting list according to HAMC's Administrative Plan, **Chapter 17 Project-Based Vouchers**.

PHAs must offer families on a public housing project-specific waiting list priority for occupancy at the converted site.

The PHA must maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA must provide applicants full information about each development including an estimate of the wait time, location, occupancy, number and size of accessible units, amenities like day care, security, transportation and training programs at each development with a site-based waiting list. The system for selection from site-based waiting lists must be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement or complaint brought by HUD.

The PHA must assess any changes in racial, ethnic or disability-related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, PHA must use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.

If the converted project will serve a different population than the one served by the original project, the PHA must obtain written HUD approval.

### **22.39 BRIEFINGS AND FAMILY OBLIGATIONS**

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for assistance in a PBV unit. The briefing provides a broad description of owner and family responsibilities and the PHA's procedures. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

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### **Oral Briefing (24 CFR 983.252(a))**

For standard and RAD PBV units:

- A description of how the program works; and
- Family and owner responsibilities

### **Briefing Packet [24 CFR 983.252(b)]**

For standard and RAD PBV units, the regulations only require that the following items must be included in the briefing packet:

- How the PHA determines the total tenant payment for a family;
- Family obligations under the program; and
- Applicable fair housing information

### **Family Obligations [24 CFR 982.551]**

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the PBV Statement of Family Responsibility. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When an offer of PBV assistance is made, the family must meet those obligations in order to participate in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

A family representative must sign the HUD form 52578-B Statement of Family Responsibility and comply with obligations described therein, including participation in any required services.